106TH CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPORT
106–787

GUAM OMNIBUS OPPORTUNITIES ACT

JULY 25, 2000.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. YOUNG of Alaska, from the Committee on Resources, submitted the following

R E P O R T

[To accompany H.R. 2462]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 2462) to amend the Organic Act of Guam, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Guam Omnibus Opportunities Act".

SEC. 2. GUAM LAND RETURN ACT.

(a) SHORT TITLE.—This section may be cited as the "Guam Land Return Act".

(b) TRANSFER OF EXCESS REAL PROPERTY.—

(1) NOTICE OF AVAILABILITY.—Except as provided in subsection (e), before screening excess real property located on Guam for further Federal used under section 202 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.), the Administrator shall notify the Government of Guam that the property is available for transfer to the Government of Guam pursuant to this section.

(2) OPPORTUNITY FOR ACQUISITION BY GUAM.—If the Government of Guam, within 180 days after receiving notification under paragraph (1) with regard to certain real property, notifies the Administrator that the Government of Guam intends to acquire the property under this section, the Administrator shall transfer such property to the Government of Guam in accordance with subsections (c) and (d). Otherwise, the Administrator shall dispose of the property in accordance with the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

(c) COMPENSATION.—A transfer of excess real property under subsection (b) to the Government of Guam for a public purpose shall be made without reimbursement or other compensation from the Government of Guam.

(d) CONDITIONS.—

(1) RESTRICTIVE COVENANTS.—All transfers of excess real property under subsection (b) to the Government of Guam shall be subject to such restrictive covenants as the Administrator determines to be necessary to ensure that—

(A) the use of the property is compatible with continued military activities on Guam;

(B) the use of the property is consistent with the environmental condition of the property;

(C) access is available to the United States to conduct any additional environmental remediation or monitoring that may be required;

(D) to the extent the property was transferred for a public purpose, the property is so used; and

(E) to the extent the property has been used by another Federal agency for a minimum of two years, the transfer to the Government of Guam is subject to the terms and conditions of those permit interests until the expiration of those permits.

(2) CONSULTATION.—In the case of real property reported excess by a military department and in all cases with respect to paragraph (1)(A), the Administrator shall consult with the Secretary of Defense regarding the restrictive covenants to be imposed on a transfer of the property.

(3) OTHER LAWS.—All transfers of excess real property under subsection (b) to the Government of Guam are subject to all otherwise applicable Federal laws, except section 2696 of title 10, United States Code. Any property that the Government of Guam has the opportunity to acquire under subsection (b) shall not be subject to section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411).

(e) EXEMPTIONS.—Notwithstanding that real property located on Guam and described in this subsection may be excess real property, this section shall not apply—

(1) to real property on Guam that is located within the Guam National Wildlife Refuge, which shall be transferred in accordance with subsection (f);

(2) to real property described in the Guam Excess Lands Act (Public Law 103–339, 108 Stat. 3116), which shall be disposed of in accordance with such Act; or

(3) to real property on Guam that is declared excess as a result of a base closure law.

(f) TREATMENT OF GUAM NATIONAL WILDLIFE REFUGE LANDS.—

(1) NOTIFICATION OF AVAILABILITY; NEGOTIATIONS.—The Administrator shall notify the Government of Guam and the Fish and Wildlife Service that real property within the Guam National Wildlife Refuge has been declared excess. The Government of Guam and the Fish and Wildlife Service shall have 180 days to engage in discussions toward an agreement providing for the future ownership and management of the real property.

(2) TRANSFER AND MANAGEMENT UNDER AGREEMENT.—If the parties reach an agreement under paragraph (1) within the 180-day period and the agreement is submitted to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives not less than 60 days prior to any transfer of the real property under the agreement, the property shall be transferred and managed in accordance with the agreement. Any such transfer shall be subject to the other provisions of this section.

(3) EFFECT OF LACK OF AGREEMENT.—If the parties do not reach an agreement under paragraph (1) within the 180-day period, the Administrator shall provide a report to Congress on the status of the discussions, together with recommendations on the likelihood of resolution of differences and the comments of the Fish and Wildlife Service and the Government of Guam. If the subject property is under the jurisdiction of a military department, the Secretary of the military department may transfer administrative control over the property to the General Services Administration. Absent an agreement on the future ownership and use of the property, the property may not be transferred to another Federal agency or out of Federal ownership except pursuant to an Act of Congress specifically identifying the property.

(4) EVENTUAL AGREEMENT.—If the parties come to an agreement prior to congressional action in response to a report under paragraph (3) and the agreement is submitted to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives not less than 60 days prior to any transfer of the real property under the agreement, the real property shall be transferred and managed in accordance with the agreement. Any such transfer shall be subject to the other provisions of this section.

(g) DUAL CLASSIFICATION PROPERTY.—If a parcel of real property on Guam that is declared excess as a result of a base closure law also falls within the boundary of the Guam National Wildlife Refuge, such parcel of property shall be disposed of in accordance with the base closure law.

(h) AUTHORITY TO ISSUE REGULATIONS.—The Administrator of General Services, after consultation with the Secretary of Defense and the Secretary of Interior, may issue such regulations as the Administrator deems necessary to carry out this section.

(i) DEFINITIONS.—For the purposes of this section:

(1) The term "Administrator" means—

(A) the Administrator of General Services; or

(B) the head of any Federal agency with the authority to dispose of excess real property on Guam.

(2) The term "base closure law" means the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note), or similar base closure authority.

(3) The term "excess real property" means excess property (as that term is defined in section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472)) that is real property and was acquired by the United States prior to the enactment of this section.

(4) The term "Guam National Wildlife Refuge" includes those lands within the refuge overlay under the jurisdiction of the Department of Defense, identified as Department of Defense lands in figure 3, on page 74, and as submerged lands in figure 7, on page 78 of the "Final Environmental Assessment for the Proposed Guam National Wildlife Refuge, Territory of Guam, July 1993" to the extent that the Federal Government holds title to such lands.

(5) The term "public purpose" means those public benefit purposes for which the United States may dispose of property pursuant to section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484), as implemented by the Federal Property Management Regulations (41 CFR 101–47) or other public benefit uses provided under the Guam Excess Lands Act (Public Law 103–339; 108 Stat. 3116).

SEC. 3. GUAM FOREIGN DIRECT INVESTMENT EQUITY ACT.

(a) SHORT TITLE.—This section may be cited as the "Guam Foreign Direct Investment Equity Act".

(b) IN GENERAL.—Subsection (d) of section 31 of the Organic Act of Guam (48 U.S.C. 1421i) is amended by adding at the end the following new paragraph:

"(3) In applying as the Guam Territorial income tax the income-tax laws in force in Guam pursuant to subsection (a) of this section, the rate of tax under sections 871, 881, 884, 1441, 1442, 1443, 1445, and 1446 of the Internal Revenue Code of 1986 on any item of income from sources within Guam shall be the same as the rate which would apply with respect to such item were Guam treated as part of the United States for purposes of the treaty obligations of the United States.".

(c) CERTAIN GUAM-BASED TRUSTS EXEMPT.—The provisions of this section shall not apply to any Guam-based trust formed pursuant to Division 2 of Title 11, Chapter 160, of the Guam Code Annotated.

(d) EFFECTIVE DATE.—The amendment made by subsection (b) shall apply to amounts paid after the date of the enactment of this Act.

SEC. 4. IMPORTATION OF BETEL NUTS ("ARECA NUTS") FOR PERSONAL CONSUMPTION.

(a) IN GENERAL.—Notwithstanding any other provision of law (including sections 402 and 801 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342 and 381)), Guam shall be deemed to be within the customs territory of the United States in the case of importation from Guam into the United States of betel nuts (also known as "areca nuts") by an individual for personal consumption by the individual.

(b) DEFINITIONS.—In this section:

(1) BETEL NUTS.—The term "betel nuts" means husked betel nuts grown in Guam.

(2) CUSTOMS TERRITORY OF THE UNITED STATES.—The term "customs territory of the United States" has the meaning given the term in general note 2 of the Harmonized Tariff Schedule of the United States.

SEC. 5. COMPACT IMPACT REPORTS.

Paragraph 104(e)(2) of Public Law 99–239 (99 Stat. 1770, 1788) is amended by deleting "President shall report to the Congress with respect to the impact of the Compact on the United States territories and commonwealths and on the State of Hawaii." and inserting in lieu thereof the following: "Governor of any of the United

States territories or commonwealths or the State of Hawaii may report to the Secretary of the Interior by February 1 of each year with respect to the financial and social impacts of the compacts of free association on the Governor's respective jurisdiction. The Secretary of the Interior shall review and forward any such reports to the Congress with the comments and recommendations of the Administration. The Secretary of the Interior shall, either directly or, subject to available technical assistance funds, through a grant to the affected jurisdiction, provide for a census of Micronesians at intervals no greater than five years from each decennial United States census using generally acceptable statistical methodologies for each of the impact jurisdictions where the Governor requests such assistance, except that the total expenditures to carry out this sentence may not exceed $300,000 in any year.".

PURPOSE OF THE BILL

The purpose of H.R. 2462 is to amend the Organic Act of Guam, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

The United States acquired sovereignty over Guam from Spain in 1898 as a result of the Treaty of Paris which ended the Spanish-American War. Guam has remained under U.S. sovereignty since that time, although Japan controlled the island for 31 months during World War II when Guam was occupied by Japan. Nearly five years after the end of World War II, Congress enacted the 1950 Organic Act of Guam, Public Law 81–630 (48 U.S.C. 1421), granting U.S. citizenship to the people of Guam. While Guam's organic legislation also provided for a civil government, which was during the period when the governor was still appointed by the U.S. president. Congress subsequently enacted additional measures to increase self-governance for Guam including authorization for the direct election of governor, a delegate to Congress, and a local constitution. However, as Guam has yet to implement local constitutional government since enactment of Public Law 94–584 in 1976, any changes to executive, legislative, and judicial branches of Guam or other provisions of the Organic Act of Guam must occur by an act of Congress. H.R. 2462 contains various measures affecting Guam requiring action by Congress.

COMMITTEE ACTION

H.R. 2462 was introduced on July 1, 1999, by Robert A. Underwood (D–GU). The bill was referred to the Committee on Resources. On April 13, 2000, the Committee held a hearing on the bill. On June 28, 2000, the Committee met to mark up the bill. Mr. Underwood offered an amendment in the nature of a substitute with four provisions which provide Guam the "right of first refusal" for the return of future lands currently in the possession of the federal government, allows the government to lower the withholding tax rates imposed on foreign investors to equal that of the treatment of states under U.S. treaties with other nations, provides a narrow interpretation for Guam to be included in the U.S. Customs Zone for the purpose of importing betel nuts (also known as areca nuts) by an individual for personal consumption, and authorizes the governors of the territories and the State of Hawaii to report to the Secretary of the Interior Department on the financial and social impacts of the Compacts of Free Association on their respective jurisdictions. It was adopted by voice. The bill as amended was

then ordered favorably reported to the House of Representatives by voice vote.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

The short title of the bill is the Guam Omnibus Opportunities Act.

Section 2. Guam Land Return Act

With the exception of property reserved by then President Harry S. Truman for use by the United States, the 1950 Organic Act of Guam transferred "title to all property, real and personal, owned by the United States and employed by the naval government of Guam in the administration of civil affairs of the inhabitants of Guam," to the government of Guam. Under the authority of § 28(b) of that Act, President Truman issued Executive Order No. 10178 which reserved nearly 45,000 acres, or approximately ⅓ of Guam's total land area for use by the U.S. military.

Congress has, from time to time, transferred excess federal land to the government of Guam since 1950; however, without such authority, the disposal of excess federal property in Guam is governed by the Federal Property and Administrative Services Act of 1949 (FPASA, 40 U.S.C. 471 et seq.). The most recent example of Congressional action to return excess federal land to the government of Guam was the passage of Public Law 103–339, the Guam Excess Lands Act, passed in the 103rd Congress. That Act identified 3,213 acres of federal property, deemed excess, for return to the government of Guam. Approximately nine hundred acres have been returned to date.

In testimony before the Committee, the Administration offered suggested amendments to H.R. 2462 for Committee consideration. The Committee notes that many of the Administration's suggested amendments have been addressed in the reported version of H.R. 2462. The Committee views the Administration's suggested amendments to clarify that excess federal land transferred to the government of Guam will be for a public purpose, under the authority of H.R. 2462, is unnecessary. The Committee believes that the conditions set forth in Section 2(d) of the bill is sufficient to ensure that the U.S. can reassert an interest in transferred excess federal property if restrictive covenants are breached. The Committee also believes that under Section 2(i)(5), the definition of "public purpose," which includes public benefit purposes pursuant to Section 203 of FPASA and the Guam Excess Lands Act is sufficient to ensure that transferred excess lands to the government of Guam must continue to be used for a public purpose.

Section 2 of H.R. 2462, as reported by the Committee, establishes a process whereby the government of Guam is given first consideration to acquire excess federal lands, for a specified public purpose, before any other federal agency or organization. Consideration is given to the impact of future uses of the returned property on nearby military facilities. It also provides for a process for the Government of Guam and the U.S. Fish and Wildlife Service to engage in negotiations on the future ownership and management of declared federal excess lands within the Guam National Wildlife Refuge.

This section is similar to language in S. 1052, passed by the Senate in the 105th Congress.

The Committee recognizes that the issue of land is of great importance to the people of Guam. The continued federal ownership of land no longer needed by the federal government prevents the government of Guam from fully utilizing its resources. The existing process to dispose of federal property does not completely recognize the historical circumstances of Guam's sacrifice and contribution to our nation nor does it take into account the island's limited resources to develop its community.

Section 3. Guam Foreign Direct Investment Act

The Organic Act of Guam authorized the government of Guam to implement a "mirror-image" tax system of the Internal Revenue Code. The Internal Revenue Code imposes a withholding tax of 30 percent on foreign investors, except that these rates have been adjusted accordingly with treaty obligations negotiated by the U.S. with other foreign nations. For purposes of U.S. treaties, however, Guam is not included in what defines the United States.

The Committee finds that the imposition of the withholding tax of 30 percent on foreign investors reflected in the U.S. "mirror-image" tax system of the government of Guam hampers the island's ability to expand its economy. The Committee notes that if U.S. treaties included its territories in defining the United States in negotiated treaties then Guam would be able to benefit from economic opportunities afforded to the 50 states. The Committee also recognizes that concerns expressed by the Administration with regard to Guam-based trusts have been addressed in the reported version of H.R. 2462, as well as with the expected passage of a similar measure in the Guam Legislature.

Section 3 of H.R. 2462 amends the Organic Act of Guam to provide the government of Guam with the authority to tax foreign investors at the same rates as states under U.S. tax treaties with foreign nations since Guam cannot change the withholding tax rate on its own under current law. Under U.S. tax treaties, it is a common feature for countries to negotiate lower withholding rates on investment returns. Unfortunately, while there are different definitions for the term "United States" under these treaties, Guam is not included. Such an omission has adversely impacted Guam since 75% of Guam's commercial development is funded by foreign investors.

Section 4. Importation of betel nuts ("areca nuts") for personal consumption

The betel nut or areca nut is the fruit from the areca tree. It is found mainly in Asia and Pacific Islands and has been consumed by their inhabitants for centuries. Though prohibited from importation into the U.S., the areca tree is grown in states, such as Hawaii, and the areca nut itself is not prohibited from intrastate commerce. The Food and Drug Administration (FDA) has an import alert for betel nuts from foreign countries in place, which was last revised in 1992. This includes an automatic detention of betel nuts by U.S. customs agents when entering the United States. According to the FDA ban, betel nut is considered "adulterated," meaning that it contains a poisonous or deleterious substance or appears to

be an unsafe food additive. Although Guam is a U.S. territory, since Guam is outside of the U.S. customs zone, betel nuts grown in Guam are subject to the FDA ban in the same manner as foreign countries.

The Committee recognizes that the consumption of betel nuts in Guam is a cultural practice. The Committee notes that while the FDA alert on betel nuts is based in science, there are no other federal laws or regulations which prohibit the cultivation, consumption, or movement of betel nuts within the U.S. Zone. The Committee also notes that the importation of betel nuts from Guam has not been an agricultural issue since prior to the import ban, only husked betel nuts were allowed into the U.S. from Guam.

Section 4 of H.R. 2462 as reported will treat Guam as within the U.S. customs territory for the purpose of importation of betel nuts, from Guam to the U.S., by an individual for personal consumption. This provides a narrow exemption from the FDA ban for husked betel nuts (areca nuts) grown in Guam and limits the exemption to personal consumption usage.

Section 5. Compact impact reports

Shortly after the end of World War II, the United Nations (U.N.) placed the Pacific island groups of the Carolines, the Marshalls, and the Northern Marianas under the International Trusteeship System. Prior to this designation, these island groups were held by Japan. The U.S. became the administering authority of these islands, known as the Trust Territories of the Pacific Islands (TTPI), through a Trusteeship Agreement with the U.N. Security Council. In the 1970s, four principal island groups emerged from the TTPI, each with their sphere of self-determination and desire to progress toward redefining their relationship with the U.S. The Northern Mariana Islands became the first Micronesian archipelago of the Trust Territory to approve a new relationship with the U.S. The residents of the Marianas voted overwhelmingly to come under American sovereignty as a territory of the U.S. with U.S. nationality and citizenship and local constitutional government as the Commonwealth of the Northern Mariana Islands. The remaining three other Micronesian island groups of the Trust Territory U.S., the Republic of Palau (ROP), the Republic of the Marshall Islands (RMI), and the Federated states of Micronesia (FSM, composed of the four central Caroline islands of Pohnpei, Chuuk, Yap and Kosrae), sought separate sovereignty and separate citizenship in free association with the United States.

Negotiations between the U.S. and the FSM and RMI, respectively, resulted in a new internationally recognized full self-governing relationship with the U.S. governed by a Compact of Free Association. Congress approved the Compact of Free Association agreement negotiated with the FSM and the RMI in 1985, Public Law 99–239 (48 U.S.C. 1681). Congress approved the Compact agreement with ROP in 1986, Public Law 99–658, subject to the approval of a Palauan plebiscite which eventually occurred in 1993.

Amongst other benefits, such as U.S. economic grant assistance and participation in federal programs, the Compact Agreements provided citizens of the newly created freely associated states, unrestricted immigration privileges to the U.S. and its territories for education and employment opportunities. By far, U.S. jurisdictions

closest to the FSM, RMI, and ROP, the State of Hawaii, Guam, and the Commonwealth of the Northern Mariana Islands have borne the greatest economic burden of compact migration.

Reports on the economic impacts of compact migration have been conducted by both the impacted U.S. jurisdictions and the Department of the Interior, respectively. Under Public Law 99–239, the responsibility of reporting the impacts of Compact on U.S. territories and commonwealths and the State of Hawaii rests with the U.S. President. These reports to Congress, however, have been irregular.

Section 5 of H.R. 2462 provides for the governors of the territories and the State of Hawaii to report to the Interior Department Secretary on the financial and social impacts of the Compacts of Free Association on their respective jurisdictions, which will be forwarded to Congress with Administration comments and recommendations. The language found in this section is similar to S. 1052, passed by the Senate in the 105th Congress.

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, spending authority, credit authority, or an increase or decrease in tax expenditures. According to the Congressional Budget Office, enactment of this bill could affect offsetting receipts from the sale of surplus federal property, but this would be an "insignificant" impact.

3. Government Reform Oversight Findings. Under clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform on this bill.

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 Com-

mittee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 19, 2000.

Hon. DON YOUNG,
Chairman, Committee on Resources,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2462, the Guam Omnibus Opportunities Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are John R. Righter (for federal costs), and Susan Van Deventer and Marjorie Miller (for the state and local impact).

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

H.R. 2462—Guam Omnibus Opportunities Act

H.R. 2462 would make several changes to laws affecting the island of Guam, a territory of the United States. First, it would give the government of Guam the right of first refusal to certain federal lands declared as excess on Guam. Under current law, the General Services Administration first offers excess real property to other federal agencies, before either donating it to an eligible entity for an approved public use or selling it. Second, the bill would require the government of Guam to tax the earnings of foreign investors at the same rates as those applied by the 50 states under U.S. tax treaties with foreign countries. Third, H.R. 2462 would allow individuals to import betel nuts grown on Guam into the United States for personal consumption. Finally, the bill would add to federal reporting requirements concerning the economic and social impacts on the U.S. territories and the state of Hawaii of the United States' Compact of Free Association with the Federated States of Micronesia and the Republic of the Marshall Islands.

Assuming the availability of appropriated funds, CBO estimates that implementing H.R. 2462 would cost less than $500,000 a year, primarily to cover the cost of the additional reporting requirements. Enacting the bill could affect offsetting receipts (a form of direct spending) from the sale of surplus real property; therefore, pay-as-you-go procedures would apply. But we think it is unlikely the federal government would sell any excess property on Guam under current law. Therefore, CBO estimates that enacting the bill would have an insignificant impact on offsetting receipts.

H.R. 2462 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act. Enactment of this legislation would result in both benefits and costs for the government of Guam. One set of provisions, the Guam Land Return Act, would benefit the government of Guam by allowing it to acquire, for public purposes, certain excess federal property at no cost.

Another set of provisions, the Guam Foreign Direct Investment Equity Act, would amend the Organic Act of Guam to change the rate at which income earned by foreign (i.e., non-U.S. and non-Guamanian) investors is taxed under the Guam territorial income tax. Those changes would allow income earned in Guam by foreign investors to be treated the same way under the Guam territorial income tax as foreign investment income earned in the 50 states is treated under certain U.S. tax treaties. In the short term at least, those adjustments would result in a decrease in revenues from the Guam territorial income tax. In the long term, however, those losses could be offset to the extent that increased foreign investment in the territory generates increased tax revenues.

The remaining provisions of H.R. 2462 would impose no significant costs on Guam or on other state, local, or tribal governments.

The CBO staff contacts are John R. Righter (for federal costs), and Susan Van Deventer and Marjorie Miller (for the state and local impact). This estimate was approved by Robert A. Sunshine, 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 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 31 OF THE ORGANIC ACT OF GUAM

SEC. 31. (a) * * *

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(d)(1) The income-tax laws in force in Guam pursuant to subsection (a) of this section include but are not limited to the following provisions of the Internal Revenue Code of 1954, where not manifestly inapplicable or incompatible with the intent of this section: Subtitle A (not including chapter 2 and section 931); chapters 24 and 25 of subtitle C, with reference to the collection of income tax at source on wages; and all provisions of subtitle F which apply to the income tax, including provisions as to crimes, other offenses, and forfeitures contained in chapter 75. For the period after 1950 and prior to the effective date of the repeal of any provision of the Internal Revenue Code of 1939 which corresponds to one or more of those provisions of the Internal Revenue Code of 1954 which are included in the income-tax laws in force in Guam pursuant to subsection (a) of this section, such income-tax laws include but are not limited to such provisions of the Internal Revenue Code of 1939.

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(3) In applying as the Guam Territorial income tax the income-tax laws in force in Guam pursuant to subsection (a) of this section, the rate of tax under sections 871, 881, 884, 1441, 1442, 1443, 1445, and 1446 of the Internal Revenue Code of 1986 on any item of income from sources within Guam shall be the same as the rate which would apply with respect to such item were Guam treated as part of the United States for purposes of the treaty obligations of the United States.

SECTION 104 OF THE COMPACT OF FREE ASSOCIATION ACT OF 1985

SEC. 104. INTERPRETATION OF AND UNITED STATES POLICY REGARDING COMPACT OF FREE ASSOCIATION.

(a) * * *

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(e) IMPACT OF COMPACT ON U.S. AREAS.—

(1) * * *

(2) ANNUAL REPORTS AND RECOMMENDATIONS.—One year after the date of enactment of this joint resolution and at one year intervals thereafter, the [President shall report to the Congress with respect to the impact of the Compact on the United States territories and commonwealths and on the State of Hawaii.] *Governor of any of the United States territories or commonwealths or the State of Hawaii may report to the Secretary of the Interior by February 1 of each year with respect to the financial and social impacts of the compacts of free association on the Governor's respective jurisdiction. The Secretary of the Interior shall review and forward any such reports to the Congress with the comments and recommendations of the Administration. The Secretary of the Interior shall, either directly or, subject to available technical assistance funds, through a grant to the affected jurisdiction, provide for a census of Micronesians at intervals no greater than five years from each decennial United States census using generally acceptable statistical methodologies for each of the impact jurisdictions where the Governor requests such assistance, except that the total expenditures to carry out this sentence may not exceed $300,000 in any year.* Reports submitted pursuant to this paragraph (hereafter in this subsection referred to as "reports") shall identify any adverse consequences resulting from the Compact and shall make recommendations for corrective action to eliminate those consequences. The reports shall pay particular attention to matters relating to trade, taxation, immigration, labor laws, minimum wages, social systems and infrastructure, and environmental regulation. With regard to immigration, the reports shall include statistics concerning the number of persons availing themselves of the rights described in section 141(a) of the Compact during the year covered by each report. With regard to trade, the reports shall include an analysis of the impact on the economy of American Samoa resulting from im-

ports of canned tuna into the United States from the Federated States of Micronesia and the Marshall Islands.

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