



CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

June 8, 1998

S. 1275

Northern Mariana Islands Covenant Implementation Act

*As ordered reported by the Senate Committee on Energy and Natural Resources
on May 20, 1998*

SUMMARY

S. 1275 would amend the covenant act between the United States and the Commonwealth of the Northern Mariana Islands (CNMI), a territory of the United States, to reform the immigration laws of CNMI. It also would establish a special committee to set minimum wage rates by industry within CNMI. The estimated cost of S. 1275 depends on whether the Attorney General would elect to apply the provisions of the Immigration and Nationality Act (INA) to CNMI. If the Attorney General (AG) decided not to apply the INA, CBO estimates that, on average, implementing S. 1275 would increase annual costs by less than \$500,000, subject to appropriation of the necessary amounts. If the AG did apply the INA, as modified for CNMI by S. 1275, CBO estimates that, subject to appropriation of the necessary amounts, implementing S. 1275 would increase costs—mostly at the Immigration and Naturalization Service (INS)—by less than \$500,000 in fiscal year 1999 and a total of between \$7 million and \$8 million over the 1999-2003 period.

In addition to the increase in discretionary costs, S. 1275 also could affect direct spending if the AG applies the INA to CNMI; consequently, pay-as-you-go procedures would apply. CBO estimates, however, that any changes in direct spending would have no significant net budgetary impact each year.

S. 1275 contains intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) because the bill would preempt the immigration and minimum wage laws of CNMI. CBO estimates that the costs of such mandates would not be significant and that the threshold for intergovernmental mandates established in UMRA (\$50 million in 1996, adjusted annually for inflation) would not be exceeded.

S. 1275 contains private-sector mandates as defined in UMRA. Section 2 would impose a mandate on employers by limiting the number of temporary alien workers who could be legally present in CNMI. Section 3 would impose a mandate on employers by increasing the

minimum wage which they would be required to pay their employees; the amount of the mandated increases in wages would be determined by an industry committee established as a result of enactment of this legislation. CBO cannot determine whether the direct cost to employers of those mandates would exceed the \$100 million inflation-adjusted annual threshold specified in UMRA.

DESCRIPTION OF THE BILL'S MAJOR PROVISIONS

Within one year of enactment, S. 1275 would require that the AG determine whether CNMI possesses the institutional capacity to administer its own system of immigration control, consistent with minimum safeguards selected by the AG, and the will and commitment to enforce the system of immigration control. During this period, the bill would limit the number of temporary alien workers on CNMI to the number of individuals present at the date of enactment. If the AG determines that CNMI has both the institutional capacity and the commitment, then the INA would not take effect, although the bill would require that the AG make a new determination every three years thereafter.

If the AG determines that CNMI lacks either the institutional capacity or the political will to enforce its own system of immigration control, the bill would require that the Department of Justice (DOJ) develop a program to phase-in the INA, as modified for CNMI by S. 1275, over a period of no more than 10 years. The transition period would begin six months after the AG's determination. The program would include procedures for issuing visas to nonimmigrant temporary alien workers, family-sponsored immigrants, and employment-based immigrants. S. 1275 would allow CNMI to request that the federal government exempt certain family-sponsored and employment-based immigrant visas from certain limitations established by the INA.

For temporary alien workers who would not otherwise be eligible for admission into CNMI, S. 1275 would require that DOL establish and administer a system for issuing a decreasing number of annual permits to employers allowing them to hire such individuals during the transition period. The bill would authorize DOL to charge employers a fee for the permits; however, DOL could only use amounts collected from such fees to the extent authority was provided in advance by appropriations. To allow for the admission of temporary alien workers, the bill would authorize the Department of State to issue nonimmigrant visas.

To help implement the INA, S. 1275 would require that DOL and the Department of the Interior (DOI) develop a program to assist employers in hiring employees who are citizens of the U.S. or the freely associated states (Federated States of Micronesia, Republic of the Marshall Islands, and the Republic of Palau). The bill also would authorize DOL and DOJ to establish and maintain operations in the CNMI. Within five and one-half years of

enactment, the bill would require that the President report to the Congress on the effectiveness of the Administration's efforts to implement the INA in CNMI.

In addition to the provisions affecting immigration control, S. 1275 would establish a special committee to determine minimum wage rates by industry for CNMI. The CNMI committee would be modeled after similar committees established in American Samoa, Puerto Rico, and the Virgin Islands. The committee would review wage rates once each biennium until such rates are equal to the minimum wage of the United States. In setting each rate, the bill would require that the committee consider the effect of the change on the industry's level of employment. In any event, S. 1275 would limit the amount of any annual increase to 50 cents.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated cost of S. 1275 depends on whether the AG would require that the INA be applied to CNMI. On the one hand, if the AG decides not to apply the INA, we estimate that implementing the bill would increase annual costs, on average, by less than \$500,000, subject to appropriation of the necessary amounts.

On the other hand, if the AG decides to apply the INA, we estimate that, subject to appropriation of the necessary amounts, implementing S. 1275 would increase costs by a total of between \$7 million and \$8 million over the fiscal year 1999-2003 period. In addition, beginning in fiscal year 2000, S. 1275 would decrease net direct spending by less than \$500,000 each year.

The estimated budgetary impact of the bill is shown in the following table. The costs of this legislation fall within budget functions 800 (general government), 750 (administration of justice), 500 (education, training, employment, and social services), and 150 (international affairs).

	By Fiscal Year, in Millions of Dollars				
	1999	2000	2001	2002	2003

COST IF THE IMMIGRATION AND NATIONALITY ACT IS NOT APPLIED TO CNMI

Spending Subject to Appropriation					
Estimated Authorization Level	a	a	a	a	a
Estimated Outlays	a	a	a	a	a

COST IF THE IMMIGRATION AND NATIONALITY ACT IS APPLIED TO CNMI

Spending Subject to Appropriation					
Estimated Authorization Level	a	1	2	2	2
Estimated Outlays	a	1	2	2	2
Direct Spending					
Estimated Budget Authority	a	a	a	a	a
Estimated Outlays	a	a	a	a	a

a. Less than \$500,000.

BASIS OF ESTIMATE

This estimate assumes that the bill will be enacted by the beginning of fiscal year 1999 and that the necessary amounts will be appropriated for each year. The amounts necessary will depend on whether the INA is applied to CNMI.

Estimated Cost if the Justice Department Does Not Apply the INA to CNMI

The increase in costs from not applying the INA would result primarily from establishing the special committee to determine minimum wage rates for CNMI. Based on information from DOL, we estimate that the committee would cost between \$500,000 and \$1 million every two years, or less than \$500,000, on average, each year. In addition, DOJ would incur minor costs in fiscal years 1999 and 2002 to review CNMI's system of immigration control.

Estimated Cost if the Justice Department Applies the INA to CNMI

S. 1275 could result in additional costs if the AG applies the INA to CNMI. The bill also could reduce direct spending under this scenario; however, CBO estimates that the net reduction in direct spending would total less than \$500,000 a year.

Immigration and Naturalization Service. The increase in costs from applying the INA would result primarily from the INS administering the INA in CNMI, including the cost to relocate and hire the necessary personnel to handle immigration inspections, investigations, adjudications, and deportations. Based on information provided by the INS, we estimate that applying the INA would gradually increase its annual costs from about \$500,000 in fiscal year 2000 to about \$3 million in fiscal year 2003. That estimate assumes that the INS would phase in its operations over several years, eventually stationing around 40 people on CNMI. (By comparison, the INS currently spends about \$5.7 million annually to station 82 employees on nearby Guam, another U.S. territory that has a considerably larger population than does CNMI, although its population is situated on a single island.) According to the INS, about half of the estimated costs would be financed from the collection of additional user fees, which could be spent without further appropriation. The other half of costs, which we estimate would increase from less than \$500,000 in fiscal year 2000 to about \$1.5 million in fiscal year 2003, would be subject to availability of appropriated funds.

Other Agencies. Under this scenario, DOL would incur costs to issue permits to certain employers. Based on information provided by DOL, CBO estimates that implementing the permit system would not affect DOL's budget in fiscal year 1999 but would increase its costs by several hundred thousand dollars a year in 2000 through 2003. In addition, we estimate that DOL would collect an equivalent amount of permit fees each year, which would decrease direct spending. (The department would not be able to spend receipts from the new fees without appropriation.)

According to DOI, the federal government already is providing technical assistance to CNMI, and thus, the provision requiring that it and DOL assist employers in CNMI would not significantly increase federal costs. In addition, DOL and DOJ already have some personnel stationed in CNMI and would increase their personnel anyway to implement the INA. Thus, CBO estimates that authorizing the agencies to establish and maintain operations in CNMI would have no budgetary impact in this case.

Finally, based on information provided by the Department of State, we estimate that, subject to available funds, implementing S. 1275 would increase its annual costs by less than \$100,000 in fiscal year 2000 and by between \$100,000 and \$200,000 a year in 2001 through 2003. Those amounts would cover the costs to add one to two officers overseas to process the additional visas that would result under S. 1275.

PAY-AS-YOU-GO CONSIDERATIONS

The Balanced Budget and Emergency Deficit Control Act specifies procedures for legislation affecting direct spending and receipts. Pay-as-you-go procedures would apply to S. 1275 because the bill could affect direct spending if the AG applies the INA to CNMI. In that case, we estimate that enacting S. 1275 would gradually increase the amount of offsetting receipts collected by the INS from less than \$500,000 in fiscal year 2000 to about \$1.5 million in fiscal year 2003. Because the INS could spend such receipts without further appropriation, the provision would have no net impact on direct spending.

If the INA is applied, S. 1275 also would allow DOL to collect fees from issuing permits to certain businesses operating in CNMI. According to DOL, it would charge fees at a rate that would cover its costs to issue the permits. We estimate that enacting S. 1275 could increase offsetting receipts by less than \$500,000 a year.

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

S. 1275 contains intergovernmental mandates as defined in UMRA because the bill would preempt the immigration and minimum wage laws of CNMI. (CNMI would be considered a state for the purposes of UMRA.) Section 2 of the bill would preempt the immigration laws of CNMI. Section 3 of the bill would preempt the minimum wage laws of CNMI and would require employers, including governmental employers, to increase the minimum wage that they would pay their employees. The amount of the mandated increase in wages would be determined by a special industry committee but could not be more than 50 cents per year. Based on information from DOI and CNMI, CBO estimates that the costs of complying with these mandates would not be significant because the number of public employees affected by the bill would be limited and because the change in the workload of the Commonwealth's immigration staff would be small.

ESTIMATED IMPACT ON THE PRIVATE SECTOR

S. 1275 contains private-sector mandates as defined in UMRA. Section 2 would impose a mandate on employers by limiting the number of temporary alien workers who could be legally present in CNMI. Section 3 would impose a mandate on employers by increasing the minimum wage which they would be required to pay their employees; the amount of the mandated increases in wages would be determined by an industry committee established as a result of enactment of this legislation. CBO cannot determine whether the direct cost to employers of those mandates would exceed the \$100 million inflation-adjusted annual threshold specified in UMRA.

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