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NORTHERN MARIANA ISLANDS DELEGATE ACT

JUNE 8, 2005.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. POMBO, from the Committee on Resources, submitted the following

REPORT

[To accompany H.R. 873]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 873) to provide for a nonvoting delegate to the House of Representatives to represent the Commonwealth of the Northern Mariana Islands, and for other purposes, 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. 873 is to provide for a nonvoting delegate to the House of Representatives to represent the Commonwealth of the Northern Mariana Islands, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

History of Non-Voting Delegates to Congress

Territorial delegates have existed in Congress and specifically in the U.S. House of Representatives since 1787, with the establishment of a government under the Northwest Ordinance for the territory northwest of the Ohio River. In 1898, the U.S. acquired overseas territories (Puerto Rico, the Phillippines and Guam) at the end of the Spanish-American War. Their status within the American family became a subject of debate for Congress. Nevertheless, a law was enacted which provided a new form of territorial representation for Puerto Rico and the Phillippines—legally recognized as unincorporated territories having only the "fundamental" part of the Constitution applied. This representation did not grant the privileges that are held by today's delegates.

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At this time, there are four non-voting delegates to the U.S. House, including ones for the District of Columbia, American Samoa, Guam, and the U.S. Virgin Islands. These positions, which were created in the 1970s, all have most of the same parliamentary rights as any Member of the House, including the introduction and cosponsorship of bills , the right to offer amendments on measures being debated, and voting privileges in committees to which they are appointed. However, they do not have a right to vote on the floor of the House.

History of the Commonwealth of the Northern Mariana Islands

The Commonwealth of the Northern Mariana Islands (CNMI) is a United States territory composed of 14 major islands totaling approximately 183.5 square miles. The southernmost of the Mariana Island chain, but a separate political jurisdiction, is the Territory of Guam. The U.S. began its presence in the western Pacific at the end of the Spanish-American War, whereby the U.S. acquired Guam through the 1898 Treaty of Paris. At the time, the remaining islands of the Mariana archipelago were sold by Spain to Germany.

After losing control of Guam to the Japanese Empire in 1941, U.S. forces returned to the Marianas region of the Pacific in 1944 and recaptured Guam. In doing so, U.S. forces also secured the northern Mariana Islands (NMI). It was from these islands during this time that B–29s were launched from the island of Tinian to deliver the atomic bombs that forced Japan's surrender.

After World War II, the NMI were governed by the U.S. military until replaced by civilian appointees under the authority of the Department of the Interior in 1962. U.S. administration formally began in the NMI in 1947 as they were part of the United Nations Strategic Trust Territory of the Pacific Islands. Our role in overseeing these islands was to assist them in advancing politically as well as in socioeconomic matters.

To that end, the people of the NMI sought self-government as part of the United States. In a 1969 plebiscite they voted to reunify their islands with the southern-most island of the Mariana archipelago, Guam, thereby becoming part of a U.S. territory. Voters in Guam, however, rejected unification with their northern neighbors who had been under German and then Japanese Administration for so many years. In general, as part of its political evolution, the northern Mariana Islands began a push for greater self-governing powers. Its framework for asserting these powers was encapsulated in a "Covenant" it submitted to Congress in 1975.

Congress then acted by passing the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America which was then signed into law in 1976 by President Gerald Ford as Public Law 94–241. President Ronald Reagan's Presidential Proclamation on November 3, 1986, established a covenant between the U.S. government and the NMI which provided Commonwealth status. Further, the United Nations acknowledged the termination of the Trust Territory of the Pacific Islands, with respect to the CNMI, by Security Council Resolution Number 638 on December 22, 1990.

The practical implications of the enactment of the Covenant was that from the 1976 the residents of the northern Mariana Islands became U.S. citizens and everyone born on these islands since that

date are also U.S. citizens by birth. The Covenant also provided for local control over immigration and minimum wage laws. These special measures were included to assist the CNMI with their economic transition, though Congress retains the discretion to modify the law in these areas.

The resident or guest worker population is one that has sparked some controversy during past consideration of similar legislation, and is the main area of focus for Congress when discussing the labor and immigration laws in the CNMI. The garment industry has been a very important component of CNMI development and its relationship with the United States, but some of its factories have closed in recent years and revenues have declined. And earlier this year, with the expiration of World Trade Organization quotas, this industry could see a sharp decline as the competitive advantage the CNMI currently holds will lessen.

Congressional influence, Administrative actions and local changes have resulted in reduced allegations of worker exploitation and human rights violations. The Committee supports the actions taken by Governor Juan Babauta, including labor law enforcement and improved coordination with the federal agencies that oversee the local immigration and labor practices.

H.R. 873 will provide for a better means for the CNMI to keep Congress abreast of its progress and request further assistance to address its unique economic base.

Need for H.R. 873

The CNMI is the last and only territory with a permanent population that has no permanent voice in Congress. There are no other territories, possessions, or former trust territories which would meet the historical criteria for a delegate. The former Micronesian Trust Territories are now associated republics. They have ambassadors, not delegates, and are members of the United Nations.

Populations of the different territories have varied from as few as 5,000 to 259,000 when they were first represented by a nonvoting delegate. The small population of the CNMI was cited by the Marianas Political Status Commission, which negotiated the Covenant for the islands, as the reason the CNMI was unable to obtain a nonvoting delegate in the Covenant despite the backing of the Executive Branch of the federal government. The CNMI population of 15,000 (recorded in the 1970 Census) was considerably less at that time than the populations of Guam (86,926) and the Virgin Islands (63,200) had been when those territories were provided nonvoting delegates in 1972.

Two years after approving the Covenant without a provision for a CNMI delegate, however, Congress granted a delegate to American Samoa with a resident population of 27,000, most of whom were not U.S. citizens. Today, with a U.S. citizen population of approximately 35,000 and a total population of 69,221, according to the 2000 Census, the CNMI is clearly within the threshold of population established by precedents both historical and contemporary.

H.R. 873 would provide for a nonvoting delegate to the U.S. House of Representatives beginning in the 110th Congress to replace the Resident Representative it currently has. It would also create a federal office for the CNMI as was created for all of the other U.S. jurisdictions. The legislation would also provide for the

manner in which this new delegate could be elected, along with the criteria that would qualify an individual for candidacy. These components are all similar to those criteria set forth in the CNMI Constitution. H.R. 873 will also not abrogate the various existing laws established within the Covenant.

COMMITTEE ACTION

H.R. 873 was introduced on February 17, 2005, by Chairman Richard W. Pombo (R–CA).[1] The bill was referred to the Committee on Resources. On May 18, 2005, the Full Resources Committee met to consider the bill. No amendments were offered and the bill was then ordered favorably reported to the House of Representatives by voice vote.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This Act may be cited as the "Northern Mariana Islands Delegate Act."

Section 2. Delegate to the House of Representatives from Commonwealth of the Northern Mariana Islands

This section states that section 901 of Public Law 94–241 authorizes the Resident Representative position and that this person shall be a nonvoting Delegate to the U.S. House of Representatives.

Section 3. Election of delegate

This section sets forth the form of election and timing of the elections. It creates a plurality winner in the general election after a primary election wherein a majority vote decides the winner of that primary election.

Section 4. Qualifications for office of delegate

This section delineates criteria for candidate eligibility, consistent with local CNMI law.

Section 5. Determination of election procedure

This section clarifies which powers within the election framework remain within CNMI control, continuing matters of local application.

Section 6. Compensation, privileges, and immunities

This section states that all the current Rules of the House of Representatives pertaining to Members of Congress, including compensation, privileges, and immunities, shall apply to the nonvoting delegate created in the legislation.

Section 7. Lack of effect on covenant

This section clarifies that the powers enumerated in the Covenant remain.

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[1] The Full Committee held a hearing to examine the potential for a delegate from the Commonwealth of the Northern Mariana Islands on February 25, 2004. At this hearing, the Administration testified in support of the concept of a nonvoting delegate for the CNMI. Similar legislation providing for a CNMI non-voting delegate has been introduced in every Congress beginning with the 103rd. The last example to be reported by the House Resources Committee was in the 108th Congress, as H.R. 5135, which was also introduced by Chairman Richard Pombo.

Section 8. Definition

This section defines "Delegate" as the Resident Representative mentioned in section 2.

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 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, credit authority, or an increase or decrease in revenues or tax expenditures. According to the Congressional Budget Office, enactment of this bill would result in increased direct spending of $200,000 in 2007, with total direct spending of $2 million over the 2007–2015 time frame.

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.

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:

H.R. 873—Northern Mariana Islands Delegate Act

Summary: H.R. 873 would provide Congressional representation for the Commonwealth of the Northern Mariana Islands (CNMI) by creating a nonvoting delegate in the House of Representatives beginning in January 2007 (110th Congress). As a nonvoting Member, the delegate would have some of the same powers of a full-fledged Member including the ability to introduce bills, offer amendments, and vote in House committees but would not be able to vote on the floor of the House. In addition, the delegate would receive the same compensation, allowances, and benefits as a Member. Under current law, the Northern Mariana Islands elects a Resident Representative who represents the CNMI government in the United States but has no official status in the Congress.

CBO estimates that enacting the bill would increase direct spending by about $200,000 in 2007 and by about $2 million over the 2007–2015 period. In addition, implementing the bill would have discretionary costs of approximately $1 million in 2007 and $5 million over the 2007–2010 period, assuming the appropriation of the necessary funds.

H.R. 873 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 873 is shown in the following table. The costs of this legislation fall within budget function 800 (general government).

	By fiscal year, in millions of dollars—									
	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
CHANGES IN DIRECT SPENDING										
Delegate Salary and Benefits:										
Estimated Budget Authority	0	*	*	*	*	*	*	*	*	*
Estimated Outlays	0	*	*	*	*	*	*	*	*	*
CHANGES IN SPENDING SUBJECT TO APPROPRIATION										
Delegate's Office and Administration:										
Estimated Outlays	0	1	1	1	1	1	1	1	1	1
Estimated Authorization Level	0	1	1	1	1	1	1	1	1	1

Note.—* = less than $500,000.

Basis of estimate: For this estimate, CBO assumes that the bill will be enacted near the start of fiscal year 2006 and that spending will follow historical patterns for Congressional spending.

Direct Spending

Enacting H.R. 873 would increase direct spending for the payment of the salary of the new nonvoting delegate and the costs of associated benefits. CBO estimates that the increase in direct spending for Congressional salaries and benefits would be about $2 million over the 2007–2015 period. That estimate assumes that the current annual salary of $162,100 would be adjusted for inflation. With benefits, the 2007 cost would be just above $200,000.

Spending Subject to Appropriation

Based on the current administrative and expense allowances available for Members and other typical office costs, CBO estimates that the addition of a new nonvoting delegate would cost about $1 million in fiscal year 2007 and about $5 million over the 2007–2010 period, subject to the availability of appropriated funds.

Intergovernmental and private-sector impact: H.R. 873 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

The bill does not require CNMI to select a delegate, but if it chooses to do so, it would require the government of CNMI to hold biennial elections in even years. (All CNMI elections now take place in odd years.) Based on information provided by CNMI officials, we estimate that the cost of each election would be about $25,000. CNMI would save substantially more than that, however, because it would no longer pay for a Resident Representative in Washington once a delegate was elected and in place. All the expenses of the delegate's office would be paid by the federal government.

Estimate prepared by: Federal Costs: Matthew Pickford. Impact on State, Local, and Tribal Governments: Marjorie Miller. Impact on the Private-Sector: Craig Cammarata.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

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

If enacted, this bill would not change existing law.

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