

## Calendar No. 352

113TH CONGRESS }  
2d Session } SENATE { REPORT  
113-146

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### OMNIBUS TERRITORIES

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APRIL 8, 2014.—Ordered to be printed

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Ms. LANDRIEU, from the Committee on Energy and Natural Resources, submitted the following

### R E P O R T

[To accompany S. 1237]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1237) to improve the administration of programs in the 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 all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Omnibus Territories Act of 2013”.

**SEC. 2. TABLE OF CONTENTS.**

The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. Amendments to the Consolidated Natural Resources Act.
- Sec. 4. Study of electric rates in the insular areas.
- Sec. 5. Reports on estimates of revenues.
- Sec. 6. Low-income home energy assistance program.
- Sec. 7. Guam War Claims Review Commission.
- Sec. 8. Improvements in HUD assisted programs.
- Sec. 9. Benefit to cost ratio study for projects in American Samoa.
- Sec. 10. Waiver of local matching requirements.
- Sec. 11. Fishery endorsements.
- Sec. 12. Effects of Minimum Wage differentials in American Samoa.
- Sec. 13. Office of National Drug Control Policy.
- Sec. 14. Drivers' licenses and personal identification cards.

**SEC. 3. AMENDMENTS TO THE CONSOLIDATED NATURAL RESOURCES ACT.**

Section 6 of the Joint Resolution entitled “A Joint Resolution to approve the ‘Covenant To Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America’, and for other purposes”, approved March 24, 1976 (Public Law 94-241; 90 Stat. 263, 122 Stat. 854), is amended—

## (1) in subsection (a)—

- (A) in paragraph (2), by striking “December 31, 2014, except as provided in subsections (b) and (d)” and inserting “December 31, 2019”; and
- (B) by striking paragraph (6), and inserting the following:

## (6) CERTAIN EDUCATION FUNDING.—

“(A) IN GENERAL.—In addition to fees charged pursuant to section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356 (m)) to recover the full costs of providing adjudication services, the Secretary of Homeland Security shall charge an annual supplemental fee of \$150 per nonimmigrant worker to each prospective employer who is issued a permit under subsection (d) of this section during the transition program. Such supplemental fee shall be paid into the Treasury of the Commonwealth government for the purpose of funding ongoing vocational educational curricula and program development by Commonwealth educational entities.

“(B) PLAN FOR THE EXPENDITURE OF FUNDS.—At the beginning of each fiscal year, and prior to the payment of the supplemental fee into the Treasury of the Commonwealth government in that fiscal year, the Commonwealth government must provide to the Secretary of Labor, a plan for the expenditure of funds received under this paragraph, a projection of the effectiveness of these expenditures in the placement of United States workers into jobs, and a report on the changes in employment of United States workers attributable to prior year expenditures.

“(C) REPORT.—The Secretary of Labor shall report to the Congress every 2 years on the effectiveness of meeting the goals set out by the Commonwealth government in its annual plan for the expenditure of funds.”; and

## (2) in subsection (d)—

- (A) in the third sentence of paragraph (2), by striking “not to extend beyond December 31, 2014, unless extended pursuant to paragraph 5 of this subsection” and inserting “ending on December 31, 2019”;
- (B) by striking paragraph (5); and
- (C) by redesignating paragraph (6) as paragraph (5).

**SEC. 4. STUDY OF ELECTRIC RATES IN THE INSULAR AREAS.**

## (a) DEFINITIONS.—In this section:

(1) COMPREHENSIVE ENERGY PLAN.—The term “comprehensive energy plan” means a comprehensive energy plan prepared and updated under subsections (c) and (e) of section 604 of the Act entitled “An Act to authorize appropriations for certain insular areas of the United States, and for other purposes”, approved December 24, 1980 (48 U.S.C. 1492).

(2) ENERGY ACTION PLAN.—The term “energy action plan” means the plan required by subsection (d).

(3) FREELY ASSOCIATED STATES.—The term “Freely Associated States” means the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.

(4) INSULAR AREAS.—The term “insular areas” means American Samoa, the Commonwealth of the Northern Mariana Islands, Puerto Rico, Guam, and the Virgin Islands.

(5) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(6) TEAM.—The term “team” means the team established by the Secretary under subsection (b).

(b) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall, within the Empowering Insular Communities activity, establish a team of technical, policy, and financial experts—

(1) to develop an energy action plan addressing the energy needs of each of the insular areas and Freely Associated States; and

(2) to assist each of the insular areas and Freely Associated States in implementing such plan.

(c) PARTICIPATION OF REGIONAL UTILITY ORGANIZATIONS.—In establishing the team, the Secretary shall consider including regional utility organizations.

(d) ENERGY ACTION PLAN.—In accordance with subsection (b), the energy action plan shall include—

(1) recommendations, based on the comprehensive energy plan where applicable, to—

- (A) reduce reliance and expenditures on fuel shipped to the insular areas and Freely Associated States from ports outside the United States;

- (B) develop and utilize domestic fuel energy sources; and

- (C) improve performance of energy infrastructure and overall energy efficiency;

- (2) a schedule for implementation of such recommendations and identification and prioritization of specific projects;
- (3) a financial and engineering plan for implementing and sustaining projects; and
- (4) benchmarks for measuring progress toward implementation.

(e) REPORTS TO SECRETARY.—Not later than 1 year after the date on which the Secretary establishes the team and annually thereafter, the team shall submit to the Secretary a report detailing progress made in fulfilling its charge and in implementing the energy action plan.

(f) ANNUAL REPORTS TO CONGRESS.—Not later than 30 days after the date on which the Secretary receives a report submitted by the team under subsection (e), the Secretary shall submit to the appropriate committees of Congress a summary of the report of the team.

(g) APPROVAL OF SECRETARY REQUIRED.—The energy action plan shall not be implemented until the Secretary approves the energy action plan.

#### **SEC. 5. REPORTS ON ESTIMATES OF REVENUES.**

The Comptroller General of the United States shall submit to the appropriate committees of Congress a report that—

- (1) evaluates whether the annual estimates or forecasts of revenue and expenditure of American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the Virgin Islands are reasonable; and
- (2) as the Comptroller General of the United States determines to be necessary, makes recommendations for improving the process for developing estimates or forecasts.

#### **SEC. 6. LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM.**

With respect to fiscal years 2014 through 2017, the percentage described in section 2605(b)(2)(B)(i) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8624(b)(2)(B)(i)) shall be 300 percent when applied to households located in the Virgin Islands.

#### **SEC. 7. GUAM WAR CLAIMS REVIEW COMMISSION.**

##### **(a) RECOGNITION OF THE SUFFERING AND LOYALTY OF THE RESIDENTS OF GUAM.—**

(1) RECOGNITION OF THE SUFFERING OF THE RESIDENTS OF GUAM.—The United States recognizes that, as described by the Guam War Claims Review Commission, the residents of Guam, on account of their United States nationality, suffered unspeakable harm as a result of the occupation of Guam by Imperial Japanese military forces during World War II, by being subjected to death, rape, severe personal injury, personal injury, forced labor, forced march, or internment.

(2) RECOGNITION OF THE LOYALTY OF THE RESIDENTS OF GUAM.—The United States forever will be grateful to the residents of Guam for their steadfast loyalty to the United States, as demonstrated by the countless acts of courage they performed despite the threat of death or great bodily harm they faced at the hands of the Imperial Japanese military forces that occupied Guam during World War II.

##### **(b) GUAM WORLD WAR II CLAIMS FUND.—**

(1) ESTABLISHMENT OF FUND.—The Secretary of the Treasury shall establish in the Treasury of the United States a special fund (in this Act referred to as the “Claims Fund”) for the payment of claims submitted by compensable Guam victims and survivors of compensable Guam decedents in accordance with subsections (c) and (d).

(2) COMPOSITION OF FUND.—The Claims Fund established under paragraph (1) shall be composed of amounts deposited into the Claims Fund under paragraph (3) and any other amounts made available for the payment of claims under this Act.

(3) PAYMENT OF CERTAIN DUTIES, TAXES, AND FEES COLLECTED FROM GUAM DEPOSITED INTO FUND.—

(A) IN GENERAL.—Notwithstanding section 30 of the Organic Act of Guam (48 U.S.C. 1421h), the excess of—

(i) any amount of duties, taxes, and fees collected under such subsection after fiscal year 2012, over

(ii) the amount of duties, taxes, and fees collected under such subsection during fiscal year 2012,

shall be deposited into the Claims Fund.

(B) APPLICATION.—Subparagraph (A) shall not apply after the date for which the Secretary of the Treasury determines that all payments required to be made under subsection (c) have been made.

##### **(4) LIMITATION ON PAYMENTS MADE FROM FUND.—**

(A) IN GENERAL.—No payment may be made in a fiscal year under subsection (c) until funds are deposited into the Claims Fund in such fiscal year under paragraph (3).

(B) AMOUNTS.—For each fiscal year in which funds are deposited into the Claims Fund under paragraph (3), the total amount of payments made in a fiscal year under subsection (c) may not exceed the amount of funds available in the Claims Fund for such fiscal year.

(5) DEDUCTIONS FROM FUND FOR ADMINISTRATIVE EXPENSES.—The Secretary of the Treasury shall deduct from any amounts deposited into the Claims Fund an amount equal to 5 per cent of such amounts as reimbursement to the Federal Government for expenses incurred by the Foreign Claims Settlement Commission and by the Department of the Treasury in the administration of this Act. The amounts so deducted shall be covered into the Treasury as miscellaneous receipts.

(c) PAYMENTS FOR GUAM WORLD WAR II CLAIMS.—

(1) PAYMENTS FOR DEATH, PERSONAL INJURY, FORCED LABOR, FORCED MARCH, AND INTERNMENT.—After the Secretary of the Treasury receives the certification from the Chairman of the Foreign Claims Settlement Commission as required under subsection (d)(2)(H), the Secretary of the Treasury shall make payments to compensable Guam victims and survivors of a compensable Guam decedents as follows:

(A) COMPENSABLE GUAM VICTIM.—Before making any payments under subparagraph (B), the Secretary shall make payments to compensable Guam victims as follows:

(i) In the case of a victim who has suffered an injury described in paragraph (3)(B)(i), \$15,000.

(ii) In the case of a victim who is not described in clause (i), but who has suffered an injury described in paragraph (3)(B)(ii), \$12,000.

(iii) In the case of a victim who is not described in clause (i) or (ii), but who has suffered an injury described in paragraph (3)(B)(iii), \$10,000.

(B) SURVIVORS OF COMPENSABLE GUAM DECEDENTS.—In the case of a compensable Guam decedent, the Secretary shall pay \$25,000 for distribution to survivors of the decedent in accordance with paragraph (2). The Secretary shall make payments under this paragraph only after all payments are made under subparagraph (A).

(2) DISTRIBUTION OF SURVIVOR PAYMENTS.—A payment made under paragraph (1)(B) to the survivors of a compensable Guam decedent shall be distributed as follows:

(A) In the case of a decedent whose spouse is living as of the date of the enactment of this Act, but who had no living children as of such date, the payment shall be made to such spouse.

(B) In the case of a decedent whose spouse is living as of the date of the enactment of this Act and who had one or more living children as of such date, 50 percent of the payment shall be made to the spouse and 50 percent shall be made to such children, to be divided among such children to the greatest extent possible into equal shares.

(C) In the case of a decedent whose spouse is not living as of the date of the enactment of this Act and who had one or more living children as of such date, the payment shall be made to such children, to be divided among such children to the greatest extent possible into equal shares.

(D) In the case of a decedent whose spouse is not living as of the date of the enactment of this Act and who had no living children as of such date, but who—

(i) had a parent who is living as of such date, the payment shall be made to the parent; or

(ii) had two parents who are living as of such date, the payment shall be divided equally between the parents.

(E) In the case of a decedent whose spouse is not living as of the date of the enactment of this Act, who had no living children as of such date, and who had no parents who are living as of such date, no payment shall be made.

(3) DEFINITIONS.—For purposes of this Act:

(A) COMPENSABLE GUAM DECEDENT.—The term “compensable Guam decedent” means an individual determined under subsection (d) to have been a resident of Guam who died as a result of the attack and occupation of Guam by Imperial Japanese military forces during World War II, or incident to the liberation of Guam by United States military forces, and whose death would have been compensable under the Guam Meritorious Claims

Act of 1945 (Public Law 79–224) if a timely claim had been filed under the terms of such Act.

(B) COMPENSABLE GUAM VICTIM.—The term “compensable Guam victim” means an individual who is not deceased as of the date of the enactment of this Act and who is determined under subsection (d) to have suffered, as a result of the attack and occupation of Guam by Imperial Japanese military forces during World War II, or incident to the liberation of Guam by United States military forces, any of the following:

- (i) Rape or severe personal injury (such as loss of a limb, dismemberment, or paralysis).
- (ii) Forced labor or a personal injury not under subparagraph (A) (such as disfigurement, scarring, or burns).
- (iii) Forced march, internment, or hiding to evade internment.

(C) DEFINITIONS OF SEVERE PERSONAL INJURIES AND PERSONAL INJURIES.—Not later than 180 days after the date of the enactment of this Act, the Foreign Claims Settlement Commission shall promulgate regulations to specify the injuries that constitute a severe personal injury or a personal injury for purposes of subparagraphs (A) and (B), respectively, of paragraph (2).

(d) ADJUDICATION.—

(1) AUTHORITY OF FOREIGN CLAIMS SETTLEMENT COMMISSION.—

(A) IN GENERAL.—The Foreign Claims Settlement Commission shall adjudicate claims and determine the eligibility of individuals for payments under subsection (c).

(B) RULES AND REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Chairman of the Foreign Claims Settlement Commission shall publish in the Federal Register such rules and regulations as may be necessary to enable the Commission to carry out the functions of the Commission under this Act.

(2) CLAIMS SUBMITTED FOR PAYMENTS.—

(A) SUBMITTAL OF CLAIM.—For purposes of paragraph (1)(A) and subject to subparagraph (B), the Foreign Claims Settlement Commission may not determine an individual is eligible for a payment under subsection (c) unless the individual submits to the Commission a claim in such manner and form and containing such information as the Commission specifies.

(B) FILING PERIOD FOR CLAIMS AND NOTICE.—

(i) FILING PERIOD.—An individual filing a claim for a payment under subsection (c) shall file such claim not later than one year after the date on which the Foreign Claims Settlement Commission publishes the notice described in clause (ii).

(ii) NOTICE OF FILING PERIOD.—Not later than 180 days after the date of the enactment of this Act, the Foreign Claims Settlement Commission shall publish a notice of the deadline for filing a claim described in clause (i)—

(I) in the Federal Register; and

(II) in newspaper, radio, and television media in Guam.

(C) ADJUDICATORY DECISIONS.—The decision of the Foreign Claims Settlement Commission on each claim filed under this Act shall—

- (i) be by majority vote;
- (ii) be in writing;
- (iii) state the reasons for the approval or denial of the claim; and
- (iv) if approved, state the amount of the payment awarded and the distribution, if any, to be made of the payment.

(D) DEDUCTIONS IN PAYMENT.—The Foreign Claims Settlement Commission shall deduct, from a payment made to a compensable Guam victim or survivors of a compensable Guam decedent under this subsection, amounts paid to such victim or survivors under the Guam Meritorious Claims Act of 1945 (Public Law 79–224) before the date of the enactment of this Act.

(E) INTEREST.—No interest shall be paid on payments made by the Foreign Claims Settlement Commission under subsection (c).

(F) LIMITED COMPENSATION FOR PROVISION OF REPRESENTATIONAL SERVICES.—

(i) LIMIT ON COMPENSATION.—Any agreement under which an individual who provided representational services to an individual who filed a claim for a payment under this Act that provides for compensation to the individual who provided such services in an amount that is more than one percent of the total amount of such payment shall be unlawful and void.

(ii) PENALTIES.—Whoever demands or receives any compensation in excess of the amount allowed under subparagraph (A) shall be fined not more than \$5,000 or imprisoned not more than one year, or both.

(G) APPEALS AND FINALITY.—Objections and appeals of decisions of the Foreign Claims Settlement Commission shall be to the Commission, and upon rehearing, the decision in each claim shall be final, and not subject to further review by any court or agency.

(H) CERTIFICATIONS FOR PAYMENT.—After a decision approving a claim becomes final, the Chairman of the Foreign Claims Settlement Commission shall certify such decision to the Secretary of the Treasury for authorization of a payment under subsection (c).

(I) TREATMENT OF AFFIDAVITS.—For purposes of subsection (c) and subject to subparagraph (B), the Foreign Claims Settlement Commission shall treat a claim that is accompanied by an affidavit of an individual that attests to all of the material facts required for establishing the eligibility of such individual for payment under such subsection as establishing a *prima facie* case of the eligibility of the individual for such payment without the need for further documentation, except as the Commission may otherwise require. Such material facts shall include, with respect to a claim for a payment made under subsection (c)(1), a detailed description of the injury or other circumstance supporting the claim involved, including the level of payment sought.

(J) RELEASE OF RELATED CLAIMS.—Acceptance of a payment under subsection (c) by an individual for a claim related to a compensable Guam decedent or a compensable Guam victim shall be in full satisfaction of all claims related to such decedent or victim, respectively, arising under the Guam Meritorious Claims Act of 1945 (Public Law 79–224), the implementing regulations issued by the United States Navy pursuant to such Act (Public Law 79–224), or this Act.

#### **SEC. 8. IMPROVEMENTS IN HUD ASSISTED PROGRAMS.**

Section 214(a)(7) of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a(a)(7)) is amended by striking “such alien” and all that follows through the period at the end and inserting “citizen or national of the United States shall be entitled to a preference or priority in receiving assistance before any such alien who is otherwise eligible for such assistance.”.

#### **SEC. 9. BENEFIT TO COST RATIO STUDY FOR PROJECTS IN AMERICAN SAMOA.**

(a) STUDY.—The Comptroller General of the United States shall conduct a study regarding the use of benefit-to-cost ratio formulas by Federal departments and agencies for purposes of evaluating projects in American Samoa.

- (b) CONTENTS.—In conducting the study, the Comptroller General shall—
- (1) assess whether the benefit-to-cost ratio formulas described in subsection (a) take into consideration—
    - (A) the remote locations in, and the cost of transportation to and from, American Samoa; and
    - (B) other significant factors that are not comparable to locations within the 48 contiguous States; and
  - (2) assess, in particular, the use of benefit-to-cost ratio formulas by—
    - (A) the Secretary of Transportation with respect to airport traffic control tower programs; and
    - (B) the Secretary of the Army, acting through the Corps of Engineers, with respect to a harbor project or other water resources development project.
  - (3) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on the results of the study.

#### **SEC. 10. WAIVER OF LOCAL MATCHING REQUIREMENTS.**

(a) WAIVER OF CERTAIN MATCHING REQUIREMENTS.—Section 501 of the Act entitled “An Act to authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes”, approved October 15, 1977 (48 U.S.C. 1469a; 91 Stat. 1164) is amended—

- (1) in the last sentence of subsection (d), by striking “by law”; and
- (2) by adding at the end the following new subsection:

“(e) Notwithstanding any other provision of law, in the case of American Samoa, Guam, the Virgin Islands, and the Northern Mariana Islands, each department or agency of the United States shall waive any requirement for local matching funds (including in-kind contributions) that the insular area would otherwise be required to provide for any non-competitive grant as follows:

“(1) For a grant requiring matching funds (including in-kind contributions) of \$500,000 or less, the entire matching requirement shall be waived.

“(2) For a grant requiring matching funds (including in-kind contributions) of more than \$500,000, \$500,000 of the matching requirement shall be waived.”

(b) CONFORMING AMENDMENT.—Section 601 of the Act entitled “An Act to authorize appropriations for certain insular areas of the United States, and for other purposes”, approved March 12, 1980 (48 U.S.C. 1469a note; 94 Stat. 90), is amended by striking “, and adding the following sentence” and all that follows through “Islands”.

#### **SEC. 11. FISHERY ENDORSEMENTS.**

Section 12113 of title 46, United States Code, is amended by adding at the end the following:

“(j) CERTAIN EXEMPTION.—Paragraph (3) of subsection (a) shall not apply to any vessel—

“(1) that offloads its catch in part or full in American Samoa; and

“(2) that was rebuilt outside of the United States before January 1, 2011.”.

#### **SEC. 12. EFFECTS OF MINIMUM WAGE DIFFERENTIALS IN AMERICAN SAMOA.**

Section 8104 of the Fair Minimum Wage Act of 2007 (29 U.S.C. 206 note) is amended by adding at the end the following:

“(c) EFFECTS OF MINIMUM WAGE DIFFERENTIALS IN AMERICAN SAMOA.—The reports required under this section shall include an analysis of the economic effects on employees and employers of the differentials in minimum wage rates among industries and classifications in American Samoa under section 697 of title 29, Code of Federal Regulations, including the potential effects of eliminating such differentials prior to the time when such rates are scheduled to be equal to the minimum wage set forth in section 6(a)(1) of the Fair Labor Standards Act (29 U.S.C. 206(a)(1)).”.

#### **SEC. 13. OFFICE OF NATIONAL DRUG CONTROL POLICY.**

(a) CARIBBEAN BORDER COUNTERNARCOTICS STRATEGY.—The Office of National Drug Control Policy shall develop a biennial Caribbean Border Counternarcotics Strategy, that is made available to the public, with emphasis on the borders of Puerto Rico and the Virgin Islands of the United States, on terms substantially equivalent to the existing Southwest Border Counternarcotics Strategy and the Northern Border Counternarcotics Strategy.

(b) AMENDMENT.—Section 704(b)(13)(B) of the Office of National Drug Control Policy Reauthorization Act of 1998 (21 U.S.C. 1703(b)(13)(B)) is amended by inserting “the borders of Puerto Rico and the Virgin Islands of the United States and” after “in particular”.

#### **SEC. 14. DRIVERS' LICENSES AND PERSONAL IDENTIFICATION CARDS.**

(a) DEFINITION OF STATE.—Section 201(5) of the REAL ID Act of 2005 (49 U.S.C. 30301 note; Public Law 109–13) is amended by striking “the Trust Territory of the Pacific Islands.”.

(b) EVIDENCE OF LAWFUL STATUS.—Section 202(c)(2)(B) of the REAL ID Act of 2005 (49 U.S.C. 30301 note; Public Law 109–13) is amended—

(1) in clause (viii), by striking “or” after the semicolon at the end;

(2) in clause (ix), by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following:

“(x) is a citizen of the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau who has been admitted to the United States as a nonimmigrant pursuant to a Compact of Free Association between the United States and the Republic or Federated States.”.

## **PURPOSE**

The purpose of S. 1237 is to improve the administration of certain programs in the insular areas of the United States.

## **SUMMARY OF MAJOR PROVISIONS**

S. 1237 calls for certain studies and reports and amends various laws and programs with respect to the insular areas. Specifically, it would:

(1) change how fees collected from the allocation of foreign worker visas in the Commonwealth of the Northern Mariana

Islands can be spent, and extends the transition period for the collection of these fees and for the foreign worker program from 2014 to 2019;

(2) require the Secretary of the Interior to develop an energy action plan to address the energy needs of each of the territories and Freely Associated States;

(3) require the Comptroller General of the United States to submit a report to Congress evaluating the annual estimates of revenue and expenditure of the territorial governments (except Puerto Rico), and make recommendations if the Comptroller determines them necessary;

(4) authorize the Secretary of Health and Human Services to make, for a three year period, larger grants to the government of the U.S. Virgin Islands under the Low-Income Home Energy Assistance Act of 1981;

(5) recognize the suffering and loyalty of the residents of Guam during the occupation of Guam during World War II by Japanese military forces by providing for the payment of compensation to victims and survivors;

(6) clarify that, within Guam, preference shall be given to U.S. citizens and nationals over eligible lawful resident aliens in receiving Federal housing assistance;

(7) require the Comptroller General of the United States to conduct a study of the use of benefit-to-cost ratio formulas by Federal agencies when evaluating projects in American Samoa;

(8) require all Federal agencies to waive up to \$500,000 in local matching fund requirements for non-competitive grants for the territories (except Puerto Rico);

(9) exempt certain American-made tuna purse seine vessels from the requirement that they be rebuilt in the United States;

(10) require the Comptroller General of the United States, in the current reports on the impact of minimum wages in American Samoa, to include an analysis of the economic effects of the several different minimum wage rates used among industries and classifications in American Samoa;

(11) require the Office of National Drug Control Policy to develop and make available to the public a biennial Caribbean Border Counternarcotics Strategy with emphasis on Puerto Rico and the Virgin Islands; and

(12) clarify that citizens of the three Freely Associated States who reside lawfully in the United States shall be able to obtain a driver's license or state identification card under the Real ID Act (Public Law 109–13).

#### BACKGROUND AND NEED

The sovereignty of the United States extends to various insular areas, including the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands. Congress has extended U.S. citizenship to people born in these insular areas, except for American Samoa. People born in American Samoa are non-citizen nationals of the United States. Congress has the responsibility to "make all needful Rules and Regulations respecting" the insular areas under its jurisdiction under the Territories Clause, article V, section 3, clause 2, of the Constitution.

In addition, the United States has entered into Compacts of Free Association with the self-governing, sovereign Republic of Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands, which are collectively referred to as the Freely Associated States (FAS). The Freely Associated States were part of the Trust Territory of the Pacific Islands, formerly administered by the United States under a United Nations trusteeship following World War II.

*Amendments to the Covenant with the CNMI*

In 1976, Congress approved the Covenant to Establish a Commonwealth of the Northern Mariana Islands (CNMI) in Political Union with the United States of America (Public Law 94–241). It was fully implemented on November 3, 1986, and conferred U.S. citizenship on qualified CNMI residents. The Covenant also exempted the CNMI from most of the provisions of U.S. immigration law so that the CNMI controlled immigration locally. Under this local immigration authority, the CNMI established programs to permit aliens to enter into the CNMI as workers and investors.

Section 503 of the Covenant allows Congress to extend U.S. immigration and naturalization laws to the CNMI and this was done under the Consolidated Natural Resources Act of 2008 (CNRA)(Public Law 110–229). The CNRA provided for: (1) A five-year transition period until Federal immigration laws would fully apply; (2) a Commonwealth-Only Transitional Worker classification to meet the CNMI's need for foreign workers who would not otherwise be eligible to enter the CNMI under Federal law; (3) a vocational training fund to support the training of U.S. citizens and legal residents to fill jobs held by foreign workers; and (4) a \$150 fee to be charged to employers for each foreign worker visa to fund vocational training efforts. The five-year transition period, including the Transitional Worker Program, ends on December 31, 2014.

The Government Accountability Office (GAO), in its September 2012 report to Congress (GAO–12–975), estimated that 54 percent of the Northern Marianas workforce was still comprised of foreign workers and noted that the “CNMI economy remains dependent on foreign workers.” Recent improvements in hotel occupancy rates and the number of in-bound tourists indicate that the demand for service workers, which is largely filled by foreign workers, will likely grow. However, GAO also noted that “uncertainty about future access to foreign workers . . . may be creating disincentives for investment.”

The Delegate from the CNMI, Gregorio Sablan, has requested legislation to extend the transition period through 2019, including the transition program for foreign worker, to give employers more time to transition fully from foreign workers.

Under current law, the Department of Homeland Security transfers the \$150 fee paid by employers for each foreign worker visa to the CNMI government for “ongoing vocational educational curricula and program development by Commonwealth educational entities.” Additional legislation is needed to require the CNMI government to provide the U.S. Secretary of Labor with a plan for the expenditure of these funds, a projection of the plan’s effectiveness in the placement of U.S. workers, and a report on changes in the employment of U.S. workers attributable to prior year expendi-

tures; and to require the U.S. Secretary of Labor to report to Congress on the effectiveness of meeting the CNMI government's plan. These reforms are needed to provide greater accountability over these fees and to help Congress to assess the effectiveness of this fee in meeting the goal of encouraging the workforce transition from foreign to U.S. workers.

*Study of electric rates in the insular areas*

One of the Federal policy goals for the insular areas and FAS is to promote economic development. However, a significant barrier to economic development is the high cost of electricity that results from the islands' dependence on expensive imported fuel for the generation of electricity.

Under current law (48 U.S.C. 1492), the Secretary of Energy, in consultation with the Secretary of the Interior, is responsible for preparing a comprehensive energy plan with emphasis on indigenous renewable energy sources for certain insular areas and the FAS. The Department of the Interior supports the Department of Energy's energy planning efforts and provides financial support for specific renewable energy projects in the insular areas through the Office of Insular Affairs' Empowering Insular Communities grant program. Additional legislation may be useful to require the Secretary of the Interior to develop an energy action plan for each of the insular areas and to assist the insular areas in implementing their plans.

*Reports on estimates of revenues*

A lack of capacity in financial management and deficit spending are continuing challenges for each of the territorial governments. The Department of the Interior has testified that the insular areas have had difficulty with rising debt due to problematic budgeting processes. Additional legislation is needed obtain information on whether annual estimates or forecasts of revenue and expenditure in the insular areas are reasonable, and to obtain the recommendations of the Comptroller General for improving the process for developing such estimates or forecasts.

*Low-income home energy assistance program*

Virtually all electricity in the insular areas is generated from imported fuel and increasing global oil prices have made high electricity rates a challenge throughout the insular areas. This challenge was exacerbated in the U.S. Virgin Islands by the closure of the Hovensa oil refinery in St. Croix, in January 2012. As a part of its operating agreement, the Hovensa refinery supplied the Virgin Islands Water and Power Authority with the fuel used to generate electricity at favorable rates. As a result of the global run-up in the price of oil and the refinery's closure, the cost of electricity in the U.S. Virgin Islands increased from roughly twice the average mainland U.S. rate of 10 cents per kilowatt-hour, to over four times the average mainland rate. These high rates are having a harmful impact throughout the economy of the U.S. Virgin Islands, forcing many businesses to close, and forcing businesses, government agencies and families to reduce the use of air-conditioning that is essential for maintaining physical comfort and for

protecting electrical equipment and other machinery from the damaging effects of the Islands' tropical climate.

In response to this crisis, the Delegate from the U.S. Virgin Islands, Donna Christensen, requested legislation to authorize the Secretary of Health and Human Services to increase the grants to the Government of the U.S. Virgin Islands under the Low-Income Home Energy Assistance Act of 1981 to an amount equal to 3 times the fiscal year 2013 allocation. Specifically, this would increase the Islands' allocations for fiscal years 2014 to 2017 to \$450,000 from the \$150,000 received in fiscal year 2013. Eligibility for assistance under the program would continue to be limited to households with incomes below 300 percent of the poverty level for the U.S. Virgin Islands.

#### *Guam War Claims Review Commission*

Guam was acquired by the U.S. in 1898 at the conclusion of the Spanish American War and its residents became U.S. nationals. The island was invaded by the Imperial Forces of Japan on December 10, 1941, and it was under military occupation until liberation on July 21, 1944. During the occupation, nearly 22,000 Guam residents suffered very harsh treatment, including executions, rapes, beatings, imprisonment, forced labor, and forced marches. On September 8, 1951, Japan and the United States signed a treaty stating that restitution from Japan could not be claimed by American citizens. As a result, Guam residents had to turn to the United States for compensation of war-time injuries.

In 1945, Congress passed Public Law 79-224, the Guam Meritorious Claims Act, which authorized payment of war claims. However, due to concerns with the pace of the recovery and compensation efforts, in January 1947, the Secretary of the Navy appointed a committee to evaluate the program for the reconstruction and rehabilitation of Guam including the infrastructure, economy and payment of compensation for claims. With respect to claims, the Secretary's committee found that while many payments had been made, "that the process of settlement and payment has been advancing too slowly and that if there is to be any benefit whatsoever to the stricken Guamanians some changes in procedure must be made." The Secretary's committee also recommended a number of changes to both the claims statute and the Secretary of the Navy's regulations. Later investigation by the Guam War Claims Review Commission could not find specific evidence that many of these recommendations were adopted.

In January 16, 2002, Congress enacted Public Law 107-333, which established the Guam War Claims Review Commission to review Guam war claims and "determine whether there was parity of war claims paid to the residents of Guam under the Guam Meritorious Claims Act as compared with awards made to other similarly affected U.S. citizens or nationals in territory occupied by the Imperial Japanese military forces during World War II." On June 10, 2004, Congress received the final report from the Review Commission. Among the Commission's recommendations were that Congress acknowledge both the suffering of the Guamanians during the Japanese occupation and the loyalty shown to the United States during the war; and that Congress provide funding to pay

compensation to eligible survivors for claims of death and personal injury.

The Delegate from Guam, Madeleine Z. Bordallo, requested legislation to provide for the adjudication of claims and for the payment of compensation as recommended by the Commission. Funding for these payments would come from Federal tax collections that are transferred to Guam pursuant to section 30 of the Organic Act of Guam. Guam anticipates increased transfers of funds under section 30 as a result of the relocation of U.S. military forces in the Asia-Pacific region to Guam. The requested legislation would permit use of these increases, above what was collected in 2012, to pay war claims awards.

*Improvements in HUD assisted programs*

Currently, the Housing and Community Development Act of 1980 is interpreted by program officials as not giving a preference in housing assistance to U.S. citizens and nationals over lawful resident aliens. However, section 141 of the Compact of Free Association Amendments Act of 2003 (Public Law 108-188) permits citizens of the FAS to enter into the U.S. to lawfully engage in occupations and establish residence as nonimmigrants in the U. S. and its territories. This privilege has resulted in a substantial migration to Guam so that FAS citizens now account for roughly 10 percent of the total Guam population. The presence of these lawful resident aliens has effectively cut-off U.S. citizens and nationals from housing assistance. Accordingly, the Delegate from Guam requested that legislation to clarify the interpretation of the Housing and Community Development Act of 1980, so that U.S. citizens and nationals would receive preference over lawful resident aliens in receiving Federal housing assistance.

*Benefit to cost ratio study for projects in American Samoa*

American Samoa is the most remote of the U.S. territories and, with approximately 55,000 residents, it is the second smallest territory by population. Many infrastructure projects in American Samoa are ineligible for funding from certain Federal programs because they do not meet benefit-to-cost ratio requirements. The Delegate from American Samoa, Eni F.H. Faleomavaega, requested legislation to require the Comptroller General of the United States to conduct a study regarding the use of benefit-to-cost ratio formulas by Federal departments, specifically benefit to-cost ratio formulas used by the Secretary of Transportation and the Secretary of the Army, for purposes of evaluating projects in American Samoa, and to assess whether the benefit-to-cost ratio formulas take into account the remote locations in American Samoa, the cost of transportation and other factors.

*Waiver of local matching requirements*

In response to the economic development and revenue challenges faced by the territories, in 1977 Congress enacted Public Law 95-134, which requires any Federal department or agency to waive any matching grant requirement for local matching funds under \$200,000 that is required by law to be provided by American Samoa, Guam, the U.S. Virgin Islands or the CNMI. However, the territorial governments expressed a concern that some agencies are

using the words “by law” to argue that they are not required to waive the local matching requirement in some cases because the match is required by regulation, not “by law.” In addition, the territorial Delegates asked that the \$200,000 level for the waiver of the matching requirement be increased to account for inflation. Legislation is needed to waive the local matching requirements and to increase the amount of matching funds (including in-kind contributions) that would be waived from \$200,000 to \$500,000.

*Fishery endorsements*

Fish processing is the largest sector of the economy of American Samoa. However, a new requirement that U.S.-built tuna purse seine vessels must also have been rebuilt in the U.S. to offload in U.S. ports would do serious harm to the American Samoa economy. Accordingly, the Delegate from American Samoa requested legislation to establish a limited exemption from this requirement. The requested exemption would apply to U.S.-built tuna purse seine vessels that were rebuilt outside of the U.S. provided that the vessel offloads its catch in part or in full in American Samoa, and that the vessel was rebuilt before January 1, 2011.

*Effects of minimum wage differentials in American Samoa*

American Samoa had local control over the setting of minimum wages levels until the enactment of the Fair Minimum Wage Act of 2007 which required that the territory gradually increase its minimum wage according to a congressionally prescribed schedule until reaching the Federal level. However, the local American Samoa minimum wage law had established dozens of separate minimum wage levels for the various industries and job classifications within the American Samoa economy. Continuing these many different minimum wage levels during the transition to the single Federal minimum wage may be imposing unnecessary burdens on island employers. Accordingly, the Delegate from American Samoa requested legislation to require the Comptroller General of the United States, in the analysis the Comptroller is currently required to conduct under the Fair Minimum Wage Act of 2007, to analyze and report on the economic effects on employees and employers of the several different minimum wage rates among industries and classifications in American Samoa.

*Office of National Drug Control Policy*

In recent years, the substantial increase in U.S. border protection and counternarcotics efforts along the Southwest and Northern borders have resulted in increased drug smuggling activity across the relatively less-protected Caribbean borders of Puerto Rico and the U.S. Virgin Islands. U.S. citizens in the Caribbean are facing a law enforcement crisis. While the national murder rate has declined in recent decades, the number of homicides in Puerto Rico and the U.S. Virgin Islands remains high and most of these murders are linked to the drug trade. Because Puerto Rico is within the customs territory of the U.S., once drugs enter the Island they can be relatively easily shipped to the states without undergoing heightened scrutiny. The inadequacy of the Federal Government's effort to address this crisis is illustrated by the fact that the National Drug Control Strategy includes discussions of the Southwest

border, the Northern border, and Indian country, but not the Caribbean border. Accordingly, the Resident Commissioner and Delegate from Puerto Rico and the U.S. Virgin Islands requested legislation to require the Office of National Drug Control Policy to prepare and publish a Caribbean Border Counternarcotics Strategy on terms substantially equivalent to the Southwest border and Northern border strategies.

*Driver's licenses and personal identification cards*

Section 141 of the Compact of Free Association Amendments Act of 2003 (Public Law 108–188) permits citizens of the FAS to enter into the U.S. to lawfully engage in occupations and establish residence as nonimmigrants in the U.S. and its territories. However, the REAL ID Act of 2005 (Public Law 109–13) did not provide a means for FAS citizens to establish their lawful status in the United States under the Compact and obtain a driver's license or identification card. On, November 13, 2013, the Ambassadors to the United States from the FAS wrote to the Committee requesting that a provision be included in this bill that would amend the REAL ID Act to clarify that citizens of the FAS who reside lawfully in the U.S. are able to obtain a driver's license or state identification card under the REAL ID Act.

LEGISLATIVE HISTORY

S. 1237 was introduced, by Senators Wyden and Murkowski (by request) on June 27, 2013. The bill is an omnibus measure that includes several provisions related to bills previously introduced by Delegates from the U.S. territories in the House of Representatives including: H.R. 2200, the Territorial Omnibus Act of 2013; H.R. 44, the Guam World War II Loyalty Recognition Act; H.R. 83, to require the Secretary of the Interior to assemble a team of technical, policy, and financial experts to address the energy needs of the insular areas of the United States and the Freely Associated States through the development of action plans aimed at reducing reliance on imported fossil fuels and increasing use of indigenous clean-energy resources, and for other purposes; H.R. 85, to create the Office of Chief Financial Officer of the Government of the Virgin Islands, and for other purposes; and H.R. 89, to establish the St. Croix National Heritage Area, and for other purposes.

The Committee on Energy and Natural Resources held a hearing on S. 1237 on July 11, 2013 (S. Hrg. 113–177), and ordered the bill favorably reported, as amended, at a business meeting on December 19, 2013.

COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on December 19, 2013, by a unanimous voice vote of members present, recommends that the Senate pass S. 1237, if amended as described herein. Senators Barrasso, Lee, Alexander and Scott asked that they be recorded as voting no.

#### COMMITTEE AMENDMENT

During its consideration of S. 1237, the Committee adopted an amendment in the nature of a substitute, as amended by 3 amendments to section 4, Study of Electric Rates in the Insular Areas.

The amendment in the nature of a substitute eliminated provisions conveying to the submerged lands beneath the territorial sea surrounding the CNMI, adjusting scheduled wage increases in the CNMI, holding a referendum in the U.S. Virgin Islands on whether to establish a chief financial officer, establishing the Castle Nugent National Historic Site, designating the St. Croix National Heritage Area, providing for payment by the FAS for Federal Programs by in-kind contributions, holding a citizenship plebiscite in American Samoa, and making insular areas eligible for marine turtle conservation assistance (sections 3, 4, 7, 10, 11, 13, 19, and 20 of S. 1237 as introduced, respectively). In addition, provisions relating to the Office of National Drug Control Policy and driver's license and personal identification cards, which were not included in S. 1237 as introduced, were added to the substitute (sections 13 and 14 of S. 1237 as ordered reported).

The three amendments to the substitute approved by the Committee (1) clarify that "imported fuels" means those fuels shipped to the insular areas and FAS from ports outside the U.S.; (2) clarify that to "develop indigenous, nonfossil fuel energy sources" means the utilization of domestic energy sources; and (3) require that the energy action plans shall not be implemented until approved by the Secretary.

#### SECTION-BY-SECTION ANALYSIS

*Section 1* provides a short title, the "Omnibus Territories Act of 2013."

*Section 2* sets forth the table of contents.

*Section 3(1)(A)* amends section 6(a)(2) of the Joint Resolution to approve the "Covenant To Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America" (the Covenant) (48 U.S.C. 1806) to extend the transition period for the application of the Immigration and Nationality Act to the CNMI for five additional years (until December 21, 2019).

Subparagraph (B) of section 3(1) of the bill reenacts section 6(a)(6) of the Covenant as section 6(a)(6)(A) and adds new subparagraphs (B) and (C) to section 6(a)(6) of the Covenant. As reenacted, section 6(a)(6)(A) renews the requirement that the Secretary of Homeland Security charge an annual fee of \$150 per nonimmigrant worker to each prospective employer who is issued a permit under section 6(d) of the Covenant. As is now the case under current law, this fee is to be paid to the CNMI government for funding a vocational educational program in CNMI educational entities.

*Section 6(a)(6)(B)* of the Covenant, as added by section 3(1)(B) of the bill, requires, at the beginning of each fiscal year and prior to the payment of this fee to the CNMI, that the CNMI provide the U.S. Secretary of Labor with a plan for the expenditure of the funds, a projection of the effectiveness of these expenditures in the placement of U.S. workers into jobs, and a report on the changes in employment of U.S. workers attributable to prior year expenditures.

Section 6(a)(6)(C), as added by section 3(1)(B) of the bill, requires the U.S. Secretary of Labor to report to the Congress every 2 years on the effectiveness of meeting the goals of the CNMI government's annual plan for the expenditure of these funds.

Section 3(2) of the bill amends section 6(d) of the Covenant to extend the termination date of the transition period from December 31, 2014, to December 31, 2019, strikes paragraph 5 (relating to a determination whether an extension of the transition period is needed), and renames paragraph (6) as paragraph (5) (relating to the admission of a spouse or minor child of an admitted worker).

*Section 4* requires the Secretary of the Interior, not later than 180 days after the date of enactment, to establish, within the Interior Department's existing Empowering Insular Communities budget activity, a team of technical, policy, and financial experts to develop an energy action plan addressing the energy needs of each of the insular areas and FAS and to assist each of these in implementing their respective plan. Subsection (c) requires the Secretary, in establishing the team, to consider including regional utility organizations. Subsection (d) requires that the plans shall include: recommendations to reduce reliance and expenditures on fuel shipped to the insular areas and FAS from ports outside the United States; develop and utilize domestic fuel energy sources; improve performance of energy infrastructure and overall energy efficiency; a schedule for implementation of recommendations and identification and prioritization of specific projects; a financial and engineering plan for implementing and sustaining projects; and benchmarks for measuring progress toward implementation. Subsection (e) requires the team to report to the Secretary, not later than 1 year after the team is established and annually thereafter, on progress made in fulfilling its charge and in implementing the energy action plan. Subsection (f) requires the Secretary, not later than 30 days after she receives a report from the team, to submit a summary of the report to Congress. Subsection (g) requires that each energy action plan shall not be implemented until approved by the Secretary.

*Section 5* requires the Comptroller General of the United States to submit a report to Congress that evaluates whether the annual estimates or forecasts of revenue and expenditure of the American Samoa, CNMI, Guam, and U.S. Virgin Island governments are reasonable and, as the Comptroller General determines to be necessary, to make recommendations for improving the process for developing estimates or forecasts.

*Section 6* amends, with respect to fiscal years 2014 through 2017, the percentage described in section 2605(b)(2)(B)(i) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 128624(b)(2)(B)(i)) to be 300 percent of the fiscal year 2013 amount when applied to households located in the U.S. Virgin Islands.

*Section 7(a)(1)* recognizes, as described by the Guam War Claims Review Commission, that the residents of Guam suffered grievous harm as a result of the occupation of Guam by Imperial Japanese military forces during World War II by being subjected to death, rape, severe personal injury, personal injury, forced labor, forced march, or internment. Subsection (a)(2) expresses the gratitude of the United States forever to the residents of Guam for their steadfast loyalty to the United States, as demonstrated by their count-

less acts of courage despite the threat of death or great bodily harm which they faced at the hands of the Imperial Japanese military forces.

*Section 7(b)(1)* directs the Secretary of the Treasury to establish a special fund (Claims Fund) for the payment of claims submitted by compensable Guam victims and survivors of compensable Guam decedents in accordance with subsections (c) and (d). Paragraphs (2) and (3) of subsection (b) provide that the Claims Fund will be composed of amounts deposited into the Claims Fund of duties, taxes, and fees collected after fiscal year 2012 pursuant to section 30 of the Organic Act of Guam (48 U.S.C. 1421h) that are in excess of such duties, taxes, and fees collected in fiscal year 2012, and any other amounts made available for the payment of claims under this Act. Subsection (b)(4) provides that no payment for any claims may be made from the Claims Fund in any fiscal year until funds are deposited into the Claims Fund from that fiscal year, and that each fiscal year in which funds are deposited into the Claims Fund, the total amount of payments made may not exceed the amount of funds available in the Claims Fund for that fiscal year. Subsection (b)(5) requires the Secretary of the Treasury to deduct from the Claims Fund, 5 per cent for reimbursement to the Federal Government for expenses incurred in the administration of this Act.

Subsection (c)(1) requires that after the Secretary of the Treasury receives a certification from the Foreign Claims Settlement Commission under subsection (d), the Secretary shall make payments to compensable Guam victims and survivors of compensable Guam decedents: first, to compensable Guam victims, \$15,000 for rape or severe personal injury; \$12,000 for forced labor or personal injury; and \$10,000 for forced march, internment, or hiding to avoid internment; and second, to compensate survivors of compensable Guam decedents, \$25,000, to be distributed in accordance with section 7(c)(2). Paragraph 7(c)(3) sets forth definitions for "compensable Guam decedent" and for "compensable Guam victim" and directs that the Foreign Claims Settlement Commission to specify the injuries that constitute a "severe personal injury" or a "personal injury".

*Section 7(d)(1)* directs the Foreign Claims Settlement Commission to adjudicate claims and determine the eligibility of individuals for payments under subsection (c). Paragraph (2) sets forth administrative procedures for the Commission including: the process for the submission of claims; rules for adjudicating claims; rules for the deduction from compensation of amounts previously paid; limits on interest paid; limits on compensation for representational services to claimants; penalties for excessive representational compensation; rules for appeals of Commissions decisions; certification to the Secretary of the Treasury to make payments; the treatment of affidavits accompanying claims; and the requirement for a release of claims upon acceptance of a payment.

*Section 8* amends section 214(a)(7) of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a(a)(7)) to provide that a citizen or national of the United States shall be entitled to a preference or priority in receiving assistance before any alien who is otherwise eligible for such assistance.

*Section 9(a)* directs the Comptroller General of the United States to conduct a study regarding the use of benefit-to-cost ratio for-

mulas by Federal departments and agencies for evaluating projects in American Samoa. Subsection (b)(1) directs the Comptroller General, in conducting the study, to assess whether the benefit-to-cost ratio formulas take into consideration the remote locations in, and the cost of transportation to and from, American Samoa, and other significant factors that are not comparable to locations within the 48 contiguous States. Subsection (b)(2) requires the Comptroller General to particularly assess the use of benefit-to-cost ratio formulas used by the Secretary of Transportation with respect to airport traffic control tower programs and the Army Corps of Engineers with respect to harbor projects or other water resources development projects. Subsection (b)(3) directs the Comptroller General to submit to Congress a report on the results of the study not later than 1 year after the date of enactment of this Act.

*Section 10* amends section 501 of the Act entitled “An Act to authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes,” (48 U.S.C. 1469a; 91 Stat. 1164), to provide that, notwithstanding any other provision of law, for American Samoa, Guam, the U.S. Virgin Islands, and the CNMI, each Federal agency shall waive any requirement of \$500,000 or less for local matching funds (including in-kind contributions) that the insular area would otherwise be required to provide, and for a grant requiring matching funds of more than \$500,000, \$500,000 of the matching requirement shall be waived.

*Section 11* amends section 12113 of title 46, United States Code, to add an exemption for certain tuna purse seine vessels from landing their catch in American Samoa, if the vessel offloads its catch in part or full in American Samoa and if the vessel was rebuilt outside of the United States before January 1, 2011.

*Section 12* amends section 8104 of the Fair Minimum Wage Act of 2007 (29 U.S.C. 206 note) to add a requirement that the Comptroller General of the United States, as a part of the reports on minimum wage required under Section 8104, shall include an analysis of the economic effects on employees and employers of the differentials in minimum wage rates among industries and classifications in American Samoa, including the potential effects of eliminating such differentials before the rates are scheduled to reach the Federal minimum wage rate.

*Section 13* requires the Office of National Drug Control Policy to develop a biennial Caribbean Border Counternarcotics Strategy, that is to be made available to the public, with emphasis on the borders of Puerto Rico and the Virgin Islands and on terms substantially equivalent to the existing Southwest Border and Northern Border Counternarcotics Strategies.

*Section 14* amends sections 201(5) and 202(c)(2)(B) of the REAL ID Act of 2005 (49 U.S.C. 30301; Public Law 109–13) to clarify that citizens of the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau who have been admitted to the United States as nonimmigrants pursuant to a Compacts of Free Association, are eligible for driver’s licenses or personal identification cards under the REAL ID Act.

## COST AND BUDGETARY CONSIDERATION

The following estimate of costs of this measure has been provided by the Congressional Budget Office.

### *S. 1237—Omnibus Territories Act of 2013*

**Summary:** S. 1237 would amend laws concerning the territories of American Samoa, Guam, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands (collectively known as insular areas). The legislation would authorize federal agencies to waive the requirement to provide local matching funds to receive certain federal grants in the insular areas; the amount of the waiver could not exceed \$500,000. The legislation also would create a fund that would pay compensation to people and their family members who were victims of the Japanese occupation of Guam during World War II. Finally, S. 1237 would require reports to the Congress by the Department of the Interior, the Government Accountability Office, and the Office of National Drug Control Policy concerning issues faced by the insular areas.

CBO estimates that enacting S. 1237 would increase net direct spending by about \$20 million over the 2015–2024 period. Because the bill would affect direct spending, pay-as-you-go procedures apply. Enacting the bill would not affect revenues.

Implementing the bill would increase spending subject to appropriation by about \$1 million over the 2015–2019 period, assuming availability of appropriated funds.

S. 1237 would impose no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

**Estimated cost to the Federal Government:** The estimated budgetary impact of S. 1237 is shown on the following table. The costs of this legislation fall within budget functions 600 (income security) and 800 (general government).

	By fiscal year, in millions of dollars—											
	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2015–2019	2015–2024
<b>CHANGES IN DIRECT SPENDING<sup>a</sup></b>												
Waiver of Matching Funds:												
Estimated Budget Authority .....	2	2	2	2	2	2	2	2	2	2	10	20
Estimated Outlays .....	2	2	2	2	2	2	2	2	2	2	10	20

Note: \* = less than \$500,000.

<sup>a</sup>In addition, S. 1237 would increase discretionary costs by \$1 million over the 2015–2019 period for preparation of additional reports for the Congress, assuming availability of appropriated funds.

**Basis of estimate:** For this estimate, CBO assumes that the legislation will be enacted by the end of fiscal year 2014.

### *Waiver of matching funds*

Under current law, federal agencies are allowed to waive the requirement for the first \$200,000 of local matching funds for federal grants to the territories of American Samoa, Guam, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands. S. 1237 would increase that waiver from \$200,000 to \$500,000.

If the bill is enacted, the territories would be allowed to spend less of their own funds for several mandatory programs, including

the Temporary Assistance for Needy Families, Foster Care, Medicaid, Supplemental Nutrition Assistance, and Child Support Enforcement (CSE) programs. Federal grants to the territories are capped for most programs, so federal spending would generally remain unchanged. However, funding for administrative costs in the Supplemental Nutrition Assistance and CSE programs in the territories is not capped. Guam and the Virgin Islands participate in those programs.

Federal costs for those two programs would increase for two reasons if S. 1237 was enacted. CBO expects that federal payments to the two territories would increase by the amount of the additional waived funds. In addition, CBO expects that the territories would use some of the amounts they no longer have to use for those purposes to draw down additional federal matching funds. In total, CBO estimates that federal spending would increase by about \$2 million annually.

#### *Guam War Claims Fund*

S. 1237 would establish a schedule of compensation payments to Guam residents and family members for their treatment during the island's occupation by Japanese military forces during World War II and create a new fund within the U.S. Treasury to make those payments.

Under current law, customs duties and federal income taxes derived from Guam and certain other amounts collected under federal laws are paid to the treasury of Guam for use by that territory's government. In 2012 those payments totaled \$57 million. If S. 1237 was enacted, any such future payments due to Guam that exceed the amount paid in 2012 would instead be paid to a new U.S. Treasury fund that would be available to make compensation payments. CBO estimates that the collection and spending of those funds would have no significant net impact on direct spending over the 2015–2024 period.

**Pay-As-You-Go considerations:** The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. S. 1237 would increase direct spending; therefore, pay-as-you-go procedures apply. The net budgetary changes that are subject to pay-as-you-go procedures are shown in the following table.

CBO ESTIMATE OF THE STATUTORY PAY-AS-YOU-GO EFFECTS FOR S. 1237, THE OMNIBUS TERRITORIES ACT OF 2013, AS ORDERED REPORTED BY THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES ON DECEMBER 19, 2013

	By fiscal year, in millions of dollars—												
	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2014–2019	2014–2024
NET INCREASE OR DECREASE (–) IN THE DEFICIT													
Statutory Pay-As-You-Go Impact .....	0	2	2	2	2	2	2	2	2	2	2	10	20

**Intergovernmental and private-sector impact:** S. 1237 would impose no intergovernmental or private-sector mandates as defined in UMRA.

Estimate prepared by: Federal costs: Kathleen FitzGerald and Matthew Pickford; Impact on state, local, and tribal governments: Melissa Merrell; Impact on the private sector: Amy Petz.

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

#### 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. 1237.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals or businesses.

Personal information would be collected by the Federal government under section 7 to the extent victims or survivors of the Japanese occupation of Guam submit claims for compensation. Personal information would also be collected by the Federal Government under section 8 to the extent residents of Guam and citizens of the FAS apply for Federal housing assistance.

Additional paperwork would be required by the Federal Government from the enactment of several provisions of S. 1237. Section 3 would require additional paperwork because it requires the CNMI government to provide an annual worker training plan to the U.S. Secretary of Labor, and the Secretary of Labor to then report to Congress every 2 years on the effectiveness of this plan. Section 4 would increase paperwork by requiring the Secretary of the Interior to establish a team of energy experts to assist the insular areas in developing and implementing comprehensive energy plans, for the team to report annually to the Secretary, and for the Secretary to submit a summary of the team reports to Congress. Section 5 would increase paperwork by requiring the Comptroller General to evaluate and report to Congress on the estimates of revenues made by four of the insular governments. Section 7 would increase paperwork by establishing a Claims Fund in the U.S. Treasury, and by establishing a program under the Foreign Claims Settlement Commission to accept, adjudicate and certify claims for payment by the Treasury from victims and survivors of injuries suffered during the Japanese occupation of Guam during World War II. Section 9 would increase paperwork by requiring the Comptroller General to conduct a study and report to Congress on the use of benefit-to-cost ratio formulas by Federal agencies when evaluating projects in American Samoa. Section 12 would create additional paperwork by expanding the scope of the current Comptroller General report on the effects of minimum wage increases in American Samoa to include an analysis of the economic effects of the different minimum wage rates among industries in American Samoa. Finally, section 13 would increase paperwork by requiring the Office of National Drug Control Policy to develop and make available to the public a biennial Caribbean Border Counter-narcotics Strategy.

The Committee does not expect any of the bill's information-collecting requirements to impose substantial additional paperwork or recordkeeping burdens, in either time or financial cost, on private industry or individuals.

#### CONGRESSIONALLY DIRECTED SPENDING

S. 1237, as reported, does not contain any congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined in rule XLIV of the Standing Rules of the Senate.

#### EXECUTIVE COMMUNICATIONS

The testimony provided by the Department of the Interior at the July 11, 2013, hearing on S. 1237 follows:

**STATEMENT OF EILEEN SOBECK, ACTING ASSISTANT SECRETARY FOR INSULAR AREAS, DEPARTMENT OF THE INTERIOR**

Mr. Chairman and members of the Committee on Energy and Natural Resources, I am pleased to discuss, on behalf of the Department of the Interior, certain provisions of the Omnibus Territories Act of 2013, S. 1237. Sections 14, 15, 17, 18 and 20 of the bill pertain to matters outside of the Department's jurisdiction; as such the Department defers to the relevant federal agencies for their views on these provisions.

#### TERRITORIAL SEA

Section 3 would give the Commonwealth of the Northern Mariana Islands (CNMI) authority over the submerged lands out to three geographical miles from its coast lines.

At present, the CNMI is the only United States territory that does not have title to the submerged lands in that portion of the United States territorial sea that is three miles distant from its coastline. It is appropriate that the CNMI be given the same authority as other territories.

On January 6, 2009, by presidential proclamation, the Marianas Trench Marine National Monument (Monument) was created, including the Islands Unit, comprising the submerged lands and waters surrounding Uracas, Maug, and Asuncion, the northernmost islands of the CNMI. While creation of the monument is a historic achievement, it should be remembered that the leaders and people of the CNMI were and are these three islands' first preservationists. They included in their 1978, plebiscite-approved constitution the following language:

#### ARTICLE XIV: NATURAL RESOURCES

Section 1: Marine Resources. The marine resources in the waters off the coast of the Commonwealth over which the Commonwealth now or hereafter may have any jurisdiction under United States law shall be managed, controlled, protected and preserved by the legislature for the benefit of the people.

Section 2: Uninhabited Islands. . . . The islands of Maug, Uracas, Asuncion, Guguan and other islands specified by law shall be maintained as uninhabited places and used only for the preserva-

tion and protection of natural resources, including but not limited to bird, wildlife and plant species.

It is important to note that the Northern Marianas Commonwealth Legislature has never taken action adverse to the preservation of these northern islands and the waters surrounding them. The people of the CNMI are well aware of their treasures. CNMI leaders consented to creation of the monument because they believed that the monument would bring Federal assets for marine surveillance, protection, and enforcement to the northern islands that the CNMI cannot afford.

If enacted, section 3 would become a public law enacted subsequent to the creation of the Monument, and would convey to the CNMI the submerged lands surrounding Uracas, Maug, and Asuncion without addressing the effect of this conveyance on the administrative responsibilities of the Department of the Interior and the Department of Commerce. Presidential Proclamation 8335 (Proclamation) assigned management responsibility of the Monument to the Secretary of the Interior, in consultation with the Secretary of Commerce. The proclamation further states that the “Secretary of Commerce shall have the primary management responsibility . . . with respect to fishery-related activities regulated pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) and any other applicable authorities.” The Proclamation provides that submerged lands that are granted to the CNMI “but remain controlled by the United States under the Antiquities Act may remain part of the monument” for coordinated management with the CNMI. As envisioned by the Proclamation establishing the Monument, the Administration remains committed to protecting the outstanding resources in the waters surrounding the CNMI’s three northernmost islands.

Specifically, the Department strongly recommends an amendment to section 3 that addresses the coordination of management as contemplated within the Proclamation, prior to the transfer of the submerged lands within the Islands Unit of the Monument to the CNMI. Such language would protect the Islands Unit of the Monument and at the same time acknowledge the prescient and historic conservation effort of the leaders and people of the CNMI in protecting Uracas, Maug, and Asuncion, and their surrounding waters.

The Department of the Interior strongly supports section 3 and strongly recommends the above-referenced amendment. The Department of the Interior looks forward to the Commonwealth of the Northern Mariana Islands gaining rights in surrounding submerged lands similar to those accorded other territories.

#### ADJUSTMENT OF SCHEDULED WAGE INCREASES IN THE CNMI

Section 4 of the bill would slow minimum wage increases in the CNMI by forgoing the increases slated to take effect

on September 30, 2013, and 2015. The 50-cent increases scheduled to occur in 2014, 2016 and annually thereafter would remain in effect.

In 2007, the Congress put American Samoa and the CNMI on a path to match the United States minimum wage within a few years. Legislation dictated increases to the minimum wage of 50-cents per year, until parity was achieved.

Due to substantial economic hardship in American Samoa—the closure of one of its two tuna canneries—the law was amended to skip the increases for American Samoa from 2011 through 2014.

Both territories have isolated locations in the Pacific Ocean in neighborhoods of low wages. The CNMI has also suffered the loss of one of its two major industries—garment manufacturing. The purpose of section 4 is to spread out the minimum wage increases for the CNMI to help ensure the survival of island businesses and their employees' jobs. Specifically, section 4 would slow the pace of minimum wage increase until after 2015, when the annual increases would resume, similar to the adjustment made previously for American Samoa.

The Department of the Interior has no objection to section 4.

#### CNMI IMMIGRATION ISSUES

Section 5 deals with fees and funding vocational education curricula and development of educational entities, and a five year extension of the statutory period (through December 31, 2019) for lowering the number of CNMI-only foreign transitional worker permits to zero.

Subsection 1 of Section 5 requires the CNMI government to provide a plan for the expenditure of educational funds collected (as required by statute) by the Department of Homeland Security as a supplemental fee on CNMI employers' transitional worker immigration petitions and provided to the CNMI government, and a projection of the effectiveness of these funds in finding employment for U.S. workers. Every two years the Secretary of Homeland Security must report on the effectiveness of meeting the goals set out in the annual plan.

Subsections 2 and 3 of section 5 also relate to CNMI-specific immigration provisions contained in the Consolidated Natural Resources Act of 2008 (CNRA). The CNRA shifted administration of immigration in the CNMI from CNMI to Federal authority, but also established a five-year transition period to allow the CNMI economy to adjust to the new regime.

Coincident with change in World Trade Organization rules and the demise of the CNMI garment industry in the late 2000s, the CNMI's economy has struggled. The resulting tax and revenue decline has been challenging for the CNMI government.

The Department of the Interior has always supported measures that promote economic development in the

CNMI, and in the CNRA, the Congress specifically directed the Department of the Interior to aid the CNMI economy during the immigration transition. As a result, in 2011, the Department conducted a Forum on Economic and Labor Development (FELD) in Saipan, designed to elicit from the CNMI community ideas and goals for the CNMI economy. The Department later provided \$1 million in grant funds to implement the FELD findings.

While it cannot yet be characterized as an economic rebound, statistics from recent months show increases in CNMI tourism and hotel bookings.

Nevertheless, businesses and CNMI government officials are concerned that if the approximately 12,000 foreign workers resident in the CNMI under the transitional worker program were forced to leave at the end of 2014, the reduction would have significant adverse consequences for the CNMI economy.

Under the CNRA, the Secretary of Labor already has the discretion to extend the CNMI-only transitional worker program by up to five years if warranted by economic conditions. The Department of Labor is now conducting studies that will inform that decision.

The Department of the Interior defers to the Departments of Labor and Homeland Security regarding important aspects of section 5.

#### STUDY OF ELECTRIC RATES IN THE INSULAR AREAS

Section 6 of the bill is entitled “Study of Electric Rates in the Insular Areas.” The legislative language that follows, however, goes much beyond a study. The language calls for an “energy action plan” for each territory and freely associated state (FAS) and implementation of those plans. The legislative language is largely duplicative of section 604 of Public Law 96–597 (48 USC 1492), except that, the Secretary of the Interior would be responsible for the described energy effort, rather than the Secretary of Energy.

It should be noted that eight years ago, Interior undertook a comprehensive effort to study energy needs in the U.S. territories and FAS, and to develop viable energy plans (which included an appropriate role for renewable energy sources) for each jurisdiction. Currently, the Office of Insular Affairs is supporting broad renewable energy planning efforts through the National Renewable Energy Laboratory (NREL) financed by our Technical Assistance Program. The President’s 2014 budget for OIA includes funding for specific energy projects under Empowering Insular Communities to implement a number of the NREL recommendations.

The Department of the Interior opposes section 6 of S. 1237 as being unnecessary because it is duplicative of section 604 of Public Law 96–597, and of current efforts to implement the energy plans that have been and are being developed.

#### CHIEF FINANCIAL OFFICER OF THE VIRGIN ISLANDS

Section 7 includes a provision for establishing a chief financial officer (CFO) for the Virgin Islands, and a plebiscite of Virgin Island voters on the issue.

In the mid-2000s, an earlier CFO bill would have placed significant restrictions on local self-government and the powers of the elected Governor of the Virgin Islands as established in the Virgin Islands Revised Organic Act. A revised CFO bill was the subject of a hearing last year in the House of Representatives. The Department of the Interior had no objection to that bill because it would have constituted “only *de minimus* interference with self-government in the Virgin Islands.” We noted that the purpose of the bill was to rein in deficit spending, but that the bill did not require a balanced budget.

S. 1237 adds a new provision requiring a plebiscite on the question of whether or not a chief financial officer position should be established. This extra layer of approval for the CFO position by the voters of the Virgin Islands would demonstrate acceptance of the concept or not, by the citizens of the Virgin Islands.

The Department of the Interior has no objection to the enactment of section 7.

#### REPORTS ON ESTIMATES OF REVENUE

Section 8 would require the governors of American Samoa, the Northern Mariana Islands, Puerto Rico, Guam and the Virgin Islands each to submit a report on the process for developing annual estimates of the government’s revenues and expenditures and any supporting documents and schedules to appropriate committees of the Congress and the Comptroller General of the United States, and also require the Comptroller General to submit a report evaluating the reasonableness of those estimates and if necessary submit recommendations for improving the processes for developing the estimates to appropriate committees of the Congress.

Over the years, in statements related to the legislation that would create a Chief Financial Officer of the Virgin Islands, the Department of the Interior has stated that all the territories have had difficulty with rising debt due to problematic budgeting processes. Section 8 would provide a framework for studying the budget processes of the territories.

Because the governors of each of the territories would be so intimately involved, the Department of the Interior defers to the opinions of the governors of each of the United States territories with regard to this provision.

#### LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM

Section 9 would provide that under the Low-Income Home Energy Assistance Act of 1981 energy assistance would be 300 percent of the normal rate when applied to

households located in the Virgin Islands in years 2014 through 2017.

United States Virgin Islanders are struggling with some of the highest electric rates in the U.S. Currently, the residential rate in the Virgin Islands is 50 cents per kilowatt hour, with the commercial rate at 54 cents per kilowatt hour. These high Virgin Islands rates contrast significantly with rates elsewhere in the United States, which average 12.8 cents per KWH.

Considering both the high poverty rates and high electric rates in the Virgin Islands, one can understand the extreme difficulty under which many Virgin Islands residents are living. Many residents cannot afford to keep the lights on, and businesses are closing.

Given the fact that electric rates in the Virgin Islands are five times that on the U.S. mainland, a LIHEAP payment of three times the mainland amount for a limited, four-year period of time would not be unreasonable.

In addition, the territories of Guam, CNMI, and American Samoa are also paying significantly higher residential rates than in the rest of the United States. The rates are 24.5 cents per KWH on Guam, 32 cents per KWH in the CNMI, and 39 cents per KWH in American Samoa.

The Department of the Interior has no objection to the enactment of section 9, but suggests, based on the rates paid by each of the territories, that a formula for Guam, CNMI, and American Samoa be included in this section as well.

#### **CASTLE NUGENT NATIONAL HISTORIC SITE ESTABLISHMENT**

Section 10 would establish the Castle Nugent National Historic Site on the island of St. Croix in the U.S. Virgin Islands as a unit of the National Park System. This proposed national historic site was the subject of a special resource study, completed in 2010, that found that the site met the National Park Service's criteria for inclusion in the National Park System.

This 2,900-acre site is located along the arid southeastern shore of St. Croix, about three miles south of the town of Christiansted. The terrain is mostly rolling and hilly with a mixture of dry forest, native vegetation, and rangeland that offers picturesque views to the Caribbean Sea and to distant parts of the island. Establishing this site as a unit of the National Park System would provide the opportunity to preserve and protect this outstanding Caribbean cultural landscape and interpret the cotton era and related agricultural themes that have been instrumental in the development of St. Croix and the Virgin Islands. It would also help protect five pre-Columbian archaeological sites, two of which are among the oldest sites on St. Croix.

The Department supports this section with an amendment. The recommended amendment, which would insert the standard language used in bills establishing new areas

of the National Park System, is to strike “consists” on line 12 of page 19 and insert “shall consist”.

#### ST. CROIX NATIONAL HERITAGE AREA

Section 11 would establish the St. Croix National Heritage Area on the island of St. Croix. A feasibility study completed in 2012 by the National Park Service found that this proposed heritage area, which would include the entire island, met the Service’s interim criteria for designation as a National Heritage Area. The heritage area would be focused on five themes: early cultures, slavery and emancipation, the influence of seven colonial powers, the island’s unique geography and natural environment, and modern-day cultures.

The Department supports the objectives of this section. However, the Department recommends that Congress enact program legislation that establishes criteria to evaluate potentially qualified National Heritage Areas and a process for the designation, funding, and administration of these areas before designating any additional new National Heritage Areas. There are currently 49 designated national heritage areas, yet there is no authority in law that guides the designation and administration of these areas. Program legislation would provide a much-needed framework for evaluating proposed national heritage areas, offering guidelines for successful planning and management, clarifying the roles and responsibilities of all parties, and standardizing timeframes and funding for designated areas.

If the committee moves forward on S. 1237 with section 11 included, we would like to recommend amendments to some of the terms used in this section. We would be happy to provide the committee with our recommended amendments.

#### GUAM WAR CLAIMS REVIEW COMMISSION

Section 12 would approve payments and a funding source for claims arising from the World War II Japanese occupation of Guam.

Sixty-nine years ago this month, U.S. forces stormed the beaches of Asan and Agat on the island of Guam. The fierce battles in the weeks that followed would end Japan’s two-and-a-half year occupation of Guam. Approximately a thousand United States national residents of Guam died during the occupation; the people of Guam were subjected to summary executions, beheadings, rapes, torture, beatings, forced labor, forced march and internment.

With the passage of the Guam Meritorious Claims Act of 1945, the people of Guam became the first group of United States nationals to be made eligible for payment of claims by the United States for damages suffered during the war. In the years that followed, however, many on Guam came to question whether the Guam Meritorious Claims Act, as implemented, sufficiently compensated the people of Guam for their suffering.

The Guam War Claims Review Commission, created pursuant to legislation passed in 2002, was charged with determining whether there was parity in the treatment of Guamanians' World War II claims as compared with the claims of U.S. citizens or nationals in other areas occupied by Japan during the war. The commission determined that Guamanians did not receive treatment in parity with other United States individuals who similarly suffered during World War II.

This section would provide payments to persons now living on Guam who actually suffered the Japanese occupation during World War II. It would not provide payments to heirs of survivors of the Guam occupation, but would compensate heirs of the approximate 1,000 United States national residents of Guam who died during the Japanese occupation.

Funding for this section would be provided from the Guam Organic Act section 30 funding that is in excess of section 30 funding for fiscal year 2012.

The Department of the Interior recommends that the committee seek broad counsel among leaders in Guam regarding the financing of claims under section 12.

#### USE OF CERTAIN EXPENDITURES AS IN-KIND CONTRIBUTIONS

Section 13 would allow territorial and Hawaii government costs ascribed to the migration of freely associated state (FAS) citizens to Guam, Hawaii, the CNMI and American Samoa to be valued and applied as in-kind local matching contributions for Federal programs.

With amendments to the Compacts of Free Association legislation passed in 2003, the Congress appropriated \$30 million annually to be distributed among the four affected U.S. jurisdictions based on an enumeration of FAS citizens in those four jurisdictions. The Congress provided an additional \$5 million in each of fiscal years 2012 and 2013. It is uncontested that the impact of migration to Guam, Hawaii, CNMI and American Samoa exceeds the amounts appropriated.

Under section 13 of S. 1237, amounts above the annual payments could be classified as eligible amounts to be drawn on as "in-kind contributions" that would aid the affected jurisdictions in satisfying matching requirements for Federal programs.

In addition, under the compact legislation, the governors of Guam, Hawaii, the CNMI and American Samoa are invited annually to provide reports on the impact of migration from the freely associated states of the Marshall Islands, the Federated States of Micronesia, and Palau on their respective jurisdictions. Guam produces such a report annually; Hawaii sporadically; American Samoa and the CNMI do not. The Department of the Interior forwards these reports to the Congress.

Among the governments, there is no consistent format or standards for inclusion of costs, and no inclusion of benefits that FAS citizens provide the respective jurisdiction.

In its 2012 report on FAS migration, the Government Accountability Office (GAO) stated:

. . . some jurisdictions did not accurately define compact migrants, account for federal funding that supplemented local expenditures, or include revenue received from compact migrants.

The GAO recommendations did not include specific recommendations necessary to achieve accuracy in reporting impacts of the compacts.

The Department of the Interior has urged the governors to develop consistent standards of reporting among themselves, including the definition of FAS migrants, accurate accounting of migrant costs to the affected government, and benefits received by the affected jurisdiction from employment, taxation and consumption. To date, they have not done so.

Assuming that accurate reporting is achieved in future reports, the accuracy of past reports remains a problem for calculating the amounts from which “in-kind contributions” could be drawn.

Without establishing standards, the language in section 13 is untenable. For example, subsection (b) calls on the Secretary of the Interior to determine amounts eligible for “in-kind” classification “based on a reasonable estimate of the amount of impact expenditures for the Freely Associated States.” The words I quoted give no direction for the Secretary to arrive at an estimate and the expenditures are not stated to be those of the four U.S. affected jurisdictions. Specific and exacting standards are missing.

The Department of the Interior opposes the enactment of section 13.

#### WAIVER OF LOCAL MATCHING REQUIREMENTS

Section 16 would amend section 501 of Public Law 95–134, which allows waiver of local matching requirements for Federal grants for U.S. territories, to require the waiver of all matching of \$500,000 or less.

The original waiver provision, giving all federal agencies permissive authority to waive local matching requirements of \$200,000 or less, has been in effect since 1977. Since 1980, statute has required the matching waiver for grants of the Department of the Interior. Generally the law has been interpreted not to apply to discretionary grants, because a granting agency could decide, in its discretion, to forgo making the grant if a territory were to insist on the waiver of the match. Such an eventuality would harm the territories.

Considering that more than 30 years have passed since the \$200,000 waiver was established, the increase to \$500,000 would seem appropriate and consistent with inflation over time.

The Department of the Interior has no objection to the enactment of section 16 with regard to grants from the De-

partment of the Interior. We express no view with regard to waiver changes for other Federal agencies.

#### AMERICAN SAMOA CITIZENSHIP PLEBISCITE ACT

Section 19 would require the Secretary of the Interior to direct the American Samoa Election Office to conduct a plebiscite on whether or not persons born in American Samoa desire United States citizenship.

Under the Tripartite Convention of 1899, ratified February 16, 1900, Great Britain and Germany ceded claims of the eastern portion of the Samoan Islands to the United States. This portion of the archipelago became known as "American Samoa." The Matai (the chiefs) of Tutuila and Manu'a, signed voluntary Deeds of Cession in 1901 and 1904, respectively, which were subsequently accepted, ratified and confirmed retroactively by Congress. In 1929, the Congress provided that with regard to the government of the territory of American Samoa, all civil, judicial, and military powers shall be exercised as the President shall direct. In 1951, the President delegated his authority to the Secretary of the Interior.

Under the authority of the Secretary of the Interior, American Samoa adopted a constitution in 1960. The issue of citizenship versus status as a U.S. national was a key issue. The Samoan leaders and people were concerned that U.S. citizenship could cause the equal protection clause of the United States Constitution to interfere with their communal land tenure system, chiefly or *matai* titles, and the viability of Fono's Senate due to the selection of Senators from among persons with *matai* titles.

To protect and ensure continuation of *fa 'a* Samoa (the Samoan way of life), Samoans chose to be U.S. nationals rather than citizens of the United States. Both citizens and nationals owe allegiance to the United States, although the United States Constitution grants certain privileges to citizens, but not persons who are nationals alone.

The United States national status of persons born in American Samoa was upheld on June 26, 2013, by the United States District Court for the District of Columbia in *Leneuoti Fiafia Tuaua et al. v. United States of America et al.* which included the following statement:

To date, the Congress has not seen fit to bestow birthright citizenship on American Samoa, and in accordance with the law, this Court must and will respect that choice.

In the fifty years since the adoption of the original constitution of American Samoa, attitudes of many in the local population of American Samoa may have shifted. The plebiscite called for in section 19 will bring new discussion to these land, *matai* title and Senate issues. These are issues for the American Samoa polity to discuss and decide.

Should the proposed vote in American Samoa favor citizenship, leaders in American Samoa would then approach

the Secretary of the Interior and the Congress, to seek action on the issue.

The Department of the Interior has no objection to the enactment of section 19.

#### MARINE TURTLES

Section 20 would extend the Marine Turtle Conservation Act of 2004 to United States territories and possessions. Marine turtles are “flagship species” for both local and international coastal conservation. Because marine turtles circumnavigate the world’s oceans to reach their nesting beaches, their conservation must be addressed through global efforts. By focusing on these species and their habitats, we can more adequately conserve and manage ecologically critical coastal and marine habitats around the world.

The Department’s U.S. Fish and Wildlife Service and the National Oceanic and Atmospheric Administration (within the Department of Commerce) share jurisdiction for the conservation of marine turtles. The Service focuses conservation activities on nesting beaches while NOAA works to conserve and recover turtles in their marine habitats. The Fish and Wildlife Service also administers the Marine Turtle Conservation Fund, which provides grants to countries with sea turtle nesting beaches on a cost share basis, to implement sea turtle conservation programs. Such international conservation is a key part of the effort to recover and conserve these global species.

The Department of the Interior supports the intent of section 20 to provide greater funding opportunities for turtle conservation in the U.S. territories. However, we are concerned that this change would significantly dilute the limited funds available to implement conservation measures in foreign countries. There are resources already available for sea turtle conservation in the U.S., including the territories. The relatively small amount of Marine Turtle Conservation Fund grants (less than \$1.8 million in FY 2012), which provide critical assistance to our international partners, accounts for about six percent of the overall funds spent by the U.S. on sea turtle conservation. If applicants in the U.S. are made eligible, this limited amount for critically important international work is likely to be significantly reduced.

#### CONCLUSION

Mr. Chairman, we at the Department of the Interior are pleased that you and the ranking member have introduced the Territorial Omnibus Act of 2013. Despite the fact that the Department cannot support each and every provision, the bill gives an airing to important territorial issues of long standing. We will be pleased to work with the Committee as it finalizes the legislation.

### 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. 1237, 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):

#### TABLE OF LAWS AFFECTED

1. Public Law 94-241.
  2. The Housing and Community Development Act of 1980.
  3. Public Law 95-134.
  4. Public Law 96-205.
  5. Title 46, United States Code.
  6. The Fair Minimum Wage Act of 2007.
  7. The Office of National Drug Control Policy Reauthorization Act of 1998.
  8. The REAL ID Act of 2005.
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### **PUBLIC LAW 94-241**

Section 6 of Public Law 94-241, as added by section 702(a) of the Consolidated Natural Resources Act of 2008; 48 U.S.C. 1806

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

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#### **SEC. 6. IMMIGRATION AND TRANSITION.**

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

(1) IN GENERAL.—Subject to paragraphs (2) and (3), effective on the first day of the first full month commencing 1 year after the date of enactment of the Consolidated Natural Resources Act of 2008 (hereafter referred to as the “transition program effective date”), the provisions of the ‘immigration laws’ (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17))) shall apply to the Commonwealth of the Northern Mariana Islands (referred to in this section as the “Commonwealth”), except as otherwise provided in this section.

(2) TRANSITION PERIOD.—There shall be a transition period beginning on the transition program effective date and ending on [December 31, 2014, except as provided in subsections (b) and (d)] December 31, 2019, during which the Secretary of Homeland Security, in consultation with the Secretary of State, the Attorney General, the Secretary of Labor, and the Secretary of the Interior, shall establish, administer, and enforce a transition program to regulate immigration to the Commonwealth, as provided in this section (hereafter referred to as the “transition program”).

\* \* \* \* \*

**[(6) CERTAIN EDUCATION FUNDING.]**—In addition to fees charged pursuant to section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)) to recover the full costs of providing adjudication services, the Secretary of Homeland Security shall charge an annual supplemental fee of \$150 per nonimmigrant worker to each prospective employer who is issued a permit under subsection (d) of this section during the transition period. Such supplemental fee shall be paid into the Treasury of the Commonwealth government for the purpose of funding ongoing vocational educational curricula and program development by Commonwealth educational entities.]

(6) **CERTAIN EDUCATION FUNDING.**—

*(A) IN GENERAL.—In addition to fees charged pursuant to section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356 (m)) to recover the full costs of providing adjudication services, the Secretary of Homeland Security shall charge an annual supplemental fee of \$150 per non-immigrant worker to each prospective employer who is issued a permit under subsection (d) of this section during the transition program. Such supplemental fee shall be paid into the Treasury of the Commonwealth government for the purpose of funding ongoing vocational educational curricula and program development by Commonwealth educational entities.*

*(B) PLAN FOR THE EXPENDITURE OF FUNDS.—At the beginning of each fiscal year, and prior to the payment of the supplemental fee into the Treasury of the Commonwealth government in that fiscal year, the Commonwealth government must provide to the Secretary of Labor, a plan for the expenditure of funds received under this paragraph, a projection of the effectiveness of these expenditures in the placement of United States workers into jobs, and a report on the changes in employment of United States workers attributable to prior year expenditures.*

*(C) REPORT.—The Secretary of Labor shall report to the Congress every 2 years on the effectiveness of meeting the goals set out by the Commonwealth government in its annual plan for the expenditure of funds.*

\* \* \* \* \*

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

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

(2) The Secretary of Homeland Security shall establish, administer, and enforce a system for allocating and determining the number, terms, and conditions of permits to be issued to prospective employers for each such nonimmigrant worker de-

scribed in this subsection who would not otherwise be eligible for admission under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.). In adopting and enforcing this system, the Secretary shall also consider, in good faith and not later than 30 days after receipt by the Secretary, any comments and advice submitted by the Governor of the Commonwealth. This system shall provide for a reduction in the allocation of permits for such workers on an annual basis to zero, during a period [not to extend beyond December 31, 2014, unless extended pursuant to paragraph 5 of this subsection] *ending on December 31, 2019*. In no event shall a permit be valid beyond the expiration of the transition period. This system may be based on any reasonable method and criteria determined by the Secretary of Homeland Security to promote the maximum use of, and to prevent adverse effects on wages and working conditions of, workers authorized to be employed in the United States, including lawfully admissible freely associated state citizen labor. No alien shall be granted nonimmigrant classification or a visa under this subsection unless the permit requirements established under this paragraph have been met.

\* \* \* \* \*

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

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

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

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

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

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

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

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

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

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

[(viii) the prior use, if any, of alien workers to fill those industry jobs, and whether the industry requires alien workers to fill those jobs.]

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

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## THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1980

Public Law 96-399, as amended; 42 U.S.C. 1436a

AN ACT To amend and extend certain Federal laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes

\* \* \* \* \*

### TITLE II—HOUSING ASSISTANCE PROGRAMS

\* \* \* \* \*

#### RESTRICTION ON USE OF ASSISTED HOUSING

SEC. 214. (a) Notwithstanding any other provision of law, the applicable Secretary may not make financial assistance available for the benefit of any alien unless that alien is a resident of the United States and is—

(1) an alien lawfully admitted for permanent residence as an immigrant as defined by section 1101(a)(15) and (20) of Title 8, excluding, among others, alien visitors, tourists, diplomats, and students who enter the United States temporarily with no intention of abandoning their residence in a foreign country;

\* \* \* \* \*

(7) an alien who is lawfully resident in the United States and its territories and possessions under section 141 of the Compacts of Free Association between the Government of the

United States and the Governments of the Marshall Islands, the Federated States of Micronesia (48 U.S.C. 1901 note) and Palau (48 U.S.C. 1931 note) while the applicable section is in effect: Provided, That, within Guam any [such alien shall not be entitled to a preference in receiving assistance under this Act over any United States citizen or national resident therein who is otherwise eligible for such assistance] citizen or national of the United States shall be entitled to a preference or priority in receiving assistance before any such alien who is otherwise eligible for such assistance.

\* \* \* \* \*

#### **PUBLIC LAW 95-134**

Section 501 of Public Law 95-134, as amended by section 9 of  
Public Law 95-348; 48 U.S.C. 1469a

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, 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:

(a) Any department or agency of the Government of the United States which administers any Act of Congress which specifically provides for making grants to any Insular Area under which payments received may be used by such Insular Area only for certain specified purposes (other than direct payments to classes of individuals) may, acting through appropriate administrative authorities of such department or agency, consolidate any or all grants made to such area for any fiscal year or years.

\* \* \* \* \*

(d) Each department or agency making grants-in-aid shall, by regulations published in the Federal Register, provide the method by which any Insular Area may submit (i) a single application for a consolidated grant for any fiscal year period, but not more than one such application for a consolidated grant shall be required by any department or agency unless notice of such requirement is transmitted to the appropriate committees of the United States Congress together with a complete explanation of the necessity for requiring such additional applications and (ii) a single report to such department or agency with respect to each such consolidated grant: Provided, That nothing in this paragraph shall preclude such department or agency from providing adequate procedures for accounting, auditing, evaluating, and reviewing any programs or activities receiving benefits from any consolidated grant. The administering authority of any department or agency, in its discre-

tion, may (i) waive any requirement for matching funds otherwise required [by law] to be provided by the Insular Area involved and (ii) waive the requirement that any Insular Area submit an application or report in writing with respect to any consolidated grant.

(e) *Notwithstanding any other provision of law, in the case of American Samoa, Guam, the Virgin Islands, and the Northern Mariana Islands, each department or agency of the United States shall waive any requirement for local matching funds (including in-kind contributions) that the insular area would otherwise be required to provide for any non-competitive grant as follows:*

(1) *For a grant requiring matching funds (including in-kind contributions) of \$500,000 or less, the entire matching requirement shall be waived.*

(2) *For a grant requiring matching funds (including in-kind contributions) of more than \$500,000, \$500,000 of the matching requirement shall be waived.*

\* \* \* \* \*

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## **PUBLIC LAW 96-205**

94 Stat. 90; 48 U.S.C. 1469a note

AN ACT To authorize appropriations for certain insular areas of the United States, and for other purposes

\* \* \* \* \*

## **TITLE VI—MISCELLANEOUS**

SEC. 601. Title V of the Act of October 15, 1977, entitled, “An Act to authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes” (91 Stat. 1159) shall be applied with respect to the Department of the Interior by substituting “shall” for “may” in the last sentence of subsection (d) [ ], and adding the following sentence at the end of subsection (d): “Notwithstanding any other provision of law, in the case of American Samoa, Guam, the Virgin Islands, and the Northern Mariana Islands any department or agency shall waive any requirement for local matching funds under \$200,000 (including in-kind contributions) required by law to be provided by American Samoa, Guam, the Virgin Islands, or the Northern Mariana Islands.” ].

TITLE 46, UNITED STATES CODE

## **TITLE 46—SHIPPING**

\* \* \* \* \*

### **Subtitle II—Vessels and Seamen**

\* \* \* \* \*

## PART H—IDENTIFICATION OF VESSELS

### CHAPTER 121—DOCUMENTATION OF VESSELS

\* \* \* \* \*

#### SUBCHAPTER II—ENDORSEMENTS AND SPECIAL DOCUMENTATION

\* \* \* \* \*

##### **§ 12113. Fishery endorsement**

\* \* \* \* \*

(i) REGULATIONS.—Regulations to implement subsections (c) and (d) and sections 12151(c) and 31322(b) of this title shall prohibit impermissible transfers of ownership or control, specify any transactions that require prior approval of an implementing agency, identify transactions that do not require prior agency approval, and to the extent practicable, minimize disruptions to the commercial fishing industry, to the traditional financing arrangements of that industry, and to the opportunity to form fishery cooperatives.

(j) CERTAIN EXEMPTION.—Paragraph (3) of subsection (a) shall not apply to any vessel—

(1) that offloads its catch in part or full in American Samoa; and

(2) that was rebuilt outside of the United States before January 1, 2011.

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## THE FAIR MINIMUM WAGE ACT OF 2007

Title VIII, Subtitle A of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007, Public Law 110–28, as amended by Public Law 111–5, Public Law 111–244, and Public Law 112–149; 29 U.S.C. 2006 note

AN ACT Making emergency supplemental appropriations and additional supplemental appropriations for agricultural and other emergency assistance for the fiscal year ending September 30, 2007, and for other purposes

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## **TITLE VIII—FAIR MINIMUM WAGE AND TAX RELIEF**

### **Subtitle A—Fair Minimum Wage**

\* \* \* \* \*

#### **SEC. 8104. STUDY ON PROJECTED IMPACT.—**

(a) REPORT.—The Government Accountability Office shall assess the impact of minimum wage increases that have occurred pursuant to section 8103, and not later than September 1, 2011, shall transmit to Congress a report of its findings. The Government Accountability Office shall submit subsequent reports not later than April 1, 2014, and every 3 years thereafter until the minimum wage in the respective territory meets the federal minimum wage.

(b) ECONOMIC INFORMATION.—To provide sufficient economic data for the conduct of the study under subsection (a) the Bureau of the Census of the Department of Commerce shall include and separately report on American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the Virgin Islands in its County Business Patterns data with the same regularity and to the same extent as each Bureau collects and reports such data for the 50 States. In the event that the inclusion of American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the Virgin Islands in such surveys and data compilations requires time to structure and implement, the Bureau of the Census shall in the interim annually report the best available data that can feasibly be secured with respect to such territories. Such interim report shall describe the steps the Bureau will take to improve future data collection in the territories to achieve comparability with the data collected in the United States. The Bureau of the Census, together with the Department of the Interior, shall coordinate their efforts to achieve such improvements.

(c) *EFFECTS OF MINIMUM WAGE DIFFERENTIALS IN AMERICAN SAMOA.*—*The reports required under this section shall include an analysis of the economic effects on employees and employers of the differentials in minimum wage rates among industries and classifications in American Samoa under section 697 of title 29, Code of Federal Regulations, including the potential effects of eliminating such differentials prior to the time when such rates are scheduled to be equal to the minimum wage set forth in section 6(a)(1) of the Fair Labor Standards Act (29 U.S.C. 206(a)(1)).*

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## OFFICE OF NATIONAL DRUG CONTROL POLICY REAUTHORIZATION ACT OF 1998

Public Law 105-277; 21 U.S.C. 1703

AN ACT Making omnibus consolidated and emergency appropriations for the fiscal year ending September 30, 1999, and for other purposes

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### DIVISION C—OTHER MATTERS

\* \* \* \* \*

## TITLE VII—OFFICE OF NATIONAL DRUG CONTROL POLICY REAUTHORIZATION

### **SEC. 701. SHORT TITLE.**

This title may be cited as the “Office of National Drug Control Policy Reauthorization Act of 1998”.

\* \* \* \* \*

### **SEC. 704. APPOINTMENT AND DUTIES OF THE DIRECTOR AND DEPUTY DIRECTORS.**

\* \* \* \* \*

(b) **RESPONSIBILITIES.**—The Director—

(1) shall assist the President in the establishment of policies, goals, objectives, and priorities for the National Drug Control Program;

\* \* \* \* \*

(13) shall require each National Drug Control Program agency to submit to the Director on an annual basis an evaluation of progress by the agency with respect to drug control program goals using the performance measures for the agency developed under section 706(c), including progress with respect to—

- (A) success in reducing domestic and foreign sources of illegal drugs;
  - (B) success in protecting the borders of the United States (and in particular *the borders of Puerto Rico and the Virgin Islands of the United States* and the Southwestern border of the United States) from penetration by illegal narcotics;
  - (C) success in reducing violent crime associated with drug use in the United States;
- \* \* \* \* \*
- 

### **REAL ID Act of 2005**

#### **Division B of Public Law 109–13**

AN ACT Making Emergency Supplemental Appropriations for Defense, the Global War on Terror, and Tsunami Relief, for the fiscal year ending September 30, 2005, and for other purposes

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#### **DIVISION B—REAL ID ACT OF 2005**

##### **SECTION 1. SHORT TITLE.**

This division may be cited as the “REAL ID Act of 2005”.

\* \* \* \* \*

#### **TITLE II—IMPROVED SECURITY FOR DRIVERS’ LICENSES AND PERSONAL IDENTIFICATION CARDS**

##### **SEC. 201. DEFINITIONS.**

In this title, the following definitions apply:

- (1) DRIVER’S LICENSE.—The term “driver’s license” means a motor vehicle operator’s license, as defined in section 30301 of title 49, United States Code.
- (2) IDENTIFICATION CARD.—The term “identification card” means a personal identification card, as defined in section 1028(d) of title 18, United States Code, issued by a State.
- (3) OFFICIAL PURPOSE.—The term “official purpose” includes but is not limited to accessing Federal facilities, boarding federally regulated commercial aircraft, entering nuclear power plants, and any other purposes that the Secretary shall determine.
- (4) SECRETARY.—The “Secretary” means the Secretary of Homeland Security.

(5) STATE.—The “State” means a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, [the Trust Territory of the Pacific Islands], and any other territory or possession of the United States.

**SEC. 202. MINIMUM DOCUMENT REQUIREMENTS AND ISSUANCE STANDARDS FOR FEDERAL RECOGNITION.**

\* \* \* \* \*

**(c) MINIMUM ISSUANCE STANDARDS.—**

(1) IN GENERAL.—To meet the requirements of this section, a State shall require, at a minimum, presentation and verification of the following information before issuing a driver’s license or identification card to a person:

(A) A photo identity document, except that a non-photo identity document is acceptable if it includes both the person’s full legal name and date of birth.

(B) Documentation showing the person’s date of birth.

(C) Proof of the person’s social security account number or verification that the person is not eligible for a social security account number.

(D) Documentation showing the person’s name and address of principal residence.

**(2) SPECIAL REQUIREMENTS.—**

(A) IN GENERAL.—To meet the requirements of this section [this note], a State shall comply with the minimum standards of this paragraph.

(B) EVIDENCE OF LAWFUL STATUS.—A State shall require, before issuing a driver’s license or identification card to a person, valid documentary evidence that the person—

(i) is a citizen or national of the United States;

\* \* \* \* \*

(viii) has approved deferred action status; [or]

(ix) has a pending application for adjustment of status to that of an alien lawfully admitted for permanent residence in the United States or conditional permanent resident status in the United States [.] ; or

(x) is a citizen of the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau who has been admitted to the United States as a nonimmigrant pursuant to a Compact of Free Association between the United States and the Republic or Federated States.

\* \* \* \* \*

