

TO RESOLVE THE STATUS OF CERTAIN PERSONS LEGALLY RESIDING IN
THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS UNDER
THE IMMIGRATION LAWS OF THE UNITED STATES

DECEMBER 8, 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. 1466]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 1466) to resolve the status of certain persons legally residing in the Commonwealth of the Northern Mariana Islands under the immigration laws of the United States, 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. 1466 is to resolve the status of certain persons legally residing in the Commonwealth of the Northern Mariana Islands under the immigration laws of the United States.

BACKGROUND AND NEED FOR LEGISLATION

In 1976, Congress passed and the President signed the Covenant to Establish a Commonwealth of the Northern Mariana Islands (CNMI) in Political Union with the United States of America (Public Law 94-241). The CNMI government adopted its own constitution in 1977, and the constitutional government took office in January 1978. The Covenant was fully implemented on November 3, 1986, pursuant to Presidential Proclamation 5564, which conferred United States citizenship on legally qualified CNMI residents. The Covenant defines the political relationship between the CNMI and the United States, with the CNMI as a self-governing entity under the sovereignty of the U.S. The relationship is governed by the Covenant together with those provisions of the U.S. Constitution,

treaties and laws of the U.S. applicable to the CNMI. The Covenant exempted the CNMI from most of the provisions of U.S. immigration laws which allowed the CNMI to control its own immigration. Under local immigration authority, the CNMI could allow aliens to enter the territory for travel purposes and the local government could issue permits to aliens for work opportunities. Aliens with passports could also travel from the CNMI to the U.S., if they had the necessary travel documents.

Section 503 of the Covenant allows Congress to apply U.S. immigration and naturalization laws to the CNMI. Using this authority Congress passed the Consolidated Natural Resources Act of 2008 (Public Law 110-229), which applied federal immigration laws to the CNMI. Public Law 110-229 provided a two year transition period until federal immigration laws were fully applied. The two year transition period ends on November 27, 2011. During the two year transition period, aliens working under CNMI-issued umbrella permits had legal status. The application of federal immigration laws to the CNMI has created a situation where aliens legally residing in the CNMI under local laws would be without legal status under federal laws and could face deportation.

H.R. 1466 would affect roughly 5,000-7,300 aliens legally residing in the CNMI. It would authorize the admission of an alien as an immigrant to the CNMI as long as the alien meets the requirements to be admitted to the United States. Specifically, H.R. 1466 would require an alien to have resided in the CNMI on November 28, 2009, and continue to reside in the CNMI on the date of enactment of H.R. 1466. An eligible alien would also have to meet one of these requirements: (1) was born in the CNMI between January 1, 1974, and January 9, 1978; (2) was, on May 8, 2008, a CNMI permanent resident; (3) is the spouse or child, of an alien under (1) or (2); or (4) was, on May 8, 2008, and continues to be, an immediate relative of a U.S. citizen, notwithstanding the citizen's age.

H.R. 1466 would prohibit, unless otherwise authorized, such alien from traveling to, or residing in, any part of the United States other than the CNMI. It would also authorize the alien to apply for an immigrant visa or to adjust his or her status to that of an alien lawfully admitted for permanent residence on or after January 1, 2015, and before January 1, 2016. Lastly, the bill would require a reduction in the number of diversity immigrants for each such immigrant visa or permanent resident status granted.

COMMITTEE ACTION

H.R. 1466 was introduced on April 8, 2011, by Delegate Gregorio Sablan (D-MP). The bill was primarily referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Fisheries, Wildlife, Oceans and Insular Affairs. The bill was also referred to the Committee on the Judiciary. On July 14, 2011, the Subcommittee on Fisheries, Wildlife, Oceans and Insular Affairs held a hearing on the bill. On October 5, 2011, the Full Natural 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 to the bill 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. 1466—A bill to resolve the status of certain persons legally residing in the Commonwealth of the Northern Mariana Islands under the immigration laws of the United States

CBO estimates that implementing H.R. 1466 would have no significant net cost to the federal government. Enacting the bill would affect direct spending, but CBO estimates that the net costs would not be significant. Because the legislation would affect direct spending, pay-as-you-go procedures apply. Enacting the bill would not affect revenues.

H.R. 1466 would permit certain persons currently residing in the Commonwealth of the Northern Mariana Islands (CNMI) to apply for permanent residence in CNMI within eight months of the bill's enactment and would permit some of those persons to apply for permanent U.S. residence in calendar year 2015. Under the bill's provisions, any visas issued to CNMI residents in 2015 would be offset by a reduction in the number of visas available for certain other immigrants in that year.

Based on information from the Department of Homeland Security (DHS), we expect that the department would charge a fee of \$500 to \$1,000 in 2012 to several thousand applicants for permanent CNMI residence and would charge a similar fee in 2015 to a smaller number of applicants for permanent U.S. residence. CBO estimates that additional fee collections in 2012 would be less than \$5 million. (No significant additional amounts would be collected in 2015 because visas granted to CNMI residents would be offset by a reduction in visas available for other immigrants.) DHS is authorized to spend those fees without further appropriation; therefore, the net effect on the budget in any year would not be significant, CBO estimates.

H.R. 1466 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 Mark Grabowicz. The 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. 1466 would have no significant net cost to the federal government. Enacting the bill would affect direct spending, but CBO estimates that the net costs would not be significant. Because the legislation would affect direct spending, pay-as-you-go procedures apply. Enacting the bill would not affect revenues.

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 is to resolve the status of certain persons legally residing in the Commonwealth of the Northern Mariana Islands under the immigration laws of the United States.

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 6 OF THE ACT OF MARCH 24, 1976

Joint Resolution To approve the "Covenant To Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America", and for other purposes.

SEC. 6. IMMIGRATION AND TRANSITION.

(a) * * *

* * * * *

(e) PERSONS LAWFULLY ADMITTED UNDER THE COMMONWEALTH IMMIGRATION LAW.—

(1) * * *

* * * * *

(6) *SPECIAL PROVISION REGARDING LONG TERM RESIDENTS OF THE COMMONWEALTH.*—

(A) *CNMI-ONLY RESIDENT STATUS.*—Notwithstanding paragraph (1), an alien described in subparagraph (C) may, upon the application of the alien, be admitted as an immigrant to the Commonwealth subject to the following rules:

(i) *The alien shall be treated as a permanent resident of the Commonwealth only, including permitting entry to and exit from the Commonwealth, until the earlier of the date that—*

(I) *the alien ceases to permanently reside in the Commonwealth; or*

(II) *the alien's status is adjusted under this section or section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) to that of an alien lawfully admitted for permanent residence, as defined under section 101(a)(20) of such Act (8 U.S.C. 1101(a)(20)), if the alien is otherwise eligible for such an adjustment.*

(ii) *Unless otherwise authorized, the alien shall not be permitted to travel to, or reside in, any part of the United States, as defined in section 101(a)(38) of such Act (8 U.S.C. 1101(a)(38)), other than the Commonwealth.*

(iii) *The Secretary of Homeland Security shall establish a process for such aliens to apply for CNMI-only permanent resident status during the 90-day period beginning on the first day of the sixth month after the date of the enactment of this Act.*

(B) *AUTHORITY TO WAIVE CERTAIN REGULATORY REQUIREMENTS.*—The requirements of chapter 5 of title 5, United States Code (commonly referred to as the “Administrative Procedure Act”), chapter 35 of title 44, United States Code (commonly referred to as the “Paperwork Reduction Act”), or any other law relating to rulemaking, information collection, or publication in the Federal Register, shall not apply to any action to implement subparagraph (A) to the extent the Secretary of Homeland Security determines that compliance with any such requirement would impede the expeditious implementation of such paragraph.

(C) *ALIENS DESCRIBED.*—An alien is described in this subparagraph if—

(i) *the alien is otherwise admissible to the United States under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.);*

(ii) *the alien resided in the Commonwealth—*

(I) *on November 28, 2009; and*

(II) *on the date of the enactment of this Act; and*

(iii) *the alien—*

(I) *was born in the Northern Mariana Islands between January 1, 1974, and January 9, 1978;*

(II) *was, on May 8, 2008, a permanent resident as that term is defined in section 4303 of Title 3 of the Northern Mariana Islands Commonwealth Code in effect on May 8, 2008;*

(III) is the spouse or child, as defined in section 101(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(1)), of an alien described in subclauses (I) or (II); or

(IV) was, on May 8, 2008, an immediate relative, as that term is defined in section 4303 of Title 3 of the Northern Mariana Islands Commonwealth Code in effect on May 8, 2008, of a United States citizen, not withstanding the age of the United States citizen, and continues to be such an immediate relative on the date of the application described under subparagraph (A).

(D) ADJUSTMENT FOR LONG TERM AND PERMANENT RESIDENTS.—

(i) **IN GENERAL.**—An alien described in clauses (I), (II), or (III) of subparagraph (C)(iii) may apply to receive an immigrant visa or to adjust his or her status to that of an alien lawfully admitted for permanent residence on or after January 1, 2015, and before January 1, 2016.

(ii) **ALLOCATION OF IMMIGRANT VISAS.**—Upon the granting of an immigrant visa or approval of an application for permanent residence to an alien under this subparagraph, the Secretary of State shall reduce by one the total number of diversity immigrant visas authorized to be issued under section 201(e) of the Immigration and Nationality Act (8 U.S.C. 1151(e)) for the fiscal year then current.

(iii) **FEES.**—With respect to applications for CNMI-only permanent resident status, an immigrant visa or to adjust status to that of an alien lawfully admitted for permanent residence submitted by an alien described in clause (iii) of subparagraph (C), the Secretary of State and the Secretary of Homeland Security—

(I) may, in the discretion of each such Secretary, reduce the fees collected from the alien for CNMI-only permanent resident status, an immigrant visa, or an adjustment of status; and

(II) shall, if applicable, waive the affidavit of support requirement under section 213A of such Act (8 U.S.C. 1183a) and subparagraphs (B)(ii) and (C)(ii) of section 212(a)(4) of such Act (8 U.S.C. 1182(a)(4)).

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U.S. House of Representatives
Committee on Natural Resources
 Washington, DC 20515

November 21, 2011

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JEFFREY DUNCAN
 FEDERAL RELATIONS STAFF DIRECTOR

The Honorable Lamar Smith
 Chairman
 Committee on the Judiciary
 2138 Rayburn HOB
 Washington, D.C. 20515

Dear Mr. Chairman:

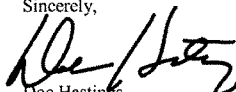
On October 5, 2011, the Committee on Natural Resources ordered reported without amendment H.R. 1466, a bill to resolve the status of certain persons legally residing in the Commonwealth of the Northern Mariana Islands under the immigration laws of the United States, by unanimous consent. The bill was referred primarily to the Committee on Natural Resources, with an additional referral to the Committee on the Judiciary.

Based on discussions between our staff, I understand that the Judiciary Committee would be willing to forego consideration of the bill if lines 6-11 on page 7 of H.R. 1466, as introduced, are struck, to remove the authority for the Secretary of Homeland Security to reduce fees. This amendment is appropriate and the Office of Legislative Counsel will be asked to prepare the appropriate text.

If the Committee on Judiciary agrees to the discharge of H.R. 1466, with the amendment discussed above, it would allow H.R. 1466 to be scheduled by the Majority Leader. This discharge in no way affects your jurisdiction over the subject matter of the bill, and it will not serve as precedent for future referrals. In addition, should a conference on the bill be necessary, I would support your request to have the Committee on the Judiciary represented on the conference committee. Finally, I would be pleased to include this letter and any response in the bill report filed by the Committee on Natural Resources to memorialize our understanding.

Thank you for your consideration of my request.

Sincerely,


 Doc Hastings
 Chairman

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November 21, 2011

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(Voice)

The Honorable Doc Hastings
Chairman
House Committee on Natural Resources
1324 Longworth HOB
Washington, DC 20515


Dear Chairman Hastings,

I am writing in response to your letter concerning H.R. 1466, a bill to resolve the status of certain persons legally residing in the Commonwealth of the Northern Mariana Islands under the immigration laws of the United States, which the Committee on Natural Resources reported favorably. As a result of your having consulted with us on provisions in H.R. 1466 that fall within the Rule X jurisdiction of the Committee on the Judiciary, we are able to agree to discharging our Committee from further consideration of this bill in order that it may proceed expeditiously to the House floor for consideration.

The Judiciary Committee takes this action with our mutual understanding that by foregoing consideration of H.R. 1466 at this time, we do not waive any jurisdiction over subject matter contained in this or similar legislation, and that our Committee will be appropriately consulted and involved as the bill or similar legislation moves forward so that we may address any remaining issues in our jurisdiction. Our Committee also reserves the right to seek appointment of an appropriate number of conferees to any House-Senate conference involving this or similar legislation, and requests your support for any such request.

I appreciate your including our exchange of letters on this matter in your committee report, or in the *Congressional Record* during floor consideration of H.R. 1466.

Sincerely,


Lamar Smith
Chairman

cc: The Honorable John Conyers, Jr.
The Honorable Edward Markey
The Honorable John Boehner, Speaker
The Honorable John V. Sullivan, Parliamentarian