

TO PROVIDE GREATER FISCAL AUTONOMY FOR THE
VIRGIN ISLANDS

SEPTEMBER 27, 1999.—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

REPORT

[To accompany H.R. 2841]

The Committee on Resources, to whom was referred the bill (H.R. 2841) to amend the Revised Organic Act of the Virgin Islands to provide for greater fiscal autonomy consistent with other United States jurisdictions, 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. 2841 is to amend the Revised Organic Act of the Virgin Islands to provide for greater fiscal autonomy consistent with other United States jurisdictions.

BACKGROUND AND NEED FOR LEGISLATION

America's Caribbean territory of the Virgin Islands has a dire financial situation; it is nearing bankruptcy and requires drastic measures to insure solvency. One significant way to reduce the size of the Virgin Islands' annual deficit is to lower the cost of borrowing funds for capital improvements and necessary government operations. This reduction can be accomplished by the restructuring of the Virgin Islands debt with lower interest rates and through different bonding procedures. Financial restructuring is expected to save millions of dollars each year if Congress provides for this type of bonding authority.

The Virgin Islands must complete a \$100 million financing by the end of September 1999 (the close of its fiscal year) to generate sufficient working capital to meet currently due obligations and to

provide sufficient cash reserves to operate its government while its deficit reduction and budget initiatives take effect. This fiscal action is part of the Virgin Islands' financial restructuring and fiscal recovery plan. The \$100 million financing ideally would be completed as a single borrowing transaction, either under the Virgin Islands' general obligation authority, set forth at 48 U.S.C. § 1574(b)(ii)(A), or under its so-called "matching fund" bond authority, set forth at 48 U.S.C. § 1574a(a). However, because of the accidents of history, the Virgin Islands can use neither its general obligation authority nor its "matching fund" authority alone to complete the necessary financing. Unlike other jurisdictions—including Puerto Rico and Guam—the general obligation authority contained in the Virgin Islands Revised Organic Act (48 U.S.C. § 1541 et seq.) can be used only for specific and limited capital purposes, not including working capital. While the Virgin Islands' "matching fund" authority, in contrast, can be used issue bonds "for any purpose authorized by the Virgin Islands Legislature," the previous Virgin Islands administration exhausted the Government's capacity to borrow further under this authority when it consolidated all of the Islands' debt (including all of its general obligation debt) in a 1998 bond issue.

Since the Virgin Islands' general obligation authority (now basically unencumbered and debt-free) cannot be used to finance working capital, the Islands will be required—unless Congress acts expeditiously to provide the same "public purpose" general obligation authority as other U.S. territorial jurisdictions—to complete a complicated and costly two-step financing. In the absence of such legislation, the Virgin Islands will incur extraordinary costs in excess of \$5 million to complete the complicated two-step financing.

To avoid these unnecessary costs, the Virgin Islands has asked Congress to amend the Revised Organic Act, consistent with the authority commonly enjoyed by other U.S. territorial governments and by individual States, to provide that its general obligation authority may be used for "any public purpose authorized by the Virgin Islands Legislature" and to make other technical or clarifying amendments.

The leaders of the Virgin Islands have acknowledged their willingness to condition the requested increased fiscal autonomy by Congress with compliance with fiscal and management reforms. Government leaders have publicly committed to adhere to specific financial accountability and performance standards established by the federal government and the Virgin Islands.

Matters relating to bonding authority are generally defined by state or territorial constitutions and law. However, as the Virgin Islands has not yet adopted a constitution as authorized by Congress, the underlying federal law—the Revised Organic Act of the Virgin Islands—provides the Islands' bonding authority. The current federal organic act for the Virgin Islands is outdated and does not permit the flexibility needed for the territory to take advantage of current financial bonding practices enjoyed by other states and territories. Congress can change the organic act to give the Virgin Islands this same state-like fiscal autonomy to help it solve the current financial emergency while, it is hoped, not undermining the Islands' responsibility for constitutional self-government.

SECTION-BY-SECTION ANALYSIS

Section 1. Greater Fiscal Autonomy

Section 1 amends Section 8 of the Revised Organic Act of the Virgin Islands to clarify that the Virgin Islands may issue negotiable general obligation bonds or other evidence of indebtedness, and change the purposes for which bonds can be used from specific uses [“to construct, improve, extend, better, repair, reconstruct, acquire, and equip hospitals, schools, libraries, gymnasias, athletic fields, sewers, sewage-disposal plants, and water systems”] to those “for any public purposes authorized by the legislature”. In addition, Section 1 eliminates the bonding payment requirement of “payable semiannually” to permit repayment schedules at different increments.

In addition, Section 8(b)(ii)(B) of the Revised Organic Act of the Virgin Islands is repealed as unnecessary as it states that the proceeds of the bonds or other obligations shall be expended only for the public improvements listed in the preceding section. The specific list of public improvements has now been changed to any public purpose authorized by the legislature. Section 8(b)(ii)(C) of the Revised Organic Act of the Virgin Islands is redesignated as Section 8(b)(ii)(B). Finally, Section 1(d) of Public Law 94–392, which authorized the Virgin Islands issuance of bonds, is eliminated as it is now redundant.

Section 2. Agreement

The Secretary of the Interior is authorized to enter into an agreement with the Governor of the Virgin Islands establishing mutually agreed financial accountability and performance standards for the fiscal operations of the Government of the Virgin Islands. The Secretary is directed to forward a copy of the agreement to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

Section 3. Effective Dates

Instruments of indebtedness issued by the Government of the Virgin Islands after the date of enactment of H.R. 2841 are subject to the amendments to the Revised Organic Act of the Virgin Islands made by Section 1 of the bill. However, if there is no agreement between the Secretary of Interior and the Governor of the Virgin Islands establishing mutually agreed financial accountability and performance standards for the fiscal operations of the Government of the Virgin Islands on or before December 31, 1999, the amendments shall not apply to any bonds or debt instruments issued on or after January 1, 2000.

In addition, the Committee intends that these amendments to the Revised Organic Act of the Virgin Islands are not intended to modify the internal revenue laws. Thus, the bonds authorized by this bill must comply with subsection (c) of section 149 of the Internal Revenue Code of 1986 (which requires the new bonds to comply with the appropriate requirements of the Internal Revenue Code).

COMMITTEE ACTION

H.R. 2841 was introduced on September 13, 1999, by Delegate Donna Christensen (D-VI), and cosponsored by Congressman Don Young (R-AK), Chairman of the Committee on Resources, and Congressman George Miller (D-CA), the Ranking Democrat of that Committee. The bill was referred to the Committee on Resources. On September 22, 1999, the Resources Committee met to consider the bill. No amendments were offered and the bill was ordered favorably reported to the House of Representatives by voice vote.

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. At the time of the filing of this report, the Congressional Budget Office had not completed its cost estimate for the bill. The Committee believes that enactment of H.R. 2841 would have little impact on the federal budget. The only federal costs involved—the Secretary of the Interior's negotiation and ratification of the agreement with the Virgin Islands authorized under Section 2 of the bill—should be minimal.

2. **Congressional Budget Act.** As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. **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 Committee has not received the cost estimate for this bill from the Director of the Congressional Budget Office. However, the Committee

will publish the cost estimate in the Congressional Record when it is received.

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

Changes in existing law made by the bill 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 8 OF THE REVISED ORGANIC ACT OF THE VIRGIN ISLANDS

SEC. 8. (a) * * *

(b)(i) * * *

(ii)(A) Subject to the provisions of this paragraph (ii), the legislature of the government of the Virgin Islands may cause to be issued such negotiable general obligation bonds or other evidence of indebtedness, *including but not limited to notes in anticipation of the collection of taxes or revenues*, as it may deem necessary and advisable [to construct, improve, extend, better, repair, reconstruct, acquire, and equip hospitals, schools, libraries, gymnasias, athletic fields, sewers, sewage-disposal plants, and water systems: *Provided, That no public*] *for any public purpose authorized by the legislature: Provided, That no such* indebtedness of the Virgin Islands shall be incurred in excess of 10 per centum of the aggregate assessed valuation of the taxable real property in the Virgin Islands. Bonds issued pursuant to this paragraph (ii) shall bear such date or dates, may be in such denominations, may mature in such amounts and at such time or times, not exceeding thirty years from the date thereof, may be payable at such place or places, may be sold at either public or private sale, may be redeemable (either with or without premium) or nonredeemable, may carry such registration privileges as to either principal and interest, or principal only, and may be executed by such officers and in such manner, as shall be prescribed by the legislature of the government of the Virgin Islands. In case any of the officers whose signatures appear on the bonds or coupons shall cease to be such officers before delivery of such bonds, such signature, whether manual or facsimile, shall nevertheless be valid and sufficient for all purposes, the same as if such officers had remained in office until such delivery. The bonds so issued shall bear interest at a rate not to exceed that specified by the legislature [and payable semiannually. All such bonds shall be sold for not less than the principal amount thereof plus accrued interest]. All bonds issued by the government of the Virgin Islands, including specifically interest thereon, shall be exempt from taxation by the Government of the United States, or by the government of the Virgin Islands or any political subdivision

thereof, or by any State, territory, or possession or by any political subdivision of any State, territory, or possession, or by the District of Columbia.

[(B) The proceeds of the bond issues or other obligations herein authorized shall be expended only for the public improvements set forth in the preceding subparagraph, or for the reduction of the debt created by such bond issue or obligation, unless otherwise authorized by the Congress.]

[(C)] (B) Bonds or other obligations issued pursuant to this paragraph (ii) shall not be a debt of the United States, nor shall the United States be liable thereon.

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SECTION 1 OF THE ACT OF AUGUST 19, 1976

AN ACT To authorize the government of the Virgin Islands to issue bonds in anticipation of revenue receipts and to authorize the guarantee of such bonds by the United States under specified conditions, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) in addition to the authority conferred by section 8(b) of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1574(b)), the legislature of the government of the Virgin Islands is authorized to cause to be issued bonds or other obligations of such government in anticipation of revenues to be received under section 28(b) of such Act (26 U.S.C. 7652). The proceeds of such bonds or other obligations may be used for any purpose authorized by an act of the legislature. The legislature of the government of the Virgin Islands may initiate, by majority vote of the members, a binding referendum vote to approve or disapprove the amount of any such bond or other obligation and/or any purpose for which such bond or other obligation is authorized.

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[(d) The legislature of the Government of the Virgin Islands may cause to be issued notes in anticipation of the collection of the taxes and revenues for the current fiscal year. Such notes shall mature and be paid within one year from the date they are issued. No extension of such notes shall be valid and no additional notes shall be issued under this section until all notes issued during a preceding year shall have been paid.]

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