AMENDMENT TO 117–54
OFFERED BY MS. PLASKETT OF VIRGIN ISLANDS

Add at the end of title LII of division E the following new section:

SEC. 52. ADDITION OF VIRGIN ISLANDS VISA WAIVER TO GUAM AND NORTHERN MARIANA ISLANDS VISA WAIVER.

(a) In General.—Section 212(l) of the Immigration and Nationality Act (8 U.S.C. 1182(l)) is amended to read as follows:

“(l) GUAM AND NORTHERN MARIANA ISLANDS VISA WAIVER PROGRAM; VIRGIN ISLANDS VISA WAIVER PROGRAM.—

“(1) In General.—The requirement of subsection (a)(7)(B)(i) may be waived by the Secretary of Homeland Security, in the case of an alien applying for admission as a nonimmigrant visitor for business or pleasure and solely for entry into and stay in Guam or the Commonwealth of the Northern Mariana Islands, or the Virgin Islands of the United States, for a period not to exceed 45 days, if the Secretary of Homeland Security, after consultation with the Secretary of the Interior, the Secretary of
State, and the Governor of Guam and the Governor
of the Commonwealth of the Northern Mariana Is-
lands, or the Governor of the Virgin Islands of the
United States, as the case may be, determines
that—

“(A) an adequate arrival and departure
control system has been developed in Guam and
the Commonwealth of the Northern Mariana Is-
lands, or the Virgin Islands of the United
States; and

“(B) such a waiver does not represent a
threat to the welfare, safety, or security of the
United States or its territories and common-
wealths.

“(2) ALIEN WAIVER OF RIGHTS.—An alien may
not be provided a waiver under this subsection un-
less the alien has waived any right—

“(A) to review or appeal under this Act an
immigration officer’s determination as to the
admissibility of the alien at the port of entry
into Guam or the Commonwealth of the North-
ern Mariana Islands, or the Virgin Islands of
the United States; or

“(B) to contest, other than on the basis of
an application for withholding of removal under
section 241(b)(3) of this Act or under the Convention Against Torture, or an application for asylum if permitted under section 208 of this Act, any action for removal of the alien.

“(3) REGULATIONS.—All necessary regulations to implement this subsection shall be promulgated by the Secretary of Homeland Security, in consultation with the Secretary of the Interior and the Secretary of State. The promulgation of such regulations shall be considered a foreign affairs function for purposes of section 553(a) of title 5, United States Code. At a minimum, such regulations should include, but not necessarily be limited to—

“(A) a listing of all countries whose nationals may obtain the waivers provided by this subsection; and

“(B) any bonding requirements for nationals of some or all of those countries who may present an increased risk of overstays or other potential problems, if different from such requirements otherwise provided by law for non-immigrant visitors.

“(4) FACTORS.—In determining whether to grant or continue providing the waiver under this subsection to nationals of any country, the Secretary
of Homeland Security, in consultation with the Secretary of the Interior and the Secretary of State, shall consider all factors that the Secretary deems relevant, including electronic travel authorizations, procedures for reporting lost and stolen passports, repatriation of aliens, rates of refusal for non-immigrant visitor visas, overstays, exit systems, and information exchange.

“(5) SUSPENSION.—The Secretary of Homeland Security shall monitor the admission of non-immigrant visitors to Guam and the Commonwealth of the Northern Mariana Islands, and the Virgin Islands of the United States, under this subsection. If the Secretary determines that such admissions have resulted in an unacceptable number of visitors from a country remaining unlawfully in Guam or the Commonwealth of the Northern Mariana Islands, or the Virgin Islands of the United States, unlawfully obtaining entry to other parts of the United States, or seeking withholding of removal or asylum, or that visitors from a country pose a risk to law enforcement or security interests of Guam or the Commonwealth of the Northern Mariana Islands, or of the Virgin Islands of the United States, or of the United States (including the interest in the enforcement of
the immigration laws of the United States), the Secretary shall suspend the admission of nationals of such country under this subsection. The Secretary of Homeland Security may in the Secretary's discretion suspend the Guam and Northern Mariana Islands visa waiver program, or the Virgin Islands visa waiver program, at any time, on a country-by-country basis, for other good cause.

“(6) ADDITION OF COUNTRIES.—The Governor of Guam and the Governor of the Commonwealth of the Northern Mariana Islands, or the Governor of the Virgin Islands of the United States, may request the Secretary of the Interior and the Secretary of Homeland Security to add a particular country to the list of countries whose nationals may obtain the waiver provided by this subsection, and the Secretary of Homeland Security may grant such request after consultation with the Secretary of the Interior and the Secretary of State, and may promulgate regulations with respect to the inclusion of that country and any special requirements the Secretary of Homeland Security, in the Secretary’s sole discretion, may impose prior to allowing nationals of that country to obtain the waiver provided by this subsection.”.
(b) REGULATIONS DEADLINE.—Not later than one year after the date of enactment of this Act, the Secretary of Homeland Security, in consultation with the Secretary of the Interior and the Secretary of State, shall promulgate any necessary regulations to implement the waiver provided in the amendment made by subsection (a) for the Virgin Islands of the United States.

(c) WAIVER COUNTRIES.—The regulations described in subsection (b) shall include a listing of all member or associate member countries of the Caribbean Community whose nationals may obtain, on a country-by-country basis, the waiver provided by this section, except that such regulations shall not provide for a listing of any country if the Secretary of Homeland Security determines that such country's inclusion on such list would represent a threat to the welfare, safety, or security of the United States or its territories and commonwealths, or would increase fraud or abuse of the nonimmigrant visa system.

(d) CONFORMING AMENDMENTS.—

(1) DOCUMENTATION REQUIREMENTS.—Section 212(a)(7)(B)(iii) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(7)(B)(iii)) is amended to read as follows:

“(iii) SPECIAL VISA WAIVER PROGRAMES.—For a provision authorizing waiv-
er of clause (i) in the case of visitors to Guam or the Commonwealth of the Northern Mariana Islands, or the Virgin Islands of the United States, see subsection (l).”.

(2) ADMISSION OF NONIMMIGRANTS.—Section 214(a)(1) of such Act (8 U.S.C. 1184(a)(1)) is amended by striking “Guam or the Commonwealth of the Northern Mariana Islands” each place such term appears and inserting “Guam or the Commonwealth of the Northern Mariana Islands, or the Virgin Islands of the United States”.

(e) FEES.—The Secretary of Homeland Security shall establish an administrative processing fee to be charged and collected from individuals seeking to enter the Virgin Islands of the United States in accordance with section 212(l) of the Immigration and Nationality Act (8 U.S.C. 1182(l)), as amended by this Act. Such fee shall be set at a level that will ensure recovery of the full costs of such processing, any additional costs associated with the administration of the fees collected, and any sums necessary to offset reduced collections of the nonimmigrant visa fee or the electronic travel authorization fee that otherwise would have been collected from such individuals.