

AUTHORIZING THE SECRETARY OF THE INTERIOR TO EXTEND GRANTS
AND OTHER ASSISTANCE TO FACILITATE A POLITICAL STATUS PUBLIC
EDUCATION PROGRAM FOR THE PEOPLE OF GUAM

DECEMBER 7, 2009.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. RAHALL, from the Committee on Natural Resources,
submitted the following

R E P O R T

[To accompany H.R. 3940]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 3940) to authorize the Secretary of the Interior to extend grants and other assistance to facilitate a political status public education program for the people of Guam, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SENSE OF CONGRESS.

Congress reaffirms that it is the responsibility of the Secretary of the Interior to advance the economic, social, and political development of the territories of the United States.

SEC. 2. ASSISTANCE FOR POLITICAL STATUS PUBLIC EDUCATION PROGRAMS.

(a) **IN GENERAL.**—Section 601 of the Act entitled “An Act to authorize appropriations for certain insular areas of the United States, and for other purposes”, approved December 24, 1980 (48 U.S.C. 1469d), is amended—

(1) by redesignating subsections (b) through (d) as subsections (c) through (e), respectively; and

(2) by inserting after subsection (a) the following new subsection:

“(b) The Secretary of the Interior may extend to the governments of American Samoa, Guam, and the United States Virgin Islands, and their agencies and instrumentalities, assistance, including assistance in the form of grants, research, planning assistance, studies, and agreements with Federal agencies, to facilitate public education programs regarding political status options for their respective territories.”.

(b) **CONFORMING AMENDMENT.**—Section 19(a)(2)(C) of the Food Stamp Act of 1977 (7 U.S.C. 2028(a)(2)(C)) is amended by striking “section 601(c) of Public Law 96–597 (48 U.S.C. 1469d(c))” and inserting “section 601(d) of Public Law 96–597 (48 U.S.C. 1469d(d))”.

Amend the title so as to read:

A bill to amend Public Law 96-597 to clarify the authority of the Secretary of the Interior to extend grants and other assistance to facilitate political status public education programs for the peoples of the non-self-governing territories of the United States.

PURPOSE OF THE BILL

The purpose of H.R. 3940, as amended, is to amend Public Law 96-597 to clarify the authority of the Secretary of the Interior to extend grants and other assistance to facilitate political status public education programs for the peoples of the non-self-governing territories of the United States.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 3940, as ordered reported, clarifies the authority of the Secretary of the Interior to extend grants and other forms of appropriate assistance to facilitate political status public education programs for the peoples of the three non-self-governing territories of the United States: Guam, American Samoa, and the United States Virgin Islands.

The Declaration on the Granting of Independence to Colonial Countries and Peoples, adopted by resolution of the United Nations General Assembly on December 14, 1960, applies today to the United States with respect to the territories of Guam, American Samoa, and the United States Virgin Islands. Each of these three territories is among the listed 16 territories recognized as non-self-governing by the international community and the United Nations. Accordingly, under Article 73 of the United Nations Charter, the United States assumes responsibility for ensuring that the people of Guam, American Samoa and the United States Virgin Islands are accorded due respect for their culture. The United States further assumes the obligation to develop their self-government taking into account their political aspirations, and to assist them in the progressive development of their free political institutions.

Each of these three territories is also an "unincorporated territory" of the United States because the United States Congress has not expressly and fully applied to them all provisions of the United States Constitution. Each of these territories was ceded to the United States under unique historical circumstances at different times and under terms of separate treaties.

Guam was ceded by Spain to the United States, along with Puerto Rico, under the terms of the Treaty of Paris that ended the Spanish-American War in 1898. American Samoa became a territory of the United States by deeds of cession under the terms of the Treaty of Berlin of 1899. Congress formally ratified the 1900 and 1904 deeds of cession retroactively in 1929. In 1917, the Virgin Islands of St. Thomas, St. John, and St. Croix were ceded under a treaty by Denmark to the United States.

The territorial clause in Article IV of the United States Constitution vests with the United States Congress plenary authority over the territories, and the specific power to dispose of and make all needful rules and regulations respecting them. Historically Congress has exercised such plenary authority in passing legislation affecting the disposition of territories and the admission of territories into the federal union. The political status of the unincorporated

territories remains a matter for the United States Congress to ultimately resolve.

Each of the three unincorporated territories affected by H.R. 3940 has similar but limited forms of self-government. In the specific cases of the governments organized in Guam and the Virgin Islands, such limited, local self-government derives its authority from and is organized in accordance with separate statutes enacted by the United States Congress: the Organic Act of Guam, enacted in 1950 (48 U.S.C. 1421 et seq.), and the Organic Act of the Virgin Islands, enacted in 1936 (48 U.S.C. 1405 et seq.) and revised in 1954 (48 U.S.C. 1541 et seq.). The people of American Samoa, however, in the absence of an organic act or other explicit Congressional directive on their governance, successfully drafted and adopted their own constitution in 1967. The Congress has periodically amended the Organic Acts of Guam and the Virgin Islands, and also passed laws affecting American Samoa, which are oriented toward their political development and advancement. Each of these territories today elects a Governor by popular election as well as a local legislature to establish local law. Each territory is also represented by a Delegate to Congress in accordance with laws passed by the Congress.

Each of these territories upon their acquisition by the United States was placed initially under the authority of the Department of the Navy. Administrative authority and responsibility for these territories, however, was later transferred to the Department of the Interior by separate executive orders: in 1931 for the Virgin Islands; 1949 for Guam, and 1951 for American Samoa. The granting of this authority was also codified in the Organic Acts of the Virgin Islands and Guam. Today, the responsibility to advance the economic, social and political development of the territories remains with the Secretary of the Interior. Section 1 of H.R. 3940 reaffirms this responsibility, and matters affecting these territories are handled by the Department of the Interior's Office of Insular Affairs.

Although Congress established by law a process in 1976 for the territories of Guam and the Virgin Islands to advance their self-government by adoption of constitutions through local political processes, these past attempts were unsuccessful due in large part to uncertainty regarding the effects of such action on the right to self-determination and ultimate resolution of political status.

Beginning in the 1980s, interest in the territories in the issue of their political status prompted the establishment of local commissions to facilitate evaluation of various status options and a process by which their people could freely express their desires on the status question. These efforts followed the establishment of the Commonwealth of the Northern Mariana Islands, a former Trust Territory of the Pacific Islands for which the United States was trustee, by a negotiated Covenant approved by the Congress in 1976. The United States Government assisted the people of the Northern Marianas and the other former trust territories in resolving their status and in structuring and conducting status education and plebiscites.

In 1980 both the governments of Guam and the Virgin Islands established local commissions to work on improving and resolving the political status of their respective territories. After a plebiscite in Guam was held in 1982, and consistent with its outcome, local

leaders of Guam pursued the drafting and the subsequent enactment by the Congress of the Guam Commonwealth Act. The drafted legislation was approved by the people of Guam in two separate referendums held in 1987 and introduced in six consecutive Congresses (the 100th through the 105th Congresses). A legislative hearing by the Committee on Resources of the 105th Congress was held on the Guam Commonwealth Act on October 29, 1997, but no further legislative action was taken.

Because the aspirations of the people of Guam to improve their political status through the enactment of the Guam Commonwealth Act were not realized despite the efforts made by Guam's representatives, the Administration and the Congress, a new local commission was established on Guam in 1997 to work toward the holding of a new plebiscite to allow the people of Guam to express their opinion on status between three options: independence, free association with the United States, and statehood. Such a plebiscite necessitates a public education program to explain the options and help voters prepare to make an informed decision. Today, the Guam Commission on Decolonization, established under the laws of the Government of Guam, is charged with preparing for the plebiscite.

In the Virgin Islands, a referendum was held in 1993 on the question of status in which roughly 31 percent of eligible voters participated. Because participation was below the 50 percent plus one required by local law, the Virgin Islands Commission on Status and Federal Relations was disbanded on December 31, 1993.

With regards to American Samoa, the Congress has considered legislation introduced in the past to establish a federally-appointed commission to study and report on all factors that led to the territory's historical and present political status and relationship with the United States, and to make recommendations about status as it would determine appropriate.

COMMITTEE ACTION

H.R. 3940 was introduced on October 27, 2009, by Subcommittee on Insular Affairs, Oceans and Wildlife Chairwoman Madeleine Z. Bordallo (D-GU). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Insular Affairs, Oceans and Wildlife. On November 5, 2009, the Subcommittee held a hearing on the bill. The Director of the Office of Insular Affairs at the Department of the Interior testified that the Department has no objection to enactment of H.R. 3940 and also emphasized the Department recognizes the importance of a public education program to the people of the territories when political status is under consideration. The Governor of Guam also testified in support of H.R. 3940.

On November 18, 2009, the Subcommittee was discharged from further consideration of H.R. 3940 and the full Natural Resources Committee met to consider the bill. Subcommittee Chairwoman Bordallo offered an amendment in the nature of a substitute making technical and conforming changes to the bill, and making the territories of American Samoa and the Virgin Islands also eligible for assistance under the bill. The amendment was adopted by unanimous consent. The bill, as amended, was then ordered favor-

ably 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.

CONSTITUTIONAL AUTHORITY STATEMENT

Article IV, section 3 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) 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)(3)(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.

2. 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.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill, as ordered reported, is to amend Public Law 96-597 to clarify the authority of the Secretary of the Interior to extend grants and other assistance to facilitate political status public education programs for the peoples of the non-self-governing territories of the United States.

4. Congressional Budget Office Cost Estimate. 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:

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H.R. 3940 would authorize the Department of the Interior (DOI) to provide assistance to some U.S. insular areas (Guam, American Samoa, and the U.S. Virgin Islands) in implementing programs to educate their citizens about options for the political status of those areas—including, but not limited to statehood, free association, independence, or maintaining the status quo. Currently, those areas are territories of the United States. Based on information from DOI and the costs of similar programs, CBO estimates that implementing such public education programs would cost the fed-

eral government about \$2 million over the 2010–2014 period, subject to the availability of appropriated funds. Enacting the bill would not affect direct spending or revenues.

The legislation 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. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

EARMARK STATEMENT

H.R. 3940 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

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 (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):

SECTION 601 OF THE ACT OF DECEMBER 24, 1980

An Act to authorize appropriations for certain insular areas of the United States, and for other purposes.

SEC. 601. GENERAL TECHNICAL ASSISTANCE.—(a) * * *

(b) The Secretary of the Interior may extend to the governments of American Samoa, Guam, and the United States Virgin Islands, and their agencies and instrumentalities, assistance, including assistance in the form of grants, research, planning assistance, studies, and agreements with Federal agencies, to facilitate public education programs regarding political status options for their respective territories.

[(b)] *(c) The Secretary of the Interior is further authorized to provide technical assistance to, and maintenance of agricultural plantings and physical facilities for, the peoples from Enewetak Atoll and Bikini Atoll, as well as for the purchase of food and equipment and for the transportation of such food, equipment and persons as he deems necessary and appropriate until such areas produce sufficient food to fully sustain the residents after resettlement. This provision shall not cease to be applicable either before or after the termination of the trusteeship without the express approval of the United States Congress.*

[(c)] *(d) The Secretary of Agriculture is authorized to extend, in his discretion, programs administered by the Department of Agriculture to Guam, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, the Virgin Islands, and American Samoa*

(hereinafter called the territories). Notwithstanding any other provision of law, the Secretary of Agriculture is authorized to waive or modify any statutory requirements relating to the provision of assistance under such programs when he deems it necessary in order to adapt the programs to the needs of the respective territory: *Provided*, That not less than sixty days prior to extending any program pursuant to this section or waiving or modifying any statutory requirement pursuant to this section, the Secretary of Agriculture shall notify the Committee on Agriculture and the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Agriculture, Nutrition, and Forestry of the Senate of his proposed action together with an explanation of why his action is necessary and the anticipated benefits to each territory affected. Such programs shall be carried out in cooperation with the respective governments of the territories and shall be covered by a memorandum of understanding between the respective territorial government and the Department of Agriculture. Any sums appropriated pursuant to this paragraph shall be allocated to the agencies of the Department of Agriculture concerned with the administration of programs in the territories.

[(d)] (e) Effective October 1, 1981, there are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

FOOD STAMP ACT OF 1977

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SEC. 19. CONSOLIDATED BLOCK GRANTS FOR PUERTO RICO AND AMERICAN SAMOA.

(a) PAYMENTS TO GOVERNMENTAL ENTITIES.—

(1) * * *

(2) BLOCK GRANTS.—

(A) * * *

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(C) PAYMENTS TO AMERICAN SAMOA.—For fiscal year 2003 and each fiscal year thereafter, the Secretary shall use 0.4 percent of the funds made available under subparagraph (A) for payment to American Samoa to pay 100 percent of the expenditures by American Samoa for a nutrition assistance program extended under [section 601(c) of Public Law 96–597 (48 U.S.C. 1469d(c))] *section 601(d) of Public Law 96–597 (48 U.S.C. 1469d(d))*.

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