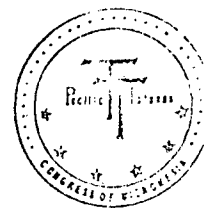


COMMITTEE  
JUDICIARY AND  
GOVERNMENTAL RELATIONS

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Luke M. Tman

# Congress of Micronesia

House of Representatives  
Saipan, M. I.  
96950



STAND. COM. REP. NO. 293  
MARCH 4, 1974  
RE: S. B. NO. 296, S.D. 1

The Honorable Bethwel Henry  
Speaker, House of Representatives  
Fifth Congress of Micronesia  
Second Regular Session, 1974

Dear Mr. Speaker:

Your Committee on Judiciary and Governmental Relations to which was referred S.B. No. 296, S.D. 1, entitled:

S. B. No. 296, S.D. 1, "A BILL FOR AN ACT TO ALLOW THE TRANSFER AND CONVEYANCE OF CERTAIN PUBLIC LANDS FROM THE GOVERNMENT OF THE TRUST TERRITORY OF THE PACIFIC ISLANDS TO LEGAL ENTITIES IN EACH OF THE SIX DISTRICTS; TO EMPOWER THE HIGH COMMISSIONER TO TRANSFER AND CONVEY SUCH LANDS; TO PRESCRIBE CERTAIN LIMITATIONS, RESERVATIONS, AND CONDITIONS TO SUCH TRANSFERS AND CONVEYANCES; AND FOR OTHER PURPOSES.",

begs leave to report as follows:

The intent and purpose of this bill is to provide for the procedures for the return of public lands to the people of Micronesia. Your Committee feels that the primary purpose of this legislation is to return the so-called public lands to the traditional and rightful owners. All powers, limitations, reservations, and conditions are construed to be subservient to this primary obligation.

Your Committee generally concurs with the Senate's revisions to S. B. No. 296 and adopts Standing Committee Report No. 271 of the Senate Committee on Judiciary and Governmental Operations as our

MARCH 14, 1974

RE: S. B. NO. 296, S. D. 1

statement of the legislative intent for the bill, except where amended by your Committee.

The definition of "Legal Entity" in Section 3 has been expanded to include chartered municipal governments. In public hearings your Committee held on this bill, leaders from the districts strongly urged that the public lands be returned directly to municipal governments. In order to accommodate these desires, your Committee feels that chartered municipal governments should be included as one of the legal entities which may be designated by the district legislature to return title to the public lands to the rightful owners.

Paragraph (c) of Subsection (1) of Section 4 of S.B. No. 296, S.D. 1, is amended to give the district legislature, rather than the Congress of Micronesia, the authority to approve or reject the sale, lease, exchange or other disposition of these public lands to the United States or any agency or political subdivision thereof. Your Committee feels that if the land is to be returned to the districts for transfer to the rightful owners, the districts should continue to exercise authority over the disposition of these lands to meet the land requirements of the United States.

Your Committee has amended the provision of Section 10 dealing with eminent domain. Only district governments and a legal entity created pursuant to the provisions of this act are given the right to condemn private property for public purposes. The Government of the Trust Territory must satisfy its land needs by requesting the district government or a district legal entity for land and furnishing compensation for the condemned property.

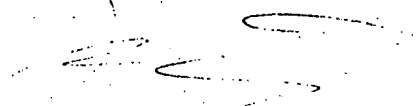
The amendments to S. B. No. 296, S. D. 1, are as follows:

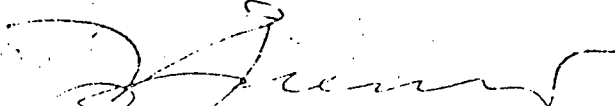
1. Page 2, line 8, insert the words "chartered municipal government" following the word "any".
2. Page 3, line 4, delete the words "Congress of Micronesia" and insert in lieu thereof the words "district legislature".
3. Page 3, line 11, insert the word "between" following the word "agreement".

4. Page 5, line 18, correct the spelling of the word "shall".
5. Page 6, line 13, correct the spelling of "sufferance".
6. Page 7, lines 16 and 17, correct the spelling of the words "sufferance" and "lessee".
7. Page 7, line 25, make single the word "legislature".
8. Page 8, line 15, delete the word "the" between "of" and "LEGISLATIVE".
9. Page 8, line 16, delete the words "Government of the Trust Territory of".
10. Page 8, lines 21 through 25, delete the entire last sentence on page 8.

Your Committee is in accord with the intent and purpose of S.B. No. 296, S.D. 1, as amended, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 296, S.D. 1, H.D. 1.

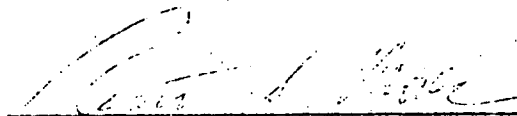
Respectfully submitted,

  
Polycarp Basilius, Chairman

  
Norman Q. Guerrero, Vice Chairman

Ataji Balos, Member

Sasauo Haruo, Member

  
Resio Moses, Member

Machine O'Sonis, Member

Luke H. Tman, Member

## A BILL FOR AN ACT

To allow the transfer and conveyance of certain public lands from the Government of the Trust Territory of the Pacific Islands to legal entities in each of the six districts; to empower the High Commissioner to transfer and convey such lands; to prescribe certain limitations, reservations, and conditions to such transfers and conveyances; and for other purposes.

BE IT ENACTED BY THE CONGRESS OF MICRONESIA:

1       Section 1. Short Title. This act shall be known as the  
2 "Public Land ~~Transfer~~ Act of 1974."  
3       Section 2. Purpose. The purpose of this act is to ~~implement~~  
4 ~~the provisions of the MICRONESIAN PUBLIC LAND POLICY OF NOVEMBER~~  
5 ~~26 1973~~ provide for the return of public lands to the people of  
6 Micronesia, who are the traditional and rightful owners thereof;  
7 to authorize and empower each of the ~~six~~ district legislatures  
8 to create or to designate a legal entity or entities within ~~each~~  
9 its district to hold title to public lands within that district in  
10 trust for the people thereof and to manage or dispose of the  
11 same; ~~to authorize and empower each district legislature to enact~~  
12 ~~laws providing for the exercise of the power of eminent domain and~~  
13 to establish adjudicatory bodies which may utilize traditional  
14 means, when desired, for settlement of claims ~~to~~ of title to or  
15 rights in the lands transferred; and to authorize the High  
16 Commissioner to convey certain public lands within each district  
17 to such legal entity or entities.

18       Section 3. Definitions. As used in this act, unless it is  
19 otherwise provided or the context requires a different construction,  
20 application or meaning:

21           (1) "District" means any of the ~~six~~ administrative  
22 districts of the Trust Territory of the Pacific Islands as described  
23 in Section 1, Title 3, of the Trust Territory Code.

24           (2) "District Legislature" means any of the ~~six~~  
25 chartered district legislatures of the Trust Territory of the

1 Pacific Islands.

2 (3) "Public Lands" means:

3 (a) Those lands defined as public lands by Sections  
4 1 and 2, Title 67, of the Trust Territory Code ~~except those lands~~  
5 ~~designated as military retention lands leased by the United States~~  
6 ~~and not returned to the public domain,~~ and,

7 (b) Those lands placed under control of the "Alien  
8 Property Custodian" as defined by Section 1, Title 27, of the Trust  
9 Territory Code, ~~except those lands designated as military retention~~  
10 ~~lands leased by the United States and not returned to the public~~  
11 ~~domain.~~

12 (4) "Legal Entity" means any (chartered) municipal govern-  
13 ment chartered district government, nonprofit corporation, ~~association~~  
14 ~~trust, partnership,~~ or individual established or designated by a  
15 district legislature to receive and hold title to real property.

16 Section 4. Authority of District Legislatures. Each district  
17 legislature is hereby empowered to enact laws to:

18 (1) create or designate a legal entity or entities which  
19 shall have as its primary purpose to which all other powers and  
20 duties are subordinate the return of title to public lands trans-  
21 ferred to it under the authority of this act to the rightful  
22 owners thereof, and to that end shall have the following powers and  
23 duties:

24 (a) to receive and hold title to public lands in  
25 trust for the people of the district,

1 (b) to administer, manage, and regulate the use of  
2 lands and income arising therefrom in trust for the people of the  
3 district,

4 (c) to sell, lease, exchange, use, dedicate for  
5 public purposes, or make other disposition of such public lands  
6 pursuant to the laws of the district in which the land is located;  
7 PROVIDED, HOWEVER, that the laws of the Trust Territory regarding  
8 ownership of land shall apply in connection with any disposition  
9 of lands under this paragraph, and PROVIDED FURTHER, that no lands  
10 may be sold, leased, exchanged, or in any other way disposed of  
11 to the United States or any agency or political subdivision thereof  
12 except upon authority specifically granted by resolution of the  
13 Congress of Micronesia district legislature,

14 (d) to enter into contracts, sue or be sued, and  
15 have such other powers and duties as may be necessary or appropriate  
16 to further the purposes of this act, and

17 (e) to ~~make formal agreements upon mutually~~  
18 ~~satisfactory terms~~ negotiate in good faith to meet the land require-  
19 ments of the United States as designated under the terms of a ~~future~~  
20 ~~status agreement~~ an agreement between the Congress of Micronesia  
21 and the United States which has been ratified by the people of  
22 Micronesia;

23 (2) establish an adjudicatory body to resolve claims and  
24 disputes as to titles or rights in land transferred to such legal  
25 entity or entities; provided, however, that no such body shall have

1 the authority to redetermine any claim or dispute as to right or  
2 title to land between parties or their successors or assigns where  
3 such claim or dispute has been finally determined ~~or is in the~~  
4 ~~process of being finally determined either by a Land Title Officer,~~  
5 by a Land Commission or a court of competent jurisdiction on the  
6 merits of such claim, and not on the basis of a prior determination  
7 by a Land Title Officer or by any other agency or official prior  
8 to the establishment of the Land Commission for the district, and  
9 all final determinations arising therefrom shall be res judicata;  
10 and provided further, that a certified copy of all determinations  
11 of such adjudicatory bodies as to title of lands within a district  
12 shall be recorded with the District Registrar and with the Clerk  
13 of Courts;

14 (3) establish procedural rules and regulations for such  
15 adjudicatory body which may include use of local, traditional  
16 rules not in conflict with applicable law; provided however, that  
17 the requirements of due process shall be incorporated therein which  
18 shall include the right to a trial de novo upon appeal to the  
19 High Court by any party to a dispute involving a claim ~~of~~ of right  
20 to lands and who has been aggrieved by the adjudication of the  
21 district adjudicatory body;

22 (4) authorize a district legal entity to exercise the  
23 power of eminent domain to take land for public purposes, and to  
24 this end, the district legislature is authorized to enact laws  
25 and establish procedures therefor;

1 (5) establish a program for homesteading on the land  
2 transferred to the legal entity or entities created or designated  
3 pursuant to this act and authorize such legal entity or entities  
4 to administer such program.

5 Section 5. Authority of the High Commissioner. The High  
6 Commissioner is authorized and directed to transfer and convey,  
7 pursuant to the provisions of this act, to a district legal entity  
8 or entities all right, title and interest of the Government of the  
9 Trust Territory of the Pacific Islands in public lands.

10 Section 6. Reservations. Notwithstanding the provisions of  
11 Section 5 of this act, the High Commissioner shall not convey to a  
12 district legal entity or entities any right, title or interest to  
13 public lands in the following categories:

14 (1) Public lands actively used by the ~~FEDERAL~~ Government  
15 of the Trust Territory of the Pacific Islands, or by agencies ~~of~~ ,  
16 instrumentalities, or political subdivisions thereof, as of the  
17 effective date of this act; provided, that such public lands in a  
18 district shall be transferred to the district's legal entity or  
19 entities upon ~~a determination by the High Commissioner that such~~  
20 ~~lands are no longer needed for use~~ the cessation of active use  
21 of such public lands by the ~~FEDERAL~~ Government;

22 (2) Public lands specifically determined by the High  
23 Commissioner, with concurrence of the district legislature, to be needed  
24 for capital improvement projects extending five years from the  
25 effective date hereof; provided, that such public lands in a



1 district shall be transferred to the respective district's legal  
2 entity or entities upon ~~determination by the High Commissioner that~~  
3 ~~the lands are no longer needed~~ the expiration of such five-year  
4 period if at such time they are not in active use by the central  
5 Government;

6 (3) Public lands ~~on which there are valid and existing~~  
7 ~~homestead claims~~ as to which there are valid homestead entry permits,  
8 or certificates evidencing compliance with such permits, and as to  
9 which deeds have not been issued, as of the effective date hereof.

10 Section 7. Limitations. Notwithstanding the provisions of  
11 Section 5 of this act, the High Commissioner shall not convey any  
12 right, title or interest in public land to any district legal entity  
13 or entities until the district legislature shall enact laws satis-  
14 factory to the High Commissioner, providing for:

15 (1) reservation of the paramount power of eminent domain  
16 in the central government of the Trust Territory of the Pacific  
17 Islands to take lands for public purposes pursuant to applicable  
18 law

19 (2) (1) reservation of the right of the central govern-  
20 ment of the Trust Territory of the Pacific Islands to regulate  
21 regulation of all activities affecting conservation, navigation,  
22 or commerce in and to tidelands, filled lands, submerged lands and  
23 lagoons;

24 (2) (2) compliance with all provisions of existing  
25 leases and land use agreements previously entered into by the

1 ~~CENTRAL GOVERNMENT~~ Government of the Trust Territory of the Paci-  
2 fic Islands, ~~their~~ or its agencies, instrumentalities, or  
3 political subdivision; PROVIDED, HOWEVER, that the Government, its  
4 agencies, instrumentalities and political subdivisions may not  
5 enter into any lease or use agreement as to public lands after the  
6 effective date of this act, except leases of such lands to Trust  
7 Territory citizens for residential purposes, without the approval  
8 of the district legislature of the district in which such land is  
9 located;

10 ~~(A)~~ (3) continued possession of public land occupied at  
11 the effective date of this act, with the concurrence of the Govern-  
12 ment of the Trust Territory of the Pacific Islands, by tenants at  
13 will and tenants by ~~sufferance~~ sufferance for a reasonable period  
14 of additional years to be determined by the High Commissioner;

15 ~~(B)~~ (4) receipt of all revenues derived from public lands  
16 transferred under this act by a district legal entity or entities  
17 ~~there~~, upon the transfer and conveyance of title to such lands ~~has~~  
18 ~~been conveyed~~ to that district entity or entities ~~to~~, which  
19 revenues shall be used and disposed of pursuant to district law  
20 for public purposes;

21 ~~(C)~~ (5) all transfers and conveyance to be made subject  
22 to all valid and existing claims relating to such land;

23 ~~(D)~~ NOTHING IN THIS ACT SHALL AFFECT THE RIGHTS OF THE  
24 CENTRAL GOVERNMENT OF THE TRUST TERRITORY OF THE PACIFIC ISLANDS  
25 AND ~~THEIR~~ AGENCIES OR POLITICAL SUBDIVISIONS WHATSOEVER FROM ANY AND

1 ALL CLAIMS ARISING UNDER THE CONVEYANCES OF PUBLIC LANDS OTHER THAN  
2 THOSE ARISING DIRECTLY FROM THE ACTIONS OF THE VARIOUS STATES  
3 GOVERNMENTS, THE GOVERNMENT OF THE TRUST TERRITORY OF THE PACIFIC  
4 ISLANDS OR THEIR ANY AUTHORIZED AGENCIES

5 Section 8. Time of Transfer and Conveyances. Conveyance of  
6 rights, titles or interests to public lands under this act to any  
7 particular district legal entity or entities ~~may~~ shall be made,  
8 ~~at any time,~~ within sixty days after a district legislature has  
9 complied with all the applicable provisions of this act, ~~provided,~~  
10 ~~however,~~ that such conveyances shall be made without unreasonable  
11 delay.

12 Section 9. Compilation of Information. Within thirty days  
13 of the effective date of this act, the High Commissioner shall  
14 compile and publish, as to each district of the Trust Territory,  
15 information as to the size and location of each parcel of public  
16 land which:

17 (1) is retained by the Government pursuant to the pro-  
18 visions of Section 6 of this act; and

19 (2) is the subject of a lease or land use agreement as  
20 set forth in Section 7(2) of this act, or of a tenancy at will or  
21 by ~~sufferance~~ sufferance as set forth in Section 7(3) of this act,  
22 together with the ~~lessee~~ lessee, user, or tenant thereof, and  
23 together with a summary of the provisions of any agreement, whether  
24 written or unwritten, concerning such lease, land use, or tenancy;  
25 and

1           (3) has been transferred and conveyed by the High  
2 Commissioner pursuant to the authority of Section 5 of this act,  
3 and

4           (4) is subject to transfer and conveyance under Section  
5 5 and 6 of this act, but has not been transferred and conveyed.

6           The publication required by this Section shall be made  
7 available to the Congress of Micronesia, to each district legisla-  
8 ture and legal entity, and to the general public, and shall be  
9 revised and updated not less frequently than once every three  
10 months.

11           Section ~~9~~ 10. Amendments.

12           (1) Section 2~~1~~  of Title 10~~1~~ of the Trust Territory Code~~1~~  
13 is amended to read as follows:

14           "Section 2. Power denied private corporations. No  
15 private corporation except as may be authorized by a district  
16 legislature pursuant to the provisions of the Public Land ~~Transfer~~  
17 Act of 1974 shall have the right of eminent domain in the Trust  
18 Territory."

19           (2) Section 3~~1~~  of Title 10~~1~~ of the Trust Territory Code~~1~~  
20 is amended to read as follows:

21           "Section 3. Definitions. As used in this Chapter,  
22 the following terms shall have the meanings set forth below:

23           (1) (Y) Eminent Domain (Y).

24           (AY) "Eminent domain" is the right of ~~the central~~  
25 GOVERNMENT GOVERNMENT OF THE TRUST TERRITORY of a district

1 government or a district legal entity as may be provided for by  
 2 district law in accordance with the Public Land Act of 1974 to  
 3 condemn private property for public use purposes and to appropriate  
 4 the ownership and possession of such property for such public use  
 5 purposes upon paying the owner a just compensation to be ascertained  
 6 according to the law. THE RIGHT MAY BE EXERCISED BY THE GOVERNMENT  
 7 OF THE TRUST TERRITORY ONLY AFTER A DISTRICT GOVERNMENT OR A DISTRICT  
 8 LEGAL ENTITY HAS REFUSED TO EXERCISE THE POWER OR HAS FAILED  
 9 TO ACT UPON A REQUEST BY THE HIGH COMMISSIONER TO EXERCISE THE POWER  
 10 WITHIN ONE YEAR OF THE DATE OF SUCH REQUEST

11 (BY EMINENT DOMAIN IS THE RIGHT OF A DISTRICT  
 12 GOVERNMENT OR OF A DISTRICT LEGAL ENTITY AS MAY BE PROVIDED FOR BY  
 13 DISTRICT LAW IN ACCORDANCE WITH THE TERMS OF THE PUBLIC LAND TRANSFER  
 14 ACT OF 1974 TO CONDEMN PRIVATE PROPERTY FOR PUBLIC PURPOSES AND  
 15 TO APPROPRIATE THE OWNERSHIP AND POSSESSION OF SUCH PROPERTY FOR SUCH  
 16 PUBLIC PURPOSES UPON PAYING THE OWNER A JUST COMPENSATION TO BE  
 17 ASCERTAINED ACCORDING TO THE LAW

18 (2) (Y) Public Use Purposes (Y). "Public use purpose"  
 19 shall be construed to cover any use purpose determined by the  
 20 High Commissioner to be a public use purpose wherein the right of  
 21 eminent domain is sought to be exercised by the CENTRAL GOVERNMENT  
 22 Government of the Trust Territory of the Pacific Islands, or any  
 23 purpose determined to be a public purpose by a district government  
 24 or a district legal entity as may be appropriate wherein the right  
 25 of eminent domain is sought to be exercised pursuant to district

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1 law or the provisions of the Public Land ~~Transfer~~ Act of 1974.

2 (3) Section 112~~1~~ of Title 67~~1~~ of the Trust Territory  
3 Code~~1~~ is hereby amended to read as follows:

4 "Section 112. Conduct of hearings. In conducting  
5 hearings, each Land Commission and each land registration team  
6 shall be guided by, but need not conform to, the Trust Territory  
7 Rules of Civil Procedures and the Rules of Evidence. Each Commis-  
8 sion and each registration team is authorized to consider such  
9 evidence as will be helpful in reaching a just decision. Neither  
10 a Commission nor a land registration team, however, shall endeavor  
11 to redetermine any matter already decided between the same parties  
12 or those under whom the present parties claim, by a court judgment,  
13 Land Title Officer's Determination of Ownership or a determination  
14 made in accordance with the authority provided by Subsections (2)  
15 and (3) of Section 4 of the Public Land ~~Transfer~~ Act of 1974. All  
16 Commissions and land registration teams shall accept such prior  
17 determination as binding on such parties without further evidence  
18 than the judgment or determination of ownership. All hearings shall  
19 be public and every person claiming an interest in land under  
20 consideration shall be given an opportunity to be heard. Hearings  
21 must be held in the municipality in which the land involved lies  
22 and when practicable shall be held in the village in which or near  
23 which the land lies. All parties, including any representative  
24 (appointed under Section 113 of this Chapter or by a court or  
25 other proper authority) of a minor or incompetent, may be

1 represented and assisted by counsel."

2 Section 11. Citizenship of district entity. A district entity  
3 shall be deemed to be a citizen of the Trust Territory for the  
4 purposes of Section 11101 of Title 67 of the Trust Territory Code.

5 Section 12. Powers and duties of Chief of Lands and  
6 Surveys. The statutory powers and duties of the ~~CHIEF~~ Division of  
7 Lands and Surveys shall not extend to public lands transferred to  
8 district legal entities pursuant to this act.

9 Section 13. Effective date. This act shall take effect  
10 upon the date of its approval by the High Commissioner or upon its  
11 becoming law without such approval.

12

13 Date: \_\_\_\_\_

Introduced by: \_\_\_\_\_

Lazarus Salii (By Req.)

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