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SENATE

{ REPORT
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INSULAR DEVELOPMENT ACT OF 1995

JUNE 30 (legislative day, JUNE 19), 1995.—Ordered to be printed

Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 638]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 638) to authorize appropriations for United States insular areas, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. TERRITORIAL AND FREELY ASSOCIATED STATE INFRASTRUCTURE ASSISTANCE.

Section 4(b) of Public Law 94-241 (90 Stat. 263) as added by section 10 of Public Law 99-396 (99 Stat. 837, 841) is amended by deleting "until Congress otherwise provides by law." and inserting in lieu thereof:

"except that, for fiscal years 1996 and thereafter, payments to the Commonwealth of the Northern Mariana Islands pursuant to the multi-year funding agreements contemplated under the Covenant shall be limited to the amounts set forth in the Agreement of the Special Representatives on Future Federal Financial Assistance of the Northern Mariana Islands, executed on December 17, 1992 between the special representative of the President of the United States and special representatives of the Governor of the Northern Mariana Islands and shall be subject to all the requirements of such Agreement with any additional amounts otherwise made available under this section in any fiscal year and not required to meet the schedule of payments set forth in the Agreement to be provided as set forth in subsection (c) until Congress otherwise provides by law.

"(c) The additional amounts referred to in subsection (b) shall be made available to the Secretary for obligation as follows:

(1) for fiscal year 1996, all such amounts shall be provided for capital infrastructure projects in American Samoa;

(2) for fiscal years 1997 and thereafter, all such amounts shall be available solely for capital infrastructure projects in Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Federated States of Micronesia and the Republic of the Marshall Is-

lands: *Provided*, That, in fiscal year 1997, \$3 million of such amounts shall be made available to the College of the Northern Marianas and beginning in fiscal year 1997, and in each year thereafter, not to exceed \$3 million may be allocated, as provided in Appropriation Acts, to the Secretary of the Interior for use by Federal agencies or the Commonwealth of the Northern Mariana Islands to address immigration, labor, and law enforcement issues in the Northern Mariana Islands, including, but not limited to detention and corrections needs. The specific projects to be funded shall be set forth in a five-year plan for infrastructure assistance developed by the Secretary of the Interior in consultation with each of the island governments and updated annually and submitted to the Congress concurrent with the budget justifications for the Department of the Interior. In developing and updating the five year plan for capital infrastructure needs, the Secretary shall indicate the highest priority projects, consider the extent to which particular projects are part of an overall master plan, whether such project has been reviewed by the Corps of Engineers and any recommendations made as a result of such review, the extent to which a set aside for maintenance would enhance the life of the project, the degree to which a local cost-share requirement would be consistent with local economic and fiscal capabilities, and may propose an incremental set aside, not to exceed \$2 million per year, to remain available without fiscal year limitation, as an emergency fund in the event of natural or other disasters to supplement other assistance in the repair, replacement, or hardening of essential facilities: *Provided*, That the cumulative amount set aside for such emergency fund may not exceed \$10 million at any time.

“(d) Within the amounts allocated for infrastructure pursuant to this section, and subject to the specific allocations made in subsection (c), additional contributions may be made, as set forth in Appropriations Acts, to assist in the resettlement of Rongelap Atoll: *Provided*, That the total of all contributions from any Federal source after January 1, 1995 may not exceed \$32 million and shall be contingent upon an agreement, satisfactory to the President, that such contributions are a full and final settlement of all obligations of the United States to assist in the resettlement of Rongelap Atoll and that such funds will be expended solely on resettlement activities and will be properly audited and accounted for. In order to provide such contributions in a timely manner, each Federal agency providing assistance or services, or conducting activities, in the Republic of the Marshall Islands, is authorized to make funds available, through the Secretary of the Interior, to assist in the resettlement of Rongelap. Nothing in this subsection shall be construed to limit the provision of ex gratia assistance pursuant to section 105(c)(2) of the Compact of Free Association Act of 1985 (P.L. 99-239, 99 Stat. 1770, 1792) including for individuals choosing not to resettle at Rongelap, except that no such assistance for such individuals may be provided until the Secretary notifies the Congress that the full amount of all funds necessary for resettlement at Rongelap has been provided.”

SEC. 2. FEDERAL MINIMUM WAGE.

Effective thirty days after the date of enactment of this Act, the minimum wage provisions, including, but not limited to, the coverage and exceptions provisions, of section 6 of the Fair Labor Standards Act of June 25, 1938 (52 Stat. 1062), as amended, shall apply to the Commonwealth of the Northern Mariana Islands, except:

- (a) on the effective date, the minimum wage rate applicable to the Commonwealth of the Northern Mariana Islands shall be \$2.75 per hour;
- (b) effective January 1, 1996, the minimum wage rate applicable to the Commonwealth of the Northern Mariana Islands shall be \$3.05 per hour;
- (c) effective January 1, 1997 and every January 1 thereafter, the minimum wage rate shall be raised by thirty cents per hour or the amount necessary to raise the minimum wage rate to the wage rate set forth in section 6(a)(1) of the Fair Labor Standards Act, whichever is less; and
- (d) once the minimum wage rate is equal to the wage rate set forth in section 6(a)(1) of the Fair Labor Standards Act, the minimum wage rate applicable to the Commonwealth of the Northern Mariana Islands shall thereafter be the wage rate set forth in section 6(a)(1) of the Fair Labor Standards Act.

SEC. 3. REPORT.

The Secretary of the Interior, in consultation with the Attorney General and Secretaries of Treasury, Labor and State, shall report to the Congress by the March 15 following each fiscal year for which funds are allocated pursuant to section 4(c) of Public Law 94-241 for use by Federal agencies or the Commonwealth to address immigration, labor or law enforcement activities. The report shall include but not be limited to—

(1) pertinent immigration information provided by the Immigration and Naturalization Service, including the number of non-United States citizen contract workers in the CNMI, based on data the Immigration and Naturalization Service may require of the commonwealth of the Northern Mariana Islands on a semiannual basis, or more often if deemed necessary by the Immigration and Naturalization Service,

(2) the treatment and conditions of non-United States citizen contract workers, including foreign government interference with workers' ability to assert their rights under United States law,

(3) the effect of laws of the Northern Mariana Islands on Federal interests,

(4) the adequacy of detention facilities in the Northern Mariana Islands,

(5) the accuracy and reliability of the computerized alien identification and tracking system and its compatibility with the system of the Immigration and Naturalization Service, and

(6) the reasons why Federal agencies are unable or unwilling to fully and effectively enforce Federal laws applicable within the Commonwealth of the Northern Mariana Islands unless such activities are funded by the Secretary of the Interior.

SEC. 4. IMMIGRATION COOPERATION.

The Commonwealth of the Northern Mariana Islands and the Immigration and Naturalization Service shall cooperate in the identification and, if necessary, exclusion or deportation from the Commonwealth of the Northern Mariana Islands of persons who represent security or law enforcement risks to the Commonwealth of the Northern Mariana Islands or the United States.

SEC. 5. CLARIFICATION OF LOCAL EMPLOYMENT IN THE MARIANAS.

(a) Section 8103(i) of title 46 of the United States Code is amended by renumbering paragraph (3) as paragraph (4) and by adding a new paragraph (3) as follows:

"(3) Notwithstanding any other provision of this subsection, any alien allowed to be employed under the immigration laws of the Commonwealth of the Northern Mariana Islands (CNMI) may serve as an unlicensed seaman on a fishing, fish processing, or fish tender vessel that is operated exclusively from a port within the CNMI and within the navigable waters and exclusive economic zone of the United States surrounding the CNMI. Pursuant to 46 U.S.C. 8704, such persons are deemed to be employed in the United States and are considered to have the permission of the Attorney General of the United States to accept such employment: Provided, That paragraph (2) of this subsection shall not apply to persons allowed to be employed under this paragraph."

(b) Section 8103(i)(1) of title 46 of the United States Code is amended by deleting "paragraph (3) of this subsection" and inserting in lieu thereof "paragraph (4) of this subsection".

SEC. 6. CLARIFICATION OF OWNERSHIP OF SUBMERGED LANDS IN THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.

Public Law 93-435 (88 Stat. 1210), as amended, is further amended by:

(a) striking "Guam, the Virgin Islands" in section 1 and inserting in lieu thereof "Guam, the Commonwealth of the Northern Mariana Islands, the Virgin Islands" each place the words appear;

(b) striking "Guam, American Samoa" in section 2 and inserting in lieu thereof "Guam, the Commonwealth of the Northern Mariana Islands, American Samoa";

(c) striking "Guam, the Virgin Islands" in section 2 and inserting in lieu thereof "Guam, the Commonwealth of the Northern Mariana Islands, the Virgin Islands".

With respect to the Commonwealth of the Northern Mariana Islands, references to "the date of enactment of this Act" or "date of enactment of this subsection" contained in Public Law 93-435, as amended shall mean the date of enactment of this section.

SEC. 7. ANNUAL STATE OF THE ISLANDS REPORT.

The Secretary of the Interior shall submit to the Congress, annually, a "State of the Islands" report on American Samoa, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia that includes basic economic development information, data on direct and indirect Federal assistance, local revenues and expenditures, employment and unemployment, the adequacy of essential infrastructure and maintenance thereof, and an assessment of

local financial management and administrative capabilities, and Federal efforts to improve those capabilities.

SEC. 8. TECHNICAL CORRECTION.

Section 501 of Public Law 95-134 (91 Stat. 1159, 1164), as amended, is further amended by deleting "the Trust Territory of the Pacific Islands," and inserting in lieu thereof "the Republic of Palau, the Republic of the Marshall Islands, the Federated States of Micronesia,".

PURPOSE OF THE MEASURE

S. 638 was submitted by the Administration to repeal the current entitlement of \$27.7 million annually for the Commonwealth of the Northern Mariana Islands (CNMI) and establish a new entitlement for fiscal years 1996 to 2001 of:

- (1) \$6,140,000 annually to the CNMI for infrastructure and impact of the Compact of Free Association;
- (2) \$4,580,000 annually to Guam for Compact impact; and
- (3) \$17 million annually for infrastructure grants to American Samoa, Guam, and the Virgin Islands (limited to \$15 million annually to Samoa and \$3 million annually each to Guam and the Virgin Islands).

As reported by the Committee the legislation would:

- (1) Restructure the present entitlement to the CNMI to fulfill the terms of the 1992 Agreement with the CNMI on future funding, provide support for federal and local labor, immigration, and law enforcement activities, fund the land grant needs of the College of the Northern Marianas, and provide for the infrastructure needs of the territories and freely associated states;
- (2) Phase in minimum wage rates in the CNMI;
- (3) Require an annual report on the use of any funds allocated for labor, immigration, or law enforcement activities by federal agencies;
- (4) Require cooperation between the CNMI and the Immigration and Naturalization Service;
- (5) Clarify that persons lawfully admitted into the CNMI may be employed as seamen in the CNMI;
- (6) Clarify that the CNMI has the same ownership of submerged lands as previously granted to Guam and the other territories;
- (7) Codify the current requirement for an annual State of the Islands report contained in the Senate report on the fiscal year 1992 Appropriations Act; and
- (8) Make a technical correction to territorial grant legislation to recognize the freely associated states as successor entities to the Trust Territory of the Pacific Islands.

BACKGROUND AND NEED

In 1976, Congress approved a Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States (PL 94-241). The Covenant had been approved in a United Nations observed plebescite in the Northern Mariana Islands and formed the basis for the termination of the United Nations Trusteeship with respect to the Northern Mariana Islands. The CNMI became a territory of the United States and its resi-

dents became United States citizens. Under the terms of the Covenant certain federal laws would be inapplicable in the CNMI including minimum wage to take into consideration the relative economic situation of the islands and their relation to other east Asian countries. The CNMI was also given control over immigration into the CNMI since it appeared that the CNMI would have to augment its local labor pool with foreign workers.

At the time of passage of the Covenant, the CNMI was still dependent on annual federal grants to support basic operations of government. Article VII of the Covenant provided for a seven year period of grant assistance backed by a pledge of Full Faith and Credit. The assistance began at \$14 million and was indexed for inflation. A total of \$191 million was provided in three areas: \$113 million for government operations, \$55 million for capital infrastructure, and \$23 million for economic development loans.

Section 902 of the Covenant provided for the US and the CNMI to meet prior to the expiration of the seven year period to reach an agreement on future multi-year assistance. Section 704(d) of the Covenant provides that the level of payments would continue until Congress appropriates a different amount or "otherwise provides by law". That provision had been insisted on by the Congress so that funding for the CNMI would not expire through inadvertence and to ensure that Congress would be consulted. In 1985, an agreement on a new seven year agreement was reached with the CNMI and enacted by Congress in 1986 (sec. 10 of PL 99-396) which added a new section 3 and 4 to PL 94-241). The new agreement provided \$228 million over the seven year period. The agreement began to phase down operational grants, required development of a seven year infrastructure plan, and mandated certain performance standards.

The new section 4(b) provides:

"(b) Upon the expiration of the period of Federal financial assistance which is provided to the Government of the Northern Mariana Islands pursuant to section 3 of this Act, payments of direct grant assistance shall continue at the annual level provided for the last fiscal year of the additional period of seven fiscal years until Congress otherwise provides by law."

The final year of funding was \$27.7 million, and that level of funding has continued since the expiration of the seven years.

On December 17, 1992, a new agreement was negotiated for a third seven year agreement. That new agreement terminated any operational assistance and provided \$120 million for infrastructure over the term with a requirement that the CNMI match the federal assistance 50-50. The assistance would be provided on a declining basis from the federal government with reciprocal increases in the CNMI match to achieve the overall match. The agreement also specifically recognized that at its end the CNMI would no longer require guaranteed annual assistance and the entitlement would end.

President Clinton endorsed the agreement and included the agreement in his budget submission. The Committee included the agreement in our submission on the 1993 Budget Reconciliation Measure since the agreement would produce savings over the baseline of \$27.7 million/year. Agreement could not be reached with the House due to other concerns and the agreement was never ap-

proved. The Appropriations Committee, while continuing to provide \$27.7 million annually, has restricted the use of the funds to the terms of the agreement and directed the use of the excess to other needs within the CNMI, such as the American War Memorial Park. In the fiscal year 1995 Appropriation for Interior, \$7 million was set aside to support activities of the Departments of Labor, Justice, and the Treasury to deal with serious allegations of labor abuse and immigration problems.

CNMI LABOR ISSUES

Repeated allegations of violations of applicable federal laws relating to worker health and safety, concerns with respect to immigration problems, including the admission of undesirable aliens, and reports of worker abuse, especially in the domestic and garment worker sectors, led to the inclusion of the \$7 million set aside to support federal agency presence in the CNMI. The Administration was not prepared to commit limited agency resources to the CNMI absent the funding, but with the assistance, the Department of the Interior reported to the Committee on April 24, 1995 that:

(1) \$3 million would be used by the CNMI for a computerized immigration identification and tracking system and for local projects;

(2) \$2.2 million would be used by the Department of Justice to strengthen law enforcement, including the hiring of an additional FBI agent and Assistant US Attorney;

(3) \$1.6 million by the Labor for two senior investigators as well as training; and

(4) \$200,000 by Treasury for assistance in investigating violations of federal law with respect to firearms, organized crime, and counterfeiting. A copy of the report is included as an appendix to the Committee hearing record as well as a report from the Governor of the CNMI.

In addition, the report recommends that federal law be enacted to phase in the federal minimum wage level in 30 cent increments (which is the present local requirement), end mandatory assistance to the CNMI when the current agreement is fulfilled, continue annual support of federal agencies at a \$3 million/year level (which would include funding for a detention facility that meets federal standards), and possible federal take-over of immigration. On May 24, 1995, the Administration transmitted legislation that would, in part, implement the recommendations contained in the report.

The Administration has complicated consideration of the legislation by assuming its enactment in its budget submission. The fiscal year 1996 budget submission assumes that the present CNMI entitlement would be amended to provide both Compact impact assistance to Guam and the CNMI as well as \$15 million in infrastructure grants to American Samoa. That assistance would normally be provided in discretionary accounts in Interior. Absent enactment of the Administration legislation, Appropriations would be required to add additional funds since the CNMI entitlement is only available to the CNMI. A more responsible approach would have been to request discretionary grants and then submit a budget amendment to conform the request with enactment of the legislation. If the Senate and the House are not able to agree on legislation, there is

a considerable danger that Samoa will not receive needed assistance. In addition, the Administration's report is not consistent with the Administration's legislation. At least \$3 million/year would have to be deducted from either the Compact impact assistance to Guam and the CNMI or from the infrastructure grants to the territories to meet the needs of federal agencies in the CNMI. On May 25, 1995, the Committee conducted a hearing on S. 638 as well as the report on the CNMI, the additional legislation recommended by the Administration in its May 24, 1995 transmittal, and other needs of the territories.

Senator Murkowski, in his letter to the governors, and delegates notifying them of the hearing, requested comments on a different approach that would continue the present entitlement of \$27.7 million/year, but that would redirect the funding to provide:

- (1) completion of the seven year agreement with the CNMI on infrastructure;
- (2) funding for federal agencies in the CNMI in accordance with the Administration report;
- (3) cover the needs of Samoa in fiscal year 1996; and
- (4) use the excess indefinitely as a fund for infrastructure needs in all the territories based on a five year plan, updated annually by the Department of the Interior in consultation with the territories.

The amendment adopted by the Committee would incorporate the outline suggested by Senator Murkowski and in addition would fund the land grant institution, the College of the Northern Marianas. As a result of the hearing and information submitted to the Committee, the Committee has also adopted additional provisions.

Section 2 of the Committee amendment was proposed by the Administration in its May 24, 1995 transmittal. The section would make the provisions of federal law with respect to minimum wage rates applicable in the CNMI, but would phase in the rates as presently provided by the CNMI. The Administration believes that federal enactment would ensure stability for the phase-in and would also provide federal authority for minimum wage enforcement in the CNMI.

Section 3 of the Committee amendment was proposed by the Administration in its May 24, 1995 transmittal. The section would require an annual report by the Secretary of the Interior to ensure that any immigration or labor issues in the CNMI receive prompt attention and that activities under the initiative begun with the allocation of \$7 million from funds earmarked for the CNMI are properly tracked.

Section 4 of the Committee amendment was proposed by the Administration in its May 24, 1995 transmittal to ensure that there will be adequate cooperation between the CNMI and the INS in the identification and, if necessary, the exclusion or deportation of persons who represent security or law enforcement risks to the CNMI or the United States.

Section 5 of the Committee amendment is designed to resolve a problem that has arisen in the implementation of the Covenant's provisions giving the CNMI control over immigration. Although the CNMI is part of the United States and certain persons are lawfully admitted into the CNMI pursuant to the federal legislation grant-

ing the CNMI control over immigration, some federal agencies have taken a tortured legal position that an alien legally permitted to enter and be employed in the CNMI is not eligible for employment as an unlicensed seaman on a fishing, fish processing, or fish tender vessel operating exclusively within the CNMI and the adjacent federal EEZ. The section would permit aliens lawfully admitted into the CNMI for employment to be so employed.

Section 6 of the Committee amendment is a technical clarification. Public Law 93-435 granted ownership over submerged lands within three miles to the territories as Congress had previously done for the coastal States. At the time, the CNMI was part of the Trust Territory of the Pacific Islands for which the United States was Administering Authority pursuant to a Trusteeship Agreement with the United Nations. The Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States approved by Public Law 94-241 extended United States sovereignty over the CNMI, which became a territory of the United States. The Covenant used a general formula to extend federal laws to the CNMI, but questions have remained over the jurisdiction over submerged lands. This section would grant the CNMI ownership over submerged lands seaward to three miles with the same limitations as are otherwise applicable to other territories.

Section 7 of the Committee amendment requires the submission of an annual report on conditions in the territories and freely associated states. The report is presently being prepared pursuant to direction contained in the Senate Report (102-122) to accompany the Appropriations for the Department of the Interior and Related Agencies for Fiscal Year 1992. The report has been very useful in tracking developments in the islands and the Committee believes that it should continue to be prepared.

Section 8 of the Committee amendment makes a technical correction to legislation authorizing federal agencies to consolidate grants and simplify forms and reporting requirements. The legislation refers to the Trust Territory of the Pacific Islands, which has been terminated. Some agencies have questioned whether the authority is still available to the successor entities that are in free association with the United States—the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia. Although the Committee believes that there is sufficient authority under the Subsidiary Agreement on the provision of services to achieve the objectives of this legislation, the technical correction to substitute the freely associated states for the term Trust Territory of the Pacific Islands will settle any confusion.

LEGISLATIVE HISTORY

On February 27, 1995, the Administration transmitted draft legislation that was introduced by Senator Murkowski, by request, on March 28, 1995 as S. 638. On May 24, 1995, the Administration transmitted additional legislation. On May 25, the Committee held a hearing on S. 638 as well as the additional legislative proposal although it had not yet been formally received. At the business meeting on June 28, 1995, the Committee on Energy and Natural Resources ordered S. 638, as amended, favorably reported.

COMMITTEE RECOMMENDATIONS AND TABULATIONS OF VOTES

The Committee on Energy and Natural Resources, in open business session on June 28, 1995, by unanimous vote of a quorum present, recommends that the Senate pass S. 638, if amended as described herein.

The roll call vote on reporting the measure was 20 yeas, 0 nays, as follows:

YEAS	NAYS
Mr. Murkowski	
Mr. Hatfield ¹	
Mr. Domenici	
Mr. Nickles ¹	
Mr. Craig	
Mr. Campbell	
Mr. Thomas	
Mr. Kyl	
Mr. Grams	
Mr. Jeffords	
Mr. Burns	
Mr. Johnston ¹	
Mr. Bumpers	
Mr. Ford ¹	
Mr. Bradley	
Mr. Bingaman ¹	
Mr. Akaka	
Mr. Wellstone	
Mr. Heflin	
Mr. Dorgan	

¹ Indicates voted by proxy.

SECTION-BY-SECTION ANALYSIS OF COMMITTEE AMENDMENTS

During the consideration of S. 638, the Committee adopted an amendment as a complete substitute.

Section 1 of the amendment sets forth how the permanent funding presently provided to the CNMI will be obligated in the future. Consistent with the Administration's proposal, that portion of the funding not needed to meet the requirements of the 1992 Agreement with the CNMI will be made available for other insular needs. The Committee did not agree with the use of the funding for operational expenses of Guam and the CNMI, as proposed in the Administration's legislation, and believes that any operational needs should be reviewed on an annual basis and be considered within other operational needs for other territories. While the Committee does not object to appropriations to Guam or the CNMI to offset the additional costs attributable to the Compacts of Free Association, the Committee believes that those costs need to be weighed against the compelling needs in places such as American Samoa.

The Committee also rejected the idea of a formula distribution of infrastructure funds. Given budget realities, it is essential that only the highest priority needs be funded. That may mean that the entire allocation will be obligated in one territory in some years.

The Committee wants to emphasize that it does not view this allocation as a complete substitute for normal discretionary appropriation requests if justified. The intent of the allocation is to provide some measure of stability and planning for infrastructure needs, not to place a cap on requests. To accomplish that end, the Committee has required that the Department of the Interior, which has overall responsibility and authority for program assistance in the United States territories and the Freely Associated States, to prepare, and update annually, a five year plan for the obligation of this funding. In preparing the plan, and in updating it, the Committee expects the Department to consult closely with the chief executives of the areas. The Committee has included the Freely Associated States within the allocation, but wishes to emphasize that this should not be constructed as a new program for new projects. Rather, the Committee is trying to accommodate needs that are related to the Trusteeship. For example, if there are problems with infrastructure not identified in the Berger report, such as the Yap runway, then the Committee believes that consideration should be given to including such projects within the five year plan. Projects related to ongoing United States activities, such as the work at Ebeye, could also be considered as well as other Trusteeship related responsibilities, such as assistance in the resettlement of Rongelap.

The Committee also believes that consideration needs to be given to the capability of each area to contribute to the costs of individual projects. Again the Committee does not believe that a general formula is appropriate. The present Agreement with the CNMI recognizes this and requires increasing levels of cost share over the term of the Agreement. Depending on the importance, cost, and nature of a particular project, the Committee encourages the consideration of requiring some cost sharing, especially to stretch these limited funds. The particular economic and fiscal conditions will obviously set parameters on what the local government can do. That also militates against a standard formula for all projects even within a particular area. The Committee has also required that consideration be given to setting aside some percentage of individual projects for maintenance. The Committee wants to emphasize that this is an infrastructure program and not a substitute for other activities, such as the OMIP or Technical Assistance programs, that the Committee believes have had, and will continue to have, long term benefits.

The Committee does not expect that the Department will be prepared to fully provide the initial five year plan before consideration of the fiscal year 1998 budget, and accordingly has directed how virtually all of the fiscal year 1996 and fiscal year 1997 funds are to be obligated. For fiscal year 1996, the Committee has directed that all funds not needed to meet the CNMI Agreement are to be made available to American Samoa. The Committee views the decision by the Administration to assume enactment of its original proposal, which it has since retreated from, in its budget request as reprehensible. The Committee was forced to choose between upholding the negotiated 1992 Agreement with the CNMI, which two Administrations have supported and which has previously been approved by the Committee and the Senate, and the critical infra-

structure needs of American Samoa. Both could not be met. The responsible approach would have been to transmit the legislation and request funding for American Samoa in the normal process and then request a recession or other amendment if the legislation were approved. The Administration did not do that and it is likely that projects critical for health and safety in American Samoa will not be met. Hopefully, enactment of this legislation will meet some of those needs.

For fiscal year 1997, the Committee has directed that of those funds not needed for the CNMI Agreement, \$3 million be made available for the College of the Northern Marianas to fund its land grant status. While not an infrastructure project, the Committee sees no alternative to providing this important funding need. The Committee has also concurred in the Administration's request for not more than \$3 million to fund the initiative in the CNMI related to immigration, labor, and law enforcement. The Committee rejected the Administration's request that this funding come from the infrastructure program in the CNMI. The costs of federal agencies should be borne by Federal agencies, not by the territorial governments from funds needed for basic infrastructure. While the Department requested a permanent set aside of \$3 million annually, the Committee has provided that the allocation may not exceed \$3 million. The Committee is concerned that federal agencies are beginning to assume that the Department of the Interior is a slush fund for activities they should fund through their budgets. The Departments of Justice, Labor, and the Treasury should be enforcing federal laws without seeking reimbursement from the Department of the Interior, and the Committee expects that the Appropriations Committee will closely monitor this activity.

The Committee has also suggested that the Department consider in developing its five year plan to requesting an allocation to provide a fund to be available whenever a disaster occurs in some area. A major disaster, such as Hugo or Pamela, would quickly exhaust available funds. If the Secretary had a contingency fund, it might be possible to make greater use of other assistance, such as that provided by FEMA. It is unrealistic not to assume that there will not be another disaster in some area. The question is where and when and how bad, not whether.

The Committee has also provided that this program could be used to assist in the resettlement of Rongelap. The Committee wants to emphasize that these funds are available only for resettlement at Rongelap. If the Administration or others want to request assistance for those individuals who, for whatever reason, choose not to return, there is provision under the ex gratia authorization of the Compact approval legislation (cf. section 105(c)(2) of P.L. 99-239). That request would need to be gauged against other discretionary appropriations and should not come at the expense of those seeking to resettle.

Section 2 of the Committee amendment would federalize the CNMI minimum wage phase in. The Committee recognizes that the CNMI has enacted legislation to gradually phase in the present CNMI minimum wage to the federal rate, but also recognizes the pressures within the CNMI to alter that process. The enactment of this section will eliminate that internal pressure and also provide

a firmer basis for federal law enforcement within the CNMI. The Committee views this section as supportive of the CNMI.

Section 3 of the Committee amendment requires an annual report from the Secretary of the Interior each year that funds are allocated to the Secretary for the support of other Federal agencies or the Commonwealth to address immigration, labor or law enforcement activities. The section was recommended by the Administration and the Committee agrees that a full report is both necessary and useful. The Committee has added an additional item to the list proposed by the Administration and that is an explanation as to why federal agencies are unwilling or unable to perform their statutory responsibilities unless the Secretary of the Interior reimburses them. Congress has already allocated \$7 million of needed territorial assistance to underwrite activities that Federal agencies should be doing normally. The limited resources available to the Secretary should not be consumed by other Federal agencies. The Committee expects that the Appropriations Committee will carefully review any future requests for such assistance.

Section 4 of the Committee amendment was recommended by the Administration and is self explanatory.

Section 5 of the Committee amendment deals with a particular problem that has arisen within the CNMI as a result of a cramped reading of federal law with respect to limitations on the employment of aliens as unlicensed seamen against the provisions of the Covenant for the CNMI that permit the CNMI to lawfully admit aliens for the purposes of employment in the CNMI. This section is self explanatory and is limited to the CNMI and the federal EEZ around the CNMI.

Section 6 was explained in the Background and Need section and amends the Federal legislation conferring title to submerged lands to the territories to include the CNMI.

Section 7 would codify the requirement for an annual state of the islands report from the Department of the Interior that is presently being prepared pursuant to the Senate Report accompanying the fiscal year 1992 appropriations measure for the Department of the Interior.

Section 8 is a clarifying amendment that substitutes the names of the freely associated states for the term "Trust Territory of the Pacific Islands" in the statute authorizing federal agencies to consolidate grants and simplify reporting requirements.

COST AND BUDGETARY CONSIDERATIONS

The Congressional Budget Office estimate of the costs of this measure has been requested but was not received at the time the report was filed. When the report is available, the Chairman will request that it be printed in the Congressional Record for the advice of the Senate.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 638. The bill is not a regulatory measure in the sense of impos-

ing Government-established standards or significant economic responsibilities on private individuals and businesses, other than section 2 of the Committee amendment that would phase in the federal minimum wage rate as presently provided by local legislation.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 638, as ordered reported.

EXECUTIVE COMMUNICATIONS

S. 638 was proposed by the Administration. Subsequent to its introduction, the Administration transmitted additional legislation to implement its recommendations contained in its report on immigration, labor and law enforcement in the CNMI. The Executive Communications are set forth below:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, February 27, 1995.

Hon. ALBERT GORE,
President, U.S. Senate,
Washington, DC.

DEAR MR. PRESIDENT: Enclosed is a draft bill "(t)o authorize appropriations for United States insular areas, and for other purposes."

The Department of the Interior recommends that the bill be introduced, referred to the appropriate committee, and enacted.

The bill would terminate the mandatory financial assistance paid to the commonwealth of the Northern Mariana Islands (CNMI) and shift such mandatory assistance to more pressing territorial needs, i.e., contribution to Guam and the CNMI for impact of immigration caused by the Compacts of Free Association, and capital infrastructure construction. The bill would follow through on a commitment by the Congress to contribute to the defraying of impact costs incurred by Guam and the CNMI, and would represent a commitment to the territories by President Clinton and the Congress to address the territories' most pressing capital infrastructure needs. The draft bill is consistent with the budgetary requirements under "Paygo."

The Covenant to Establish the Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (Covenant) committed the federal government to mandatory funding for the CNMI for a period of seven years—1979 through 1985. A total of \$228 million in full faith and credit funding for a subsequent seven-year period was approved by the Congress in legislation (Pub. L. 99-396, 100 Stat. 840) that provided—

(u) the expiration of the period of Federal financial assistance * * *, payments of direct grant assistance shall continue at the annual level provided for the last fiscal year of the additional period of seven fiscal years until Congress otherwise provides by law.

Congress has not over the last two years approved a third and final financial assistance agreement, nor acted on Administration proposals transmitted with the 1994 and 1995 budgets.

With no additional provision of law by the Congress, however, the CNMI continues to receive \$27.7 million annually as it did in fiscal year 1992, the final year of the second seven-year period.

PROVISIONS OF THE DRAFT BILL

The draft bill addresses specific concerns shared by the Congress, the Administration and the insular areas.

CNMI

The bill would authorize \$6,140,000 a year for the Commonwealth of the Northern Mariana Islands through the year 2001 for the purposes of capital improvement projects, administration and enforcement of immigration and labor laws, and contribution to costs of the compacts of free association. Flexibility would be accorded the CNMI in allocating the funding among such purposes. If authorized, the CNMI will have received a total of \$120 million during the period of fiscal years 1993 through 2001—the equivalent of the 1992 agreement reached with the CNMI representatives.

The bill would shift remaining mandatory funding to other priority insular needs, i.e., territorial infrastructure needs, and the congressional commitment to reimburse United States jurisdictions for the impact of the compacts of free association.

Guam

When the compact of Free Association for the Marshall Islands and the Federated States of Micronesia was approved by the Congress, section 104(e)(6) of Public Law 99-239 authorized the payment of impact of the Compact costs incurred by United States Pacific island jurisdictions due to the extension of education and social services to immigrants from the freely associated states. The Palau Compact legislation (Public Law 99-658) included Palau by reference. The Governments of Guam and the CNMI contend that they have incurred costs in excess of \$75 million. While definitions of eligible costs and the magnitude of the costs may be in question, all agree that Guam and the CNMI has sustained substantial expenses due to the compact. With the implementation of the Palau Compact, which occurred on October 1, 1994, we anticipate that the problem will be compounded. Under the draft bill, funds to defray costs for the CNMI would be a part of the CNMI authorization contained in section 2 of the draft bill. Annual payments of \$4.58 million for Guam would help defray Guam's expenses. The contributions would cease at the end of the Compact period, September 30, 2001.

Capital infrastructure

The remaining \$17 million in mandatory funding would be redirected to pressing capital infrastructure needs in American Samoa, Guam, and the Virgin Islands for a minimum period of six years. American Samoa has unfunded capital infrastructure needs well in excess of \$100 million. Guam and the Virgin Islands have substantial needs in the environmental, health, and public safety areas.

The draft bill would give recognition to the fact that of the four small United States territories, American Samoa has the greatest need for capital infrastructure, but lacks resources for financing construction.

The bill would allow American Samoa to receive up to \$15 million annually for capital infrastructure projects. Guam and the United States Virgin Islands would receive up to \$3 million annually for capital infrastructure projects related to the environment, health, and public safety.

Capital infrastructure funds would be released only after an insular area—

develops a capital infrastructure master plan approved by the Department of the Interior and the United States Army Corps of Engineers, and

contributes five percent of the project cost to a maintenance fund for the project to be expended according to the project's maintenance plan:

Phaseout

After the initial six years of mandatory funding, the program may be extended for an additional three-year, phaseout period, with grantee/federal sharing as follows: 25/75 percent in the first year, 50/50 percent in the second year, and 75/25 percent in the third year. Because section 2 of the draft bill which includes capital infrastructure funding for the Northern Mariana Islands will terminate at the end of the fiscal year 2001, the Northern Mariana Islands would participate in the phaseout years of the capital infrastructure program in annual amounts up to \$3 million, like Guam and the Virgin Islands.

The proposed bill would have no negative effect on the Federal budget and meets "Paygo" requirements by shifting the purposes of existing mandatory funding. Discretionary savings would result by shifting existing discretionary infrastructure funding for the purposes identified in the bill to this proposed replacement program.

The Office of Management and Budget advises that there is no objection to presentation of this draft bill from the standpoint of the Administration's program.

Sincerely,

LESLIE M. TURNER,
*Assistant Secretary,
Territorial and International Affairs.*

Enclosures.

A BILL To authorize appropriations for United States insular areas, and for other purposes

Be it Enacted by the United States Senate and House of Representatives in Congress Assembled,

SECTION 1. SHORT TITLE.—This Act may be cited as the Insular Development Act of 1995.

SEC. 2. NORTHERN MARIANA ISLANDS.—There is authorized to be appropriated to the Secretary of the Interior for the Commonwealth of the Northern Mariana Islands \$6,140,000, backed by the full faith and credit of the United States, for each of fiscal years 1996 through 2001, for capital improvement projects in the environ-

mental, health, and public safety areas, administration and enforcement of immigration and labor laws, and contribution toward costs of the compacts of free association (for the same duration and purposes as are applied to Guam in Public Law 99-239 as amended by section 3 of this Act).

SEC. 3. IMPACT OF THE COMPACT.—(a) Paragraph (6) of subsection (e) of section 104 of Public Law 99-239 (99 Stat. 1770, 48 U.S.C. 1681 note), is amended by striking everything after the word “after” and inserting in lieu thereof the following language: September 30, 1995 and ending September 30, 2001, \$4,580,000 annually, backed by the full faith and credit of the United States, for Guam, as a contribution toward costs that result from increased demands for education and social program benefits by immigrants from the Marshall Islands, the Federated States of Micronesia, and Palau.

SEC. 4. CAPITAL INFRASTRUCTURE.—There is authorized to be appropriated to the Secretary of the Interior \$17,000,000 for each fiscal year beginning after September 30, 1995 and ending September 30, 2001, backed by the full faith and credit of the United States, for grants for capital infrastructure construction in American Samoa, Guam, and the United States Virgin Islands, *Provided*, That the annual grant to American Samoa shall not exceed \$15,000,000 and the annual grants for Guam and the United States Virgin Islands shall not exceed \$3,000,000 each.

SEC. 5. CAPITAL INFRASTRUCTURE FUNDING REQUIREMENTS.—(a) No funds shall be granted under this Act for capital improvement projects without the submission by the respective government of a master plan of capital needs that (1) ranks proposed projects in order of priority, and (2) has been reviewed and approved by the Department of the Interior and the United States Army Corps of Engineers. The insular areas’ individual master plans, with comments, shall be presented in the Department of the Interior’s annual report on the State of the Islands, and shall be the basis for any requests for capital improvement funding through the Department of the Interior or the Congress.

(b) Each grant by the Department of the Interior shall include a five percent payment into a trust fund, to be administered by the Governor (as trustee) of the territory in which the project is located, solely for the maintenance of such project. No funds shall be paid pursuant to a grant under subsection (a) of this section without the prior appropriation and payment by the respective territorial government to the trustee, of an amount equal to the federal contribution for maintenance of the project. A maintenance plan covering the anticipated life of each project shall be adopted by the Governor of the respective insular area and approved by the Department of the Interior before any grant payment for construction is released by the Department of the Interior.

(c) The capital infrastructure funding authorized under this Act is authorized to be extended for an additional three-year phase-out period: *Provided*, That each grant during the additional period contains a dollar sharing by each grantee and the grantor in the following ratios: twenty-five/seventy-five percent for the first year, fifty/fifty percent for the second year, seventy-five/twenty-five percent for the third year; *Provided further*, That funding for capital

infrastructure for the Commonwealth of the Northern Mariana Islands shall not exceed \$3,000,000 annually during the period of such extension.

SEC. 6. REPEAL.—Effective after September 30, 1995, no additional funds shall be made available under subsection (b) of section 4 of Public Law 94–241 (90 Stat. 263, 48 U.S.C. 1681 note), and such subsection is repealed.

SECTION-BY-SECTION ANALYSIS

INSULAR DEVELOPMENT ACT OF 1995

Section 1 states the short title of the Act to be the “Insular Development Act of 1995.”

Section 2 authorizes a full faith and credit appropriation in an annual amount of \$6.14 million for fiscal years 1996 through 2001 to the Secretary of the Interior for the Commonwealth of the Northern Mariana Islands (CNMI) devoted to the following purposes: (1) capital improvement projects in environmental, health, and public safety areas, (2) administration and enforcement of immigration and labor laws, and (3) contribution toward costs of the compacts of free association incurred by the CNMI.

Section 3 amends the law authorizing payments to United States Pacific jurisdictions for costs associated with the compacts of free association to provide a specific \$4.58 million annual full faith and credit payment to Guam as a contribution toward such costs incurred by Guam.

Section 4 authorizes a full faith and credit appropriation in the annual amount of \$17 million for fiscal years 1996 through 2001 to the Secretary of the Interior for capital infrastructure construction in American Samoa, Guam, and the Virgin Islands. The insular area with the greatest need, American Samoa, would receive annual grants of between \$11 million and \$15 million; Guam and the Virgin Islands would each receive annual grants of up to \$3 million.

Section 5(a) provides that capital infrastructure funds granted under sections 2, 4, and 5 of the bill would be subject to master plans developed by the respective government that rank projects in priority order. The plans would be subject to review and approval by the Department of the Interior and United States Army Corps of Engineers.

Section 5(b) provides that five percent of each Interior grant for capital infrastructure and a matching amount by the respective insular government be paid into trust funds solely for expenditure on maintenance of each project, according to a maintenance plan approved by Interior. The respective insular governor would be the trustee.

Section 5(c) provides for extension of only the capital infrastructure program, authorized in section 4, for an additional three-year phase-out period. The federal share of construction grants would decrease to seventy-five percent in the first year, fifty percent in the second year, and twenty-five percent in the third year, before termination of the program.

Section 6, repeals subsection (b) of section 4 of Public Law 94-241 (which mandates continuing payments of \$27.7 million to the Commonwealth of the Northern Mariana Islands until otherwise provided by law). The provision explicitly states that no additional funds shall be made available under this subsection of the 1976 law after fiscal year 1995.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, May 24, 1995.

Hon. ALBERT GORE,
President, U.S. Senate,
Washington, DC.

DEAR MR. PRESIDENT: Enclosed is a draft bill "(t)o provide for the territories, and for other purposes."

The Department of the Interior recommends that the bill be introduced, referred to the appropriate committee, and enacted.

The bill contains two titles. The first title is comprised of provisions that would implement the long-term recommendations included in a report on Commonwealth of the Northern Mariana Islands (CNMI) immigration and labor issues, dated March 24, 1995, which was submitted to the Chairman of the Senate Committee on Energy and Natural Resources. The second title contains several miscellaneous provisions pertaining to the territories and freely associated states.

TITLE I—IMPLEMENTATION OF RECOMMENDATIONS FOR THE CNMI

The Department of the Interior submitted a report to the Congress concerning immigration and labor problems in the CNMI. The result of CNMI immigration and minimum wage policies over the last decade is a two-tiered society in which United States citizen residents hold well-paying jobs, often in local government, while non-United States citizens, for the most part, work in menial, low wage jobs. The CNMI minimum wage, which is separate and substantially lower than the federal minimum wage, exacerbates CNMI societal division. Next door, Guam competes well in the tourist market and has paid the United States minimum wage for decades.

In addition, non-United States citizen workers are too often the subject of intimidation and illegal acts relating to employee wages and hours, rape and prostitution, and illegal servitude. Unfettered importation of non-citizen labor, by itself, does not cause the problems. The more direct cause is the lack of effective law enforcement.

The Interior report outlines the short-term uses of congressional funding, mostly in the enforcement and training areas. The report's five long-term recommendations require legislation. Our draft of such legislation appears in title I as sections 101 through 105.

Section 101 would make the provisions of the federal laws regarding the minimum wage applicable in the Northern Mariana Islands, but allow for incremental growth to the higher federal level with thirty cent annual increases. The initial wage rate of \$2.75 and thirty cent increases would conform to CNMI law. The Admin-

istration seeks federal enactment to ensure stability for the phase-in of the mainland minimum wage and to provide for federal authority for minimum wage enforcement in the CNMI.

With the passage of this legislation, the Fair Labor Standards Act (coverage and exemptions) will apply in the CNMI in the same manner that it applies in the fifty states, except that the federal minimum wage will be initially set at \$2.75 an hour with scheduled increases of 30 cents an hour on the first day of each January until the CNMI minimum wage reaches the minimum wage rate prescribed in section 6 of the Fair Labor Standards Act.

The Department of the Interior transmitted draft minimum wage legislation to the Governor of the Northern Mariana Islands on May 9, 1995, in order to discuss coverage and exemption issues. The Department of Labor is continuing to seek consultations with the CNMI Governor.

Section 102 would authorize the allocation of \$3 million a year by the Secretary of the Interior from funds appropriated pursuant to the Covenant with the Northern Mariana Islands or the proposed Insular Development Act of 1995. The funds would be used by federal agencies and the CNMI for future activities relating to the immigration, labor, and law enforcement initiative in the CNMI, and for detention facility needs. The \$7 million appropriated for fiscal year 1995 will be sufficient to fund enforcement activities for the year. The additional funding requested in section 102 would ensure that momentum for this initiative is maintained into the future.

Section 103 would require that the Department of the Interior submit a report by March 15 each year that outlines (1) pertinent immigration information, (2) the treatment and condition of non-United States citizen contract workers, (3) effect of laws of the Northern Mariana Islands on federal interests, (4) adequacy of detention facilities in the Northern Mariana Islands, and (5) accuracy and reliability of the CNMI computerized alien identification and tracking system and its compatibility with the system of the Immigration and Naturalization Service.

The publishing of such a report on a regular basis would help to ensure that immigration and labor issues will receive prompt attention as they arise, and that activities under the initiative are regularly tracked, and adjustments and recommendations are made, as appropriate.

Section 104 would provide for cooperation between the CNMI and the Immigration and Naturalization Service (INS) in the identification and, if necessary, the exclusion or deportation of persons who represent security or law enforcement risks to the Commonwealth of the Northern Mariana Islands or the United States.

Section 105 would require the Department of Justice, in consultation with the Departments of the Interior, Labor, and State, to promptly develop legislation for gradual but full implementation of the Immigration and Nationality Act (INA) in the CNMI if, as determined in the March 15, 1997 report, law enforcement in the CNMI remains deficient, or if the number of non-United States citizen contract workers exceeds the highest number of such workers present in the Northern Mariana Islands in 1992.

The Department of the Interior seeks to promote self-government that is consistent with the protection of federal interests. Thus, we recommend a delay until March 1997 in making a determination regarding the application of the Immigration and Nationality Act. Should the proper enforcement of law in the CNMI bring a halt to immigration and labor problems, federal interests in protecting individuals will have been achieved, and a federalized immigration program would be unnecessary. If, to the contrary, law enforcement in the CNMI is not aggressive or the numbers of contract workers exceeds 1992 levels, section 105 would generate legislation for the application of the INA.

TITLE II—PROVISIONS PERTAINING TO THE VARIOUS TERRITORIES

Section 201 would make the submission of impact of the Compacts reports optional for concerned governors of the territories or the State of Hawaii, and would shift report preparation from the President to the respective governor. As potential recipients of impact of the Compacts funds, the territories and Hawaii are in the best position to estimate the impacts within their respective jurisdictions. The Department of the Interior would forward any reports submitted to the Congress with the views of the Department.

Section 202 would specify that the American Memorial Park is a unit of the National Park system, and would repeal subsection (f) of section 5 of Public Law 95-348, which directs the Secretary of the Interior to transfer administration of the American Memorial Park on Saipan to the Government of the Northern Mariana Islands if the Governor requests the transfer. The transfer of jurisdiction has never occurred. The Department believes that a national park should be administered according to federal standards. Without clear federal jurisdiction, however, it is difficult to maintain federal standards for the park. Section 202 would clarify the Park's status as a unit of the National Park system and retain authority in the Secretary of the Interior.

Section 203 would aid the Department of the Interior in streamlining its structure for addressing insular area issues. Current law calls for one professional staff person from the Department in each of the three freely associated states of the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau. The Department plans to employ one such staff person who would reside in Micronesia. Based on anticipated workload, a single employee could travel to and serve all three jurisdictions.

The Department of the Interior believes that action by the Congress on the enclosed draft bill will be a great assistance in meeting policy objectives.

The Office of Management and Budget advises that there is no objection to presentation of this draft bill from the standpoint of the Administration's program.

Sincerely,

ALLEN P. STAYMAN,
*Acting Assistant Secretary,
Territorial and International Affairs.*

Enclosures.

A BILL To provide for the territories, and for other purposes

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

TITLE I—NORTHERN MARIANA ISLANDS

SEC. 101. FEDERAL MINIMUM WAGE.

Effective thirty days after enactment of this Act, the minimum wage provisions of section 6 of the Fair Labor Standards Act of June 25, 1938 (52 Stat. 1062), as amended, shall apply to the Commonwealth of the Northern Mariana Islands, except:

(a) on the effective date, the minimum wage rate applicable to the Commonwealth of the Northern Mariana Islands shall be \$2.75 per hour;

(b) effective January 1, 1996, the minimum wage rate applicable to the Commonwealth of the Northern Mariana Islands shall be \$3.05 per hour;

(c) effective January 1, 1997 and every January 1 thereafter, the minimum wage rate shall be raised by thirty cents per hour or the amount necessary to raise the minimum wage rate to the wage rate set forth in section 6(a)(1) of the Fair Labor Standards Act, whichever is less; and

(d) once the minimum wage rate is equal to the wage rate set forth in section 6(a)(1) of the Fair Labor Standards Act, the minimum wage rate applicable to the Commonwealth of the Northern Mariana Islands shall thereafter be the wage rate set forth in section 6(a)(1) of the Fair Labor Standards Act.

The enactment of this legislation will result in all provisions of the Fair Labor Standards Act, including the coverage and exemptions provisions, applying in the same manner in the Commonwealth of the Northern Mariana Islands as they do on the mainland, with the exception of the minimum wage phase-in as set forth in paragraphs (a) through (d) of this section.

SEC. 102. AUTHORIZATION.

There is authorized to be allocated by the Secretary of the Interior, \$3 million each year from appropriations for the Commonwealth of the Northern Mariana Islands under the Covenant approved in Public Law 94-241 of the Insular Development Act of 1994, for use by federal agencies of the Commonwealth of the Northern Mariana Islands to address immigration, labor, and law enforcement issues in the Northern Mariana Islands, including detention and corrections needs.

SEC. 103. REPORT.

The Secretary of the Interior, in consultation with the Attorney General and Secretaries of Treasury, Labor and State, shall report to the Congress by March 15 following each fiscal year for which funds are allocated pursuant to section 102 of this Act. The report shall include but not be limited to—

(1) pertinent immigration information provided by the Immigration and Naturalization Service, including the number of non-United States citizen contract workers in the CNMI, based on data the Immigration and Naturalization Service may require of the Commonwealth of the Northern Mariana Islands

on a semiannual basis, or more often if deemed necessary by the Immigration and Naturalization Service,

(2) the treatment and conditions of non-United States citizen contract workers, including foreign government interference with workers' ability to assert their rights under United States law,

(3) the effect of laws of the Northern Mariana Islands on federal interests,

(4) the adequacy of detention facilities in the Northern Mariana Islands, and

(5) the accuracy and reliability of the computerized alien identification and tracking system and its compatibility with the system of the Immigration and Naturalization Service.

SEC. 104. IMMIGRATION COOPERATION.

The Commonwealth of the Northern Mariana Islands and the Immigration and Naturalization Service shall cooperate in the identification and, if necessary, exclusion or deportation from the Commonwealth of the Northern Mariana Islands of persons who represent security or law enforcement risks to the Commonwealth of the Northern Mariana Islands or the United States.

SEC. 105. SENSE OF THE CONGRESS.

It is the sense of the Congress that the Attorney General, in consultation with the Secretaries of the Interior, Labor, and State, and the Governor of the Northern Mariana Islands, should promptly develop legislation, after publication of the March 15, 1997 report, to gradually phase in, in an orderly manner, full application of the Immigration and Nationality Act for the Commonwealth of the Northern Mariana Islands, if, in the sole judgment of the Attorney General—

(1) the application of such federal law in the Commonwealth of the Northern Mariana Islands is necessary for adequate law enforcement, or

(2) the number of non-United States citizen contract workers exceeds the highest number of such workers the Attorney General determines to have been present in the Northern Mariana Islands in 1992, and

full application of the Immigration and Nationality Act to the Commonwealth of the Northern Mariana Islands will not have a detrimental effect on the enforcement of federal immigration laws.

TITLE II—GENERAL PROVISIONS

SEC. 201. SUBMISSION OF IMPACT OF THE COMPACT REPORTS BY GOVERNORS.

Paragraph (2) of subsection (e) of section 104 of Public Law 99-239 is amended by—

(1) striking the words in the first sentence that begin with the word "President" through and including the period, and

(2) inserting in lieu thereof the words "Governor of a United States territory, and commonwealth, or the State of Hawaii may report to the Secretary of the Interior by February 1 of each year, with respect to the impacts of the compacts of free association on the Governor's respective jurisdiction. The Secretary of the Interior shall review and forward any such re-

ports to the Congress with the comments of the Administration.”.

SEC. 202. AMERICAN MEMORIAL PARK.

Section 5 of Public Law 95-348 is amended by—

- (1) striking the period at the end of the first sentence of subsection (a), and inserting in lieu thereof the words “, as a unit of the National Park system.”,
- (2) striking subsection (f), and
- (3) renumbering subsections (g) and (h) as subsections (f) and (g), respectively.

SEC. 203. FEDERAL PROGRAMS PERSONNEL

Section 108 of Public Law 101-219 is amended by—

- (1) striking the words “at least one professional staff person in each of”, and
- (2) inserting in lieu thereof the words “in the freely associated states one professional staff person to serve in”.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill S. 638, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

PUBLIC LAW 93-435, 93D CONGRESS, H.R. 11559, OCTOBER 5, 1974

AN ACT To place certain submerged lands within the jurisdiction of the governments of Guam, the Virgin Islands, and American Samoa, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subject to valid existing rights, all right, title, and interest of the United States in lands permanently or periodically covered by tidal waters up to but not above the line of mean high tide and seaward to a line three geographical miles distant from the coastlines of the territories of [Guam, the Virgin Islands] *Guam, the Commonwealth of the Northern Mariana Islands, the Virgin Islands,* and American Samoa, heretofore or hereafter modified by accretion, erosion, and reliction, and in artificially made, filled in, or reclaimed lands which were formerly permanently or periodically covered by tidal waters, are hereby conveyed to the governments of [Guam, the Virgin Islands] *Guam, the Commonwealth of the Northern Mariana Islands, the Virgin Islands,* and American Samoa, as the case may be, to be administered in trust for the benefit of the people thereof.

* * * * *

(d)(1) The Secretary of the Interior shall, not later than sixty days after the date of enactment of this subsection, convey to the governments of [Guam, the Virgin Islands] *Guam, the Commonwealth of the Northern Mariana Islands, the Virgin Islands,* and American Samoa, as the case may be, all right, title, and interest of the United States in deposits of oil, gas, and other minerals in the submerged lands conveyed to the government of such territory by subsection (a) of this section.

(2) The conveyance of mineral deposits under paragraph (1) of this subsection shall be subject to any existing lease, permit, or other interest granted by the United States prior to the date of such conveyance. All rentals, royalties, or fees which accrue after such date of conveyance in connection with any such lease, permit, or other interest shall be payable to the government of the territory to which such mineral deposits are conveyed.

SEC. 2. (a) Nothing in this Act shall affect the right of the President to establish naval defensive sea areas and naval airspace reservations around and over the islands of [Guam, American Samoa] *Guam, the Commonwealth of the Northern Mariana Islands, American Samoa*, and the Virgin Islands when deemed necessary for national defense.

(b) Nothing in this Act shall affect the use, development, improvement, or control by or under the constitutional authority of the United States of the lands transferred by the first section of this Act, and the navigable waters overlying such lands, for the purposes of navigation or flood control or the production of power, or be construed as the release or relinquishment of any rights of the United States arising under the constitutional authority of Congress to regulate or improve navigation, or to provide for flood control or the production of power.

(c) The United States retains all of its navigational servitude and rights in the powers of regulation and control of the lands conveyed by the first section of this Act, and the navigable waters overlying such lands, for the constitutional purposes of commerce, navigation, national defense, and international affairs, all of which shall be paramount to, but shall not be deemed to include, proprietary rights of ownership, or the rights of management, administration, leasing, use, and development of the lands and natural resources which are specifically conveyed to the government of [Guam, the Virgin Islands] *Guam, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, or American Samoa*, as the case may be, by the first section of this Act.

(d) Nothing in this Act shall affect the status of lands beyond the three-mile limit described in section 1 of this Act.

* * * * *

PUBLIC LAW 94-241, 94TH CONGRESS, H.J. RES. 549, MARCH 24, 1976

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

* * * * *

SEC. 4. (a) Section 704(c) of the foregoing Covenant shall not apply to the Federal financial assistance which is provided to the Government of the Northern Mariana Islands pursuant to section 3 of this Act.

(b) Upon the expiration of the period of Federal financial assistance which is provided to the Government of the Northern Mariana Islands pursuant to section 3 of this Act, payments of direct grant assistance shall continue at the annual level provided for the last

fiscal year of the additional period of seven fiscal years [until Congress otherwise provides by law.] *except that, for fiscal years 1996 and thereafter, payments to the Commonwealth of the Northern Mariana Islands pursuant to the multi-year funding agreements contemplated under the Covenant shall be limited to the amounts set forth in the Agreement of the Special Representatives on Future Federal Financial Assistance of the Northern Mariana Islands, executed on December 17, 1992 between the special representative of the President of the United States and special representatives of the Governor of the Northern Mariana Islands and shall be subject to all the requirements of such Agreement with any additional amounts otherwise made available under this section in any fiscal year and not required to meet the schedule of payments set forth in the Agreement to be provided as set forth in subsection (c) until Congress otherwise provides by law.*

(c) The additional amounts referred to in subsection (b) shall be made available to the Secretary for obligation as follows:

(1) for fiscal year 1996, all such amounts shall be provided for capital infrastructure projects in American Samoa;

(2) for fiscal years 1997 and thereafter, all such amounts shall be available solely for capital infrastructure projects in Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Federated States of Micronesia and the Republic of the Marshall Islands: Provided, That, in fiscal year 1997, \$3 million of such amounts shall be made available to the College of the Northern Marianas and beginning in fiscal year 1997, and in each year thereafter, not to exceed \$3 million may be allocated, as provided in Appropriation Acts, to the Secretary of the Interior for use by Federal agencies or the Commonwealth of the Northern Mariana Islands to address immigration, labor, and law enforcement issues in the Northern Mariana Islands, including, but not limited to detention and corrections needs. The specific projects to be funded shall be set forth in a five-year plan for infrastructure assistance developed by the Secretary of the Interior in consultation with each of the island governments and updated annually and submitted to the Congress concurrent with the budget justifications for the Department of the Interior. In developing and updating the five year plan for capital infrastructure needs, the Secretary shall indicate the highest priority projects, consider the extent to which particular projects are part of an overall master plan, whether such project has been reviewed by the Corps of Engineers and any recommendations made as a result of such review, the extent to which a set aside for maintenance would enhance the life of the project, the degree to which a local cost-share requirement would be consistent with local economic and fiscal capabilities, and may propose an incremental set aside, not to exceed \$2 million per year, to remain available without fiscal year limitation, as an emergency fund in the event of natural or other disasters to supplement other assistance in the repair, replacement, or hardening of essential facilities: Provided, That the cumulative amount set aside for such emergency fund may not exceed \$10 million at any time.

(d) Within the amounts allocated for infrastructure pursuant to this section, and subject to the specific allocations made in subsection (c), additional contributions may be made, as set forth in Appropriation Acts, to assist in the resettlement of Rongelap Atoll: Provided, That the total of all contributions from any Federal source after January 1, 1995 may not exceed \$32 million and shall be contingent upon an agreement, satisfactory to the President, that such contributions are a full and final settlement of all obligations of the United States to assist in the resettlement of Rongelap Atoll and that such funds will be expended solely on resettlement activities and will be properly audited and accounted for. In order to provide such contributions in a timely manner, each Federal agency providing assistance or services, or conducting activities, in the Republic of the Marshall Islands, is authorized to make funds available, through the Secretary of the Interior, to assist in the resettlement of Rongelap. Nothing in this subsection shall be construed to limit the provision of ex gratia assistance pursuant to section 105(c)(2) of the Compact of Free Association Act of 1985 (P.L. 99-239, 99 Stat. 1770, 1792) including for individuals choosing not to resettle at Rongelap, except that no such assistance for such individuals may be provided until the Secretary notifies the Congress that the full amount of all funds necessary for resettlement at Rongelap has been provided.

PUBLIC LAW 95-134, 95TH CONGRESS

AN ACT To authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes

* * * * *

TITLE V

SEC. 501. In order to minimize the burden caused by existing application and reporting procedures for certain grant-in-aid programs available to the Virgin Islands, Guam, American Samoa, [the Trust Territory of the Pacific Islands,] *the Republic of Palau, the Republic of the Marshall Islands, the Federated States of Micronesia,* and the Government of the Northern Mariana Islands (hereafter referred to as "Insular Areas") it is hereby declared to be the policy of the Congress, notwithstanding any provision of law to the contrary, that:

* * * * *

PART F—MANNING OF VESSELS

CHAPTER 81—GENERAL

- Sec. 8101. Complement of inspected vessels.
- Sec. 8102. Watchmen.
- Sec. 8103. Citizenship and Naval Reserve requirements.
- Sec. 8104. Watches.
- [Sec. 8105. Repealed.]**

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§ 8103. Citizenship and Naval Reserve requirements

* * * * *

(i)(1) Except as provided in [paragraph (3) of this subsection,] *paragraph (4) of this subsection*, each unlicensed seaman on a fishing, fish processing, or fish tender vessel that is engaged in the fisheries in the navigable waters of the United States or the exclusive economic zone must be—

(A) a citizen of the United States;

(B) an alien lawfully admitted to the United States for permanent residence; or

(C) any other alien allowed to be employed under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(2) Not more than 25 percent of the unlicensed seamen on a vessel subject to paragraph (1) of this subsection may be aliens referred to in clause (C) of that paragraph.

(3) Notwithstanding any other provision of this subsection, any alien allowed to be employed under the immigration laws of the Commonwealth of the Northern Mariana Islands (CNMI) may serve as an unlicensed seaman on a fishing, fish processing, or fish tender vessel that is operated exclusively from a port within the CNMI and within the navigable waters and exclusive economic zone of the United States surrounding the CNMI. Pursuant to 46 U.S.C. 8704, such persons are deemed to be employed in the United States and are considered to have the permission of the Attorney General of the United States to accept such employment: Provided, That paragraph (2) of this subsection shall not apply to persons allowed to be employed under this paragraph.

[(3)] (4) This subsection does not apply to a fishing vessel fishing exclusively for highly migratory species (as that term is defined in section 3 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802)).