

115TH CONGRESS
2D SESSION

H. R. 6879

To provide for the administration and operation of the infrastructure and the public visitation program of Midway Atoll by the private sector at minimal cost to the Federal Government by terminating the exclusive jurisdiction of the United States Fish and Wildlife Service over the Midway Atoll and vesting such jurisdiction in a Board of Governors of the Midway Atoll, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 25, 2018

Mr. DUNCAN of Tennessee introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To provide for the administration and operation of the infrastructure and the public visitation program of Midway Atoll by the private sector at minimal cost to the Federal Government by terminating the exclusive jurisdiction of the United States Fish and Wildlife Service over the Midway Atoll and vesting such jurisdiction in a Board of Governors of the Midway Atoll, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Midway Atoll Trust
3 Act”.

4 **SEC. 2. FINDINGS.**

5 The Congress finds the following:

6 (1) The most decisive battle of World War II
7 took place at the Midway Atoll on June 4, 1942.

8 (2) In 1993, the Navy determined that 78 prop-
9 erties at the Midway Atoll were eligible, including
10 the nine properties that were designated as National
11 Historic Landmarks in 1987, for inclusion in the
12 National Register of Historic Places.

13 (3) The Midway Atoll was designated a Na-
14 tional Memorial in 2000.

15 (4) The Midway Atoll has been managed by a
16 public/private partnership through the Midway Phoe-
17 nix Corporation (1996–2002) at minimal expense to
18 the Federal Government.

19 (5) The Midway Atoll was declared a national
20 wildlife refuge in 1996.

21 (6) The Midway Atoll has been closed to public
22 visitation since November 2012.

23 (7) The Government Accountability Office in-
24 vestigation reported in 2016 that three historic
25 properties at the Midway Atoll were destroyed with-
26 out proper consultation.

1 (8) The United States Fish and Wildlife Service
2 disregarded until 2015 the requirements of section
3 126 of the Department of the Interior and Related
4 Agencies Appropriations Act, 2000 (113 Stat.
5 1501A–164), which specifically directed the Sec-
6 retary of the Interior to consult with the Inter-
7 national Midway Memorial Foundation on a regular
8 basis regarding the management of Midway Atoll
9 National Memorial.

10 (9) The United States Fish and Wildlife Service
11 continues to demolish buildings and structures at
12 the Midway Atoll by failing to maintain them.

13 (10) The Government Accountability Office was
14 not able to prepare a report on the finances of Mid-
15 way Atoll because the budget data available from the
16 United States Fish and Wildlife Service from 2009
17 through 2015 was of undetermined reliability for the
18 purposes of submitting an evaluation.

19 **SEC. 3. TRANSFER OF AUTHORITY OVER MIDWAY ATOLL.**

20 All administrative jurisdiction and authority of the
21 Department of the Interior to manage national wildlife
22 refuges on the Midway Atoll under the National Wildlife
23 Refuge System Administration Act of 1966 (16 U.S.C.
24 668dd, 668ee) and any other Federal law is transferred

1 to and vested in the Board of Governors of the Midway
2 Atoll established under section 4.

3 **SEC. 4. MIDWAY ATOLL TRUST.**

4 (a) ESTABLISHMENT.—There is established the Mid-
5 way Atoll Trust (in this section referred to as the
6 “Trust”) to oversee the operations of Midway Atoll.

7 (b) AUTHORITIES.—

8 (1) IN GENERAL.—The Trust may award and
9 manage contracts to provide for the management
10 and operation of Midway Atoll.

11 (2) BOARD OF GOVERNORS APPROVAL RE-
12 QUIRED.—All policies and decisions of the Trust re-
13 lating to the management of Midway Atoll shall be
14 subject to the approval by the Board of Governors
15 of the Midway Atoll.

16 (c) BOARD OF GOVERNORS.—

17 (1) ESTABLISHMENT.—There is established the
18 Board of Governors of the Midway Atoll (in this Act
19 referred to as the “Board”), consisting of—

20 (A) one member appointed by the Director
21 of the National Park Service;

22 (B) one member appointed by the Inter-
23 national Midway Memorial Foundation;

24 (C) one member appointed by the Sec-
25 retary of the Navy;

1 (D) one member appointed by the Federal
2 Aviation Association;

3 (E) one member appointed by the Com-
4 mandant of the Coast Guard; and

5 (F) one member appointed by the Director
6 of the United States Fish and Wildlife Service.

7 (2) DUTIES.—The Board shall—

8 (A) ensure that—

9 (i) the Midway Atoll is efficiently op-
10 erated, from both a financial and adminis-
11 trative standpoint; and

12 (ii) administration of the Midway
13 Atoll as a National Memorial is a priority
14 equivalent to the priority of its administra-
15 tion as a national wildlife refuge;

16 (B) secure a private sector entity to oper-
17 ate and maintain the infrastructure of the Mid-
18 way Atoll and the public visitation program of
19 the Midway Atoll, and ensure that—

20 (i) the private sector is the main vehi-
21 cle for making the Midway Atoll solvent
22 and profitable; and

23 (ii) the private sector operates and
24 maintains the infrastructure and public
25 visitation program at the Midway Atoll on

1 a for-profit basis at minimal cost to the
2 Government;

3 (C) ensure that public visitation on Mid-
4 way Atoll is restored and conducted by the pri-
5 vate sector; and

6 (D) ensure that Midway Atoll continues to
7 operate as an emergency alternate landing field
8 for trans-Pacific flights.

9 (3) POWERS.—The Board—

10 (A) shall have all necessary and proper
11 powers for the exercise of its authorities; and

12 (B) may enter into contracts with private
13 sector entities for the operation of the Midway
14 Atoll.

15 (4) CHAIRMAN.—The Board shall have a Chair-
16 man who shall be selected annually by the Board
17 from among its members in consecutive order.

18 (5) ANNUAL REPORT.—

19 (A) IN GENERAL.—The Chairman of the
20 Board shall submit annually to the Committee
21 on Natural Resources of the House of Rep-
22 resentatives and the Committee on Energy and
23 Natural Resources of the Senate a report on
24 the financial and operational activities relating
25 to the Midway Atoll.

1 (B) MEMBER ASSESSMENTS.—Each mem-
2 ber of the Board shall annually submit his or
3 her assessment of such activities to the Chair-
4 man before the Chairman submits each report
5 under subparagraph (A).

6 (6) COMPENSATION AND EXPENSES.—Members
7 of the Board shall serve without compensation for
8 their service on the Board services, but shall be re-
9 imbursemented for actual and necessary travel and sub-
10 sistence expenses incurred by them in the perform-
11 ance of their duties.

12 (7) ATTENDANCE OF MEETINGS BY CONTRAC-
13 TORS.—Any person who enters into a contract with
14 the Trust to carry out operations of Midway Atoll
15 may attend meetings of the Board, but shall not
16 have authority to vote in such meetings.

17 (d) EXECUTIVE DIRECTOR AND STAFF.—The Trust
18 shall have—

19 (1) an executive director appointed by the
20 Board;

21 (2) senior managers who have experience in
22 management, finance, historical preservation, fish
23 and wildlife conservation, and airport management;
24 and

1 (3) such additional staff as are necessary to
2 properly manage Midway Atoll.

3 **SEC. 5. RESTORATION OF DEMOLISHED INFRASTRUCTURE.**

4 (a) IN GENERAL.—The Director of the United States
5 Fish and Wildlife Service shall restore all infrastructure
6 of the Midway Atoll that has been demolished and is nec-
7 essary for public visitation on the Midway Atoll.

8 (b) FUEL TANKS.—Such restoration shall include re-
9 placement of two (2,000,000 gallon) fuel tanks that are
10 essential for the sale of fuel and for the financial viability
11 of the Midway Atoll.

12 **SEC. 6. GAO STUDY.**

13 The Comptroller General of the United States shall,
14 every three years, conduct a comprehensive study of all
15 activities on the Midway Atoll and report on such study
16 to the Committee on Energy and Natural Resources, the
17 Committee on Appropriations, and the Committee on En-
18 vironment and Public Works of the Senate and Committee
19 on Natural Resources and the Committee on Appropria-
20 tions of the House of Representatives.

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