

TO CONVEY CERTAIN SUBMERGED LANDS TO THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS IN ORDER TO GIVE THAT TERRITORY THE SAME BENEFITS IN ITS SUBMERGED LANDS AS GUAM, THE VIRGIN ISLANDS, AND AMERICAN SAMOA HAVE IN THEIR SUBMERGED LANDS

JULY 20, 2011.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HASTINGS of Washington, from the Committee on Natural Resources, submitted the following

R E P O R T

[To accompany H.R. 670]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 670) to convey certain submerged lands to the Commonwealth of the Northern Mariana Islands in order to give that territory the same benefits in its submerged lands as Guam, the Virgin Islands, and American Samoa have in their submerged lands, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 670 is to convey certain submerged lands to the Commonwealth of the Northern Mariana Islands in order to give that territory the same benefits in its submerged lands as Guam, the Virgin Islands, and American Samoa have in their submerged lands.

BACKGROUND AND NEED FOR LEGISLATION

The Northern Mariana Islands Archipelago is located in the western Pacific, roughly 40 miles north of the U.S. Territory of Guam, on the easternmost boundary of the Philippine Sea. The Archipelago consists of 14 volcanic islands, with a total land area of 184 square miles. The island chain spans 375 miles north to south or roughly 400 nautical miles from the southern island (Rota) to the northern island (Farallon De Pajaros).

After World War II, a U.S. military government was installed on the islands. In 1947, the islands became a United Nations Trust

Territory of the Pacific Islands (TTPI), with the U.S. as its administering authority under the trusteeship agreement. The U.S. was required under the trusteeship to “promote the development of the inhabitants of the trust territory toward self-government.” The Marianas Political Status Commission, with representatives from the islands and a delegation from the U.S., negotiated a Covenant. The Covenant defined the relationship between the Northern Mariana Islands and the U.S., with the Northern Mariana Islands functioning as a self-governing commonwealth, while recognizing U.S. sovereignty over the islands. The negotiators signed the Covenant on February 15, 1975, and it was unanimously approved by the legislature of the Mariana Islands District of the United Nations Trust Territory of the Pacific Islands on February 17, 1975.

In 1976, Congress approved the Covenant to Establish a Commonwealth of the Northern Mariana Islands (CNMI) in Political Union with the United States (Covenant) and then-President Gerald Ford signed the bill which became Public Law 94–241. The CNMI government adopted a constitution in 1978 and its constitutional government took office in 1978. In 1986, Presidential Proclamation No. 5564 fully implemented the Covenant. Finally, the United Nations terminated the TTPI as it applied to the CNMI in 1990.

In 1974, Congress passed the Territorial Submerged Lands Act which gave Guam, the U.S. Virgin Islands and American Samoa jurisdiction over submerged lands out to three geographical miles; however, the Act was enacted before the CNMI was granted territory status. The CNMI legislature passed legislation in 1979, 1980 and 1988 asserting that the CNMI had exclusive jurisdiction over submerged lands and offshore marine resources. However, the U.S. federal government’s position on the submerged lands surrounding CNMI has been that the submerged lands were not transferred to the CNMI under the Covenant and remain under the jurisdiction of the U.S.

In 2004, the CNMI sued the U.S. in District Court under the Quiet Title Act (28 U.S.C. 2409a) asserting its claim of jurisdiction over oceanic submerged lands and marine resources from its coastline to a distance of 200 nautical miles. The District Court ruled that the U.S. has “paramount authority over those lands and resources as a necessary and retained element of its national sovereignty.” The CNMI appealed the decision to the Ninth Circuit Court of Appeals. The Ninth Circuit affirmed the District Court’s ruling; however, it did recognize that Congress has the authority to transfer ownership of submerged lands to the states and its territories.

COMMITTEE ACTION

H.R. 670 was introduced on February 11, 2011, by Delegate Gregorio Sablan (D–MP). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Fisheries, Wildlife, Oceans, and Insular Affairs. On May 12, 2011, the Subcommittee on Fisheries, Wildlife, Oceans, and Insular Affairs held a hearing on the bill. On June 15, 2011, the Full Resources Committee met to consider the bill. The Subcommittee on Fisheries, Wildlife, Oceans, and Insular Affairs was discharged by unanimous consent. No amendments were offered

and the bill was ordered favorably reported to the House of Representatives by unanimous consent.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

H.R. 670—A bill to convey certain submerged lands to the Commonwealth of the Northern Mariana Islands in order to give that territory the same benefits in its submerged lands as Guam, the Virgin Islands, and American Samoa have in their submerged lands

H.R. 670 would convey ownership of submerged lands to the Commonwealth of the Northern Mariana Islands from the mean high tide seaward to the point that is three geographical miles from its coast line. Under current law, those lands are owned by the United States. Based on information from the Department of the Interior, CBO estimates that implementing H.R. 670 would have no significant cost to the federal government. Enacting the bill would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 670 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Matthew Pickford. This estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

2. Section 308(a) of Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures. CBO estimates that implementing H.R. 670 would have no significant cost to the federal government. Enacting the bill would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

3. General Performance Goals and Objectives. This bill does not authorize funding and therefore, clause 3(c)(4) of rule XIII of the Rules of the House of Representatives does not apply.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

SECTION 1 OF THE ACT OF OCTOBER 5, 1974

(Public Law 93-435)

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

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

(b) There are excepted from the transfer made by subsection (a) hereof—

(i) * * *

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Upon request of the Governor of Guam, *the Commonwealth of the Northern Mariana Islands*, the Virgin Islands, or American Samoa, the Secretary of the Interior may, with or without reimbursement, and subject to the procedure specified in subsection (c) of this section convey all right, title, and interest of the United States in any

of the lands described in clauses (ii), (iii), (iv), (v), (vi), (vii), or (viii) of this subsection to the government of Guam, *the Commonwealth of the Northern Mariana Islands*, the Virgin Islands, or American Samoa, as the case may be, with the concurrence of the agency having custody thereof.

* * * * *

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

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