

## Calendar No. 583

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SENATE

{ REPORT  
{ 114-311

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### OMNIBUS TERRITORIES ACT OF 2015

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AUGUST 30, 2016.—Ordered to be printed

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

### R E P O R T

[To accompany S. 2360]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 2360) to improve the administration of certain 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:

Beginning on page 1, strike line 6 and all that follows through page 2, line 17 and insert the following:

**SEC. 2. RESETTLEMENT AND RELOCATION FOR THE PEOPLE OF BIKINI.**

The matter under the heading "TRUST TERRITORY OF THE PACIFIC ISLANDS" under the heading "Office of Territorial Affairs" under the heading "DEPARTMENT OF THE INTERIOR" in chapter VIII of title I of the Supplemental Appropriations Act, 1982 (Public Law 97-257; 96 Stat. 840), is amended by striking the first proviso and inserting "Provided, That such funds, including funds provided pursuant to the Department of the Interior and Related Agencies Appropriations Act, 1989 (Public Law 100-446; 102 Stat. 1774), shall be available for the relocation and resettlement of the Bikini people living on Kili and Ejit Islands, on the condition that the Secretary of the Interior submits to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a resettlement plan developed in coordination with the Bikini Atoll leadership: Provided further, That for any fiscal year, annual expenditures from the Resettlement Fund established by this section and pursuant to the Department of the Interior and Related Agencies Appropriations Act, 1989 (Public Law 100-446; 102 Stat. 1774) may not exceed an amount that is greater than 90 percent of the average annual earnings of the Fund for the preceding 5 years unless for resettlement purposes outside of the Marshall Islands:"

**SEC. 3. RELIABLE AIR SERVICE IN AMERICAN SAMOA.**

Section 40109(g) of title 49, United States Code, is amended—

(1) in paragraph (2), by striking subparagraph (C) and inserting the following:

- “(C) review the exemption at least every 30 days (or, in the case of exemptions that are necessary to provide and sustain air transportation in American Samoa between the islands of Tutuila and Manu’a, at least every 180 days), to ensure that the unusual circumstances that established the need for the exemption still exist.”; and
- (2) by striking paragraph (3) and inserting the following:
- “(3) RENEWAL OF EXEMPTIONS.—
- “(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary may renew an exemption (including renewals) under this subsection for not more than 30 days.
- “(B) EXCEPTION.—An exemption that is necessary to provide and sustain air transportation in American Samoa between the islands of Tutuila and Manu’a, may be renewed for not more than 180 days.
- “(4) CONTINUATION OF EXEMPTIONS.—An exemption may continue for not more than 5 days after the unusual circumstances that established the need for the exemption cease.”.

#### PURPOSE

The purpose of S. 2360 is to improve the administration of certain programs in the insular areas.

#### 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 authority to “make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States. . . .” (Article IV, 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 FAS were part of the former United Nations Trust Territory of the Pacific Islands, which was administered by the United States from 1947 to 1994.

#### *Bikini Atoll Resettlement*

As a result of nuclear weapons testing by the United States in the northern atolls of the Marshall Islands, Congress, through Public Law 97–257 in 1982, provided the people of Bikini Atoll a relocation and resettlement trust fund of \$19.6 million to resettle from their traditional homeland of Bikini Atoll to other islands within the Marshall Islands. The purpose of the trust fund was expanded with the enactment of a Compact of Free Association (Compact) in 1986, Public Law 99–239. Section 103(1) of the Compact authorized funding to restore Bikini Atoll to habitability and an additional \$90 million was subsequently appropriated. Currently, the islands of Kili and Ejit serve as the official resettlement locations for the people of Bikini Atoll. Today, however, the people on these islands have limited living space, lack suitable sustainable resources to provide water and food for their population, and they are exposed to tidal flooding on an increasingly frequent basis. Pursuant to section 141 of the Compact, citizens of the FAS, including the people

of Bikini, are permitted to enter into the United States to lawfully engage in occupations and establish residence as nonimmigrants. Because of the deteriorating living conditions on Kili and Ejit, the Bikini community has requested that they be allowed to use the trust fund to resettle outside of the Marshall Islands, including in the United States.

*American Samoa Air Service*

There are currently no U.S. airlines that provide flight service within American Samoa between the islands of Tutuila and Manu'a. The U.S. Department of Transportation has granted a foreign air carrier emergency service capability to provide this service, but that designation must be renewed every 30 days under statutory requirement.

*REAL ID and FAS citizens*

Section 141 of the Compact of Free Association Amendments Act of 2003 (Public Law 108–188) and the law that implemented the Compact of Free Association with Palau (Public Law 101–219) permits citizens of the FAS to enter into the United States to lawfully engage in occupations and establish residence as nonimmigrants. However, the REAL ID Act of 2005 (Public Law 109–13) did not provide a means for FAS citizens to document their lawful status in the United States in order to obtain a driver's license or identification card. As a consequence, FAS citizens are denied anything more than a temporary ID valid only for one year, resulting in practical difficulties in their ability to maintain employment and engage in other lawful activities where they reside. On November 13, 2013, the Ambassadors to the United States from the FAS wrote to the Committee requesting that a provision be passed that would amend the REAL ID Act to clarify that citizens of the FAS who reside lawfully in the United States are able to obtain a driver's license or state identification card under the REAL ID Act.

LEGISLATIVE HISTORY

S. 2360 was introduced by Senators Murkowski and Cantwell on December 7, 2015. Section 2 (Bikini Atoll) and section 3 (American Samoa air service) were included at the request of the Administration. Section 4 (REAL ID) was previously included in S. 1237 at the request of the Ambassadors to the United States from the FAS. The Committee held a hearing on S. 2360 on April 5, 2016.

In the 113th Congress, S. 1237, the Omnibus Territories Act of 2013, was introduced by Senators Wyden and Murkowski on June 27, 2013. The Committee held a hearing on the bill on July 11, 2013, and ordered the bill favorably reported, as amended, on December 19, 2013. The full Senate unanimously passed S. 1237, with an amendment, on June 18, 2014. The House took no further action on the measure.

The Committee on Energy and Natural Resources met in open business session on July 13, 2016, and ordered S. 2360 favorably reported, as amended.

## COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on July 13, 2016, by a majority voice vote of a quorum present, recommends that the Senate pass S. 2360, if amended as described herein.

## COMMITTEE AMENDMENT

During its consideration of S. 2360, the Committee adopted an amendment to section 2, regarding the Bikini Atoll Resettlement, and section 3, regarding American Samoa Air Service.

The amendment revises the use of the Bikini Atoll Resettlement Fund and limits expenditures from that Fund. The amendment also revises the length of an exemption that a foreign carrier may receive to provide commercial air transportation in American Samoa between the islands of Tutuila and Manu'a.

## SECTION-BY-SECTION ANALYSIS

*Section 1. Short title*

Section 1 provides a short title, the “Omnibus Territories Act of 2016.”

*Section 2. Resettlement and relocation for the people of Bikini*

Section 2 amends the first proviso of the heading “Trust Territory of the Pacific Islands” under the heading “Office of Territorial Affairs” under the heading “Department of the Interior” in chapter VIII of title I of the Supplemental Appropriations Act, 1982 (Public Law 97–257; 96 Stat. 840) to strike the restriction on the use of resettlement fund money and allow the people of Bikini Atoll to use their Resettlement Fund outside of the Marshall Islands. The section limits who is eligible to utilize Fund monies to the Bikini people who live on Kili and Ejit Islands. The funds are made available for the relocation and resettlement of these two communities subject to the Secretary of the Interior submitting to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a resettlement plan developed in coordination with the Bikini Atoll leadership. The section limits annual expenditures from the Resettlement Fund to not more than 90 percent of the average annual earnings of the Fund for the preceding five years unless for resettlement purposes outside of the Marshall Islands.

*Section 3. Reliable air service in American Samoa*

Section 3 amends section 40109(g) of title 49, United States Code to allow a foreign air carrier operating between the American Samoa islands of Tutuila and Manu'a to renew an emergency air transportation exemption every 180 days. Current law requires a foreign air carrier to renew an exemption every 30 days.

*Section 4. Drivers' licenses and personal identification cards*

Section 4 amends sections 201(5) and 202(c)(2)(B) of the REAL ID Act of 2005 (49 U.S.C. 30301 note; 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 ad-

mitted to the United States as nonimmigrants pursuant to a Compact of Free Association, are eligible for driver's licenses or personal identification cards under the REAL ID Act.

#### COST AND BUDGETARY CONSIDERATIONS

The Congressional Budget Estimate of the costs of this measure has been requested but was not received at the time the report was filed. When the Congressional Budget Office completes its cost estimate, it will be posted on the internet at [www.cbo.gov](http://www.cbo.gov).

#### 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. 2360. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

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

Additional paperwork would be required by the Federal Government from the enactment of S. 2360. Section 2 would require additional paperwork because it requires the Secretary of the Interior to submit a resettlement plan to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives.

#### CONGRESSIONALLY DIRECTED SPENDING

S. 2360, as ordered 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 April 5, 2016, hearing on S. 2360 follows:

##### STATEMENT OF ESTHER P. KIA'AINA ASSISTANT SECRETARY FOR INSULAR AREAS DEPARTMENT OF THE INTERIOR

Chairman Murkowski and Members of the Committee on Energy and Natural Resources, thank you for the opportunity to testify on S. 2360, the Omnibus Territories Act of 2015, and S. 2610, legislation to implement the 2010 agreement between the United States and the Republic of Palau.

#### S. 2360—OMNIBUS TERRITORIES BILL

The Administration supports S. 2360 with its provisions for broadening Bikini resettlement options, promoting reliable air transportation services within American Samoa, and amending the Real ID Act to ensure drivers' licenses and personal identification cards remain available for the citizens of the three freely associated states.

*Relocation and resettlement for the people of Bikini*

Section 2 of the bill would lift the statutory limitation on the use of resettlement funds for the people of Bikini. Eliminating this restriction would allow the people of Bikini to resettle outside of the Republic of the Marshall Islands, giving them more relocation options and improving their quality of life. There is an immediate need for this option given recent extreme weather events, which have threatened the health and safety of the people of Bikini.

The United States is committed to ensuring adequate resettlement opportunities for the people of Bikini. From June 1946 through August 1958, the United States conducted nuclear weapons testing in the northern islands and atolls of the Marshall Islands. In advance of the testing, the people of Bikini Atoll were forced to relocate several times before finally staying on Ejit Island in Majuro Atoll and Kili Island. In 1982, Congress, provided funds (Public Law 97-257) for a relocation and resettlement trust fund that could be used by the people of Bikini in the Marshall Islands, primarily on Kili and Ejit Islands.

Bikini Atoll has 23 islands and a lagoon of 243 square miles, which provided essential sheltered fishing grounds for the people of Bikini. In contrast, Kili is a single island sheltering 800 people of Bikini on approximately 0.36 square miles. Since Kili is not a part of any atoll or sheltering lagoon, it also does not provide much needed sheltered fishing grounds to sustain its residents. While Ejit Island is part of Majuro Atoll, it too provides less than one square mile of living space for the 300 people who live on Ejit.

The people of Bikini living on both Kili and Ejit Islands have been suffering from recurrent flooding that covers major parts of both islands. More frequent storms and King Tides have resulted in salt water inundation and the destruction of crops. These developments have raised deep concerns about public health and safety. For decades, after having been disconnected from traditional lifestyles on Bikini, the lack of appropriate space, suitable fishing grounds, and limited crops has encouraged dependence on imported supplies.

The Administration supports enactment of section 2 of S. 2360.

*Reliable air service in American Samoa*

Section 3 of the bill would facilitate reliable air service within American Samoa between the islands of Tutuila and Manu'a.

Currently, Hawaiian Airlines is the only U.S. airline to service American Samoa from Hawaii and the U.S. mainland. No U.S. airlines provide service within American Samoa between the main island of Tutuila and the islands of Manu'a. That service currently is being provided by Polynesian Airlines, a company of the neighboring independent country of Samoa. While permitting this service

on a temporary basis, U.S. law requires the renewal of the permit every 30 days.

The lack of reliable air service within American Samoa impedes the development of its full economic potential. Tourism, an essential economic driver for island communities, cannot thrive without frequent and regular air service. Social development and quality of life are negatively affected, especially essential educational and health care services for the residents of Manu'a.

Section 3 would allow a foreign air carrier to sustain service between Tutuila and Manu'a. Such a provision is necessary because no U.S. airline provides service between Tutuila and Manu'a. The removal of the requirement for a new application every 30 days will bring certainty to the route and allow reservations to be made far in advance of expected travel, aiding tourism and economic development in American Samoa, especially Manu'a.

The Administration supports the enactment of section 3 of S. 2360.

#### *Drivers' licenses and personal identification cards*

Section 4 of the bill would amend the Real ID Act of 2005 to improve the availability of drivers' licenses and identification documents to freely associated state (FAS) citizens living in the United States as legal migrants. These FAS individuals are citizens of the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

Under the Compacts of Free Association, FAS citizens, who are otherwise eligible, are admitted without visa to study, work and reside in the United States and its territories. Admission at ports of entry in the Pacific, especially Guam and Hawaii, seldom pose a problem for legal FAS migrants. Once in the continental United States, however, FAS migrants can encounter state, local and private authorities who are not aware of their Compact privileges to study, work and live in the United States.

As lawful nonimmigrants, FAS citizens admitted under the Compacts are eligible (if otherwise qualified under state law) to be issued state driver's licenses compliant with the Real ID Act of 2005. However, because their admission to the United States is not for a specific time period, they are subject to a provision of the REAL ID Act that in many cases limits the validity period of the driver's license to one year, rather than the period of up to eight years otherwise authorized by the REAL ID Act. Although the Department of Homeland Security has provided guidance to state motor vehicle authorities advising them that FAS citizens presenting a U.S. Citizenship and Immigration Services employment authorization document may be issued a REAL ID-compliant driver's license valid until the expiration date of the employment authorization document which may be several years in the future, a more comprehensive statutory fix to this problem is appropriate.

Section 4 of the bill would provide a special provision for FAS Compact nonimmigrants exempting them from the provision otherwise limiting nonimmigrants without evidence of a specific period of authorized stay to a temporary driver's license valid only for one year. This provision would reduce unnecessary burden on FAS citizens in the United States, their employers, and state agencies alike by allowing them to obtain driver's licenses on the same basis as other long-term migrants in the United States.

The Administration supports the enactment of section 4 of S. 2360.

#### S. 2610—AGREEMENT WITH PALAU

S. 2610 would approve the 15-year review agreement under the Compact of Free Association between the United States and the Republic of Palau.

As required in the original Compact (Public Law 99-658), a 15-year review was conducted, after which the review agreement was signed on September 3, 2010, primarily revising the U.S. economic assistance aspects of the Compact. The review agreement called for a U.S. appropriation for Palau of \$229 million through 2024. Instead, because the agreement has not yet been brought into force, the United States, through the U.S. Department of the Interior, has made annual payments, beginning with fiscal year 2010, of approximately \$13.1 million a year for a total of \$92 million in discretionary funds thus far. S. 2610 would fund the remaining amount of \$149 million, which includes remaining moneys for the U.S. Postal Service.

Just as important as the U.S. economic assistance aspects of the agreement and this legislation is the commitment of Palau to the economic, legislative, financial, and management reforms contained in the 2010 agreement. These reforms would ensure that Palau continues to take meaningful steps toward financial accountability and efficiency to increase Palau's long-term economic stability.

On February 22, 2016, the Secretary of the Interior retransmitted draft legislation to Congress, along with the Departments of State and Defense, to implement the review agreement.

The relationship between the United States and the Republic of Palau is grounded in shared history, friendship, and a strong partnership in national security, especially with respect to the Asia-Pacific region. In the Battle of Peleliu, in Palau, more than 1,500 American servicemen lost their lives, and more than 8,000 were wounded, resulting in one of the costliest battles in the Pacific in World War II. After the war, the United States assumed administrative authority over Palau as part of the Trust Territory of the Pacific Islands and in 1994 the people of Palau expressed their desire, in plebiscite, to become a sovereign nation in free association with the United States under a Compact of Free Association.

The Compact provides U.S. military forces full authority and responsibility for security and defense matters in and

relating to Palau. Conversely, the United States has the extraordinary advantage of being able to deny other nations' military forces access to Palau, an important element of our Pacific strategy for defense in the Pacific. The Compact has also helped strengthen democratic principles and economic stability in Palau, and stabilizing the larger Micronesia region which includes the U.S. territory of Guam and the Kwajalein Missile Range in the Marshall Islands.

In addition to the important historical and security relationship, Palau has consistently demonstrated a commitment to the U.S.-Palau partnership under the Compact. Palauan nationals have served in U.S. coalition missions and participated in U.S. led combat operations. Palauan citizens volunteer in disproportionately large numbers in the U.S. military compared to its population. At the United Nations, Palau has voted with the United States more than 95 percent of the time.

Approving the agreement with Palau is important to the national security of the United States, our bilateral relationship with Palau, and stability in the Western Pacific Region.

The Administration supports enactment of S. 2610.

#### ADDITIONAL INSULAR ISSUES

Besides the issues in S. 2360 and S. 2610, I would like to raise other matters of importance to the insular areas that have been raised by their leaders.

#### *Compact impact aid*

The first issue is the growing number of migrants under the Compacts of Free Association to U.S. jurisdictions, particularly Guam and Hawaii, and its financial impacts on these affected jurisdictions.

As noted earlier, the Compacts of Free Association allows FAS citizens to live and work in the United States as legal nonimmigrants. The Compact of Free Association Amendments Act, Public Law 108-188, included provisions to address the impact the Compacts are having on U.S. jurisdictions.

The law provides \$30 million in mandatory funds annually to defray costs associated with Compact impact. Congress has also provided approximately \$3 million in discretionary funds for the last several years to help meet education needs. However, the Governors of Guam and Hawaii combined have reported spending well in excess of \$200 million each year on services for FAS citizens, far exceeding the \$33 million federal contribution against costs.

The Governors, as well as other officials from these jurisdictions, seek additional funds to defray the increasing financial cost of migration. In addition to funding offsets, the affected jurisdictions have also advocated policy changes. In particular, officials propose eliminating restrictions contained in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. This would rein-

state direct assistance for FAS citizens through Medicaid, Temporary Assistance for Needy Families, the Supplemental Nutrition Assistance Program, and other means-tested public assistance programs.

The Department of the Interior believes the concerns of the affected jurisdictions deserve attention. The Department concurs that the current allocation of mandatory and discretionary funds are insufficient to defray costs and welcomes revisiting the exclusion of FAS citizens from Federal public benefits with Congress and other Federal departments.

*CNMI only transitional worker visa classification*

The second issue I would like to raise is the elimination of the Commonwealth of the Northern Mariana Islands (CNMI) CNMI-Only Transitional Worker (CW) visa classification in 2019.

When the CNMI established a political union with the United States in 1986, the territory retained jurisdiction and control over immigration and allowed an influx of foreign contract workers. By the year 2000, 58 percent of the CNMI's population was born in a foreign country, illustrating the heavy reliance on foreign contract workers by the CNMI economy.

In 2008, Public Law 110–229, the Consolidated Natural Resources Act of 2008 (CNRA), extended Federal immigration law to the CNMI beginning in November of 2009, but provided for a transition period through December 31, 2014 (with possible extensions), during which foreign contract workers admitted under the former CNMI immigration laws would be phased out in favor of full implementation of the Immigration and Nationality Act and other Federal immigration laws. As part of the transition program, the CNRA provided for the CW nonimmigrant visa classification to provide necessary workers for the CNMI economy who would not be available under other federal immigration law.

On June 3, 2014, the U.S. Secretary of Labor exercised the authority provided to him under the CNRA to extend the CW program for five years, through December 31, 2019, because of an “insufficient number of U.S. workers to meet CNMI businesses’ current needs.” Following that decision, Congress extended the entire transition period through that same date of December 31, 2019, but removed the authority of the U.S. Secretary of Labor further to extend the CW program beyond that date.

Despite efforts by the CNMI Governor to increase the available U.S. workforce in the territory, current estimates predict that over ten thousand foreign workers will still be needed to meet the projected demands of the CNMI's tourism and construction industries. The CNMI economy is just beginning to recover from the closure of all its garment factories in 2009, and the viability of the CNMI pension system is dependent on the construction of several proposed hotels and casinos. The recovery of the CNMI

economy and efforts to train the CNMI workforce continues to be an issue of utmost importance.

*Puerto Rico tax and health legislation*

In October 2015, the Administration forwarded a roadmap to the Congress outlining measures to deal with the economic and fiscal crisis in Puerto Rico. The plan contained four key elements, two of which are applicable to the other U.S. territories.

One element is to strengthen the Medicaid program in Puerto Rico and stabilize Federal funding so that it does not contribute to Puerto Rico's fiscal challenges. The plan specifically notes that Medicaid funding in Puerto Rico is capped, U.S. citizens in Puerto Rico are offered fewer benefits, and the federal government contributes less on a per capita basis in Puerto Rico than in the remainder of the nation.

Another element recognizes the Earned Income Tax Credit (EITC) as one of the strongest policy tools for rewarding work and supporting economic growth. Providing Puerto Rico access to the EITC would put the territory on equal footing with the 50 states and the District of Columbia. Fully extending the Child Tax Credit to Puerto Rico would provide another incentive for workers while supporting growth.

Similar to Puerto Rico, the other four U.S. territories—Guam, American Samoa, the U.S. Virgin Islands, and the CNMI—face capped Medicaid funding from the Federal government and a lower per capita contribution than the 50 states and the District of Columbia. Recognizing the need to elevate healthcare services in the territories, the Administration's fiscal year 2017 budget proposes a path for the territories to establish Medicaid programs that offer similar benefits and receive Federal funding contributions like the 50 states. Extending the EITC and Child Tax Credit to the other four territories would also promote economic expansion and support workers in the islands who continue to face challenges in growing and diversifying their economies.

As the Congress addresses the crisis situation in Puerto Rico, the Department believes the other territories should be considered for inclusion in health and tax provisions that may be extended to Puerto Rico. This would equalize treatment among the territories and the states as well as take steps to prevent a crisis, based on unequal treatment, from developing in the other territories.

I appreciate the opportunity to testify and urge expeditious approval of S. 2360 and S. 2610.

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. 2360, 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 97-257—Supplemental Appropriations Act, 1982
2. Title 49 U.S.C. 40109(g)
3. The REAL ID Act of 2005

**SUPPLEMENTAL APPROPRIATIONS ACT, 1982**

**Public Law 97-257**

\* \* \* \* \*

TITLE I

\* \* \* \* \*

CHAPTER VIII

DEPARTMENT OF THE INTERIOR

\* \* \* \* \*

OFFICE OF TERRITORIAL AFFAIRS

\* \* \* \* \*

TRUST TERRITORY OF THE PACIFIC ISLANDS

For an additional amount for “Trust Territory of the Pacific Islands”, \$24,957,000, to remain available until expended, of which \$1,000,000 shall be available for immediate payment to the people of Bikini under the terms and conditions as set forth in a trust agreement or amendment thereto approved by the Bikini/Kili Council subject only to the disapproval of the Secretary of the Interior: **【**Provided, That \$19,600,00 shall be available for the relocation and resettlement of the Bikini people in the Marshall Islands, principally on Kili and Ejit Islands:**】** *Provided, That such funds, including funds provided pursuant to the Department of the Interior and Related Agencies Appropriations Act, 1989 (Public Law 100-446; 102 Stat. 1774), shall be available for the relocation and resettlement of the Bikini people living on Kili and Ejit Islands, on the condition that the Secretary of the Interior submits to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a resettlement plan developed in coordination with the Bikini Atoll leadership: Provided further, That for any fiscal year, annual expenditures from the Resettlement Fund established by this section and pursuant to the Department of the Interior and Related Agencies Appropriations Act, 1989 (Public Law 100-446; 102 Stat. 1774) may not exceed an amount that is greater than 90 percent of the average annual earnings of the Fund for the preceding 5 years unless for resettlement purposes outside of the Marshall Islands: Provide further, That such sum shall be paid to a trustee selected by the Bikini/Kili*

Council subject only to the disapproval of the Secretary of the Interior:

\* \* \* \* \*

**UNITED STATES CODE**

\* \* \* \* \*

**TITLE 49—TRANSPORTATION**

\* \* \* \* \*

**Subtitle VII—Aviation Programs**

**PART A—AIR COMMERCE AND SAFETY**

**Subpart I—General**

**CHAPTER 401—GENERAL PROVISIONS**

\* \* \* \* \*

**§ 40109. Authority to exempt**

(g) EMERGENCY AIR TRANSPORTATION BY FOREIGN AIR CARRIERS.—

(1) To the extent that the Secretary decides an exemption is in the public interest, the Secretary may exempt by order a foreign air carrier from the requirements and limitations of this part for not more than 30 days to allow the foreign air carrier to carry passengers or cargo in interstate air transportation in certain markets if the Secretary finds that

(A) because of an emergency created by unusual circumstances not arising in the normal course of business, air carriers holding certificates under section 41102 of this title cannot accommodate traffic in those markets;

(B) all possible efforts have been made to accommodate the traffic by using the resources of the air carriers, including the use of—

(i) foreign aircraft, or sections of foreign aircraft, under lease or charter to the air carriers; and

(ii) the air carriers' reservations systems to the extent practicable;

(C) the exemption is necessary to avoid unreasonable hardship for the traffic in the markets that cannot be accommodated by the air carriers; and

(D) granting the exemption will not result in an unreasonable advantage to any party in a labor dispute where the inability to accommodate traffic in a market is a result of the dispute.

(2) When the Secretary grants an exemption to a foreign air carrier under this subsection, the Secretary shall—

(A) ensure that air transportation that the foreign air carrier provides under the exemption is made available on reasonable terms;

(B) monitor continuously the passenger load factor of air carriers in the market that hold certificates under section 41102 of this title; and

[(C) review the exemption at least every 30 days to ensure that the unusual circumstances that established the need for the exemption still exist.]

*(C) review the exemption at least every 30 days (or, in the case of exemptions that are necessary to provide and sustain air transportation in American Samoa between the islands of Tutuila and Manu'a, at least every 180 days), to ensure that the unusual circumstances that established the need for the exemption still exist.*

[(3) The Secretary may renew an exemption (including renewals) under this subsection for not more than 30 days. An exemption may continue for not more than 5 days after the unusual circumstances that established the need for the exemption cease.]

(3) RENEWAL OF EXEMPTIONS.—

(A) IN GENERAL.—*Except as provided in subparagraph (B), the Secretary may renew an exemption (including renewals) under this subsection for not more than 30 days.*

(B) EXCEPTION.—*An exemption that is necessary to provide and sustain air transportation in American Samoa between the islands of Tutuila and Manu'a, may be renewed for not more than 180 days.*

(4) CONTINUATION OF EXEMPTIONS.—*An exemption may continue for not more than 5 days after the unusual circumstances that established the need for the exemption cease.*

\* \* \* \* \*

**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.

\* \* \* \* \*

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.**

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(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 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, 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 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 onimmigrant pursuant to a Compact of

*Free Association between the United States and the Republic or Federated States.*

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