

STANDING COMMITTEE REPORT NO. 13-242

RE: C.B. NO. 13-206/W&M

SUBJECT: POST-SECONDARY SCHOLARSHIPS

MARCH 28, 2005

The Honorable Peter M. Christian
Speaker, Thirteenth Congress
Federated States of Micronesia
Seventh Special Session, 2005

Dear Mr. Speaker:

Your Committee on Ways and Means to which was referred C.B. No. 13-206 entitled:

"A BILL FOR AN ACT TO FURTHER AMEND PUBLIC LAW NO. 13-46, AS AMENDED, BY AMENDING SECTIONS 2, 5, 6, 8 AND 9 THEREOF FOR THE PURPOSE OF APPROPRIATING AN ADDITIONAL SUM OF \$1,625,150 FROM THE GENERAL FUND OF THE FEDERATED STATES OF MICRONESIA FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2005, AND FOR OTHER PURPOSES.",

begs leave to report as follows:

The intent and purpose of the bill are expressed in its title.

C.B. No. 13-206 is the President's request for a supplemental appropriation from the General Fund for the fiscal year 2005. Through this bill, the President also proposes to amend the existing public law to fund, through restricted Compact I carryover funds, \$103,500 in appropriations previously made from local revenues, thereby freeing that amount of local revenues for other uses.

On March 21, 2005, your Committee held a public hearing on the supplemental budget request. In attendance were the President's Congressional liaison, the Secretaries of Finance, HESA and TC&I, the acting Secretaries of Justice and Economic Affairs, the acting President of the College of Micronesia and a representative from the National Olympic Committee.

Your Committee has considered the testimony of the hearing witnesses, thoroughly reviewed the President's request and arrived at a number of recommendations with respect to C.B. No. 13-206.

As an initial matter, your Committee confirms its support of the use of Compact I carryover funds where possible. We therefore recommend approval of those provisions that would change the funding source from local revenues to Compact I carryover funds for particular activities.

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Your Committee's recommendations in respect of each of the President's requests are set out in detail below.

1. Office of the President

The President has requested \$100,000 as matching funds for the Disaster Assistance Emergency Fund. This amount is in addition to the \$100,000 previously appropriated for this purpose. Your Committee understands that the FSM will eventually be required to put up \$200,000 before the US will contribute funds. However, before any matching by the US is possible, legislation must be passed by the US Congress. As this has not yet occurred, your Committee considers that this request is premature and recommends that Congress wait and review the issue during the May 2005 session.

Your Committee supports the President's request for \$20,000 to reimburse his office for its Asian Tsunami contribution and for anticipated representation expenses for the remainder of FY 2005. Your Committee also considers it appropriate to provide the President with an additional \$10,000 to enable him to facilitate the attendance of traditional or former leaders at significant events and meetings.

2. Department of Foreign Affairs

The President has requested \$10,000 dollars to meet the cost of printing and shipping copies of the Amended Compact. Your Committee supports the funding request, however, it seems that the Department has delayed action on this project for longer than is desirable. We therefore recommend that the funds be allotted to Congress to ensure that copies of the Amended Compact are available as soon as possible.

3. Department of Finance and Administration

The President has requested \$40,000 to meet the cost of anticipated overtime by Customs inspectors and border control for the remainder of the fiscal year. It is the understanding of your Committee that the \$50,000 previously appropriated for this purpose has not yet been fully expended. On this basis, we do not consider the request to be urgent and we recommend that it be reviewed during the May session of Congress.

Your Committee supports the request for an additional \$33,600 to cover an anticipated shortfall in the operations budget of the Department.

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On March 23, 2005, your Committee held a hearing regarding the current financial position of the MLFC and National Government liabilities in respect of the associated ADB loan. In light of the evidence given at that hearing, there does not appear to be any alternative to making the outstanding payments on the loan. The MLFC is currently unable to meet its financial obligations or to service the loan, and is unlikely to be able to do so in the future. It is therefore recommended that \$200,000 be appropriated to make an overdue payment and a further payment that will fall due in July 2005.

Your Committee recommends that between now and January 2006, when another payment falls due, the Department should consider whether it would be feasible to appropriate a lump sum that could then be invested so that the interest generated could service, or partially service, the loan.

Your Committee has been advised that the deficit recorded during FY 2003 has now been retired using the surplus recorded in FY 2004. On this basis, the balance of the \$500,000 set aside for deficit reduction in the FY 2005 budget should be deappropriated. We understand that \$100,000 was reprogrammed under the President's emergency powers, however, your Committee recommends the deappropriation of the balance.

Your Committee notes that, in accordance with the Constitution of the FSM, no funds may be allocated without the approval of Congress. In addition, the FSM Code specifically requires that the President submit recommendations to Congress as to how the deficit should be retired. It is not lawful for the Executive Branch to use monies from the General Fund for one year to meet obligations incurred in prior years without an appropriation from Congress. While it is desirable to eliminate any deficit as soon as possible, in the future, no such action should be taken without an appropriation of funds by the legislature.

4. Department of Economic Affairs

The President has requested \$82,000 to enable the FSM to be represented at the World Exposition in Nagoya, Japan. Despite the reduction in the amount requested, your Committee is still not persuaded that the benefits of participation by the FSM would be sufficient to justify what remain significant costs associated with the project.

5. Department of TC&I

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Your Committee recommends that \$50,000 of the \$150,000 requested for fuelling the M/S Voyager for the remainder of FY 2005 be appropriated. The M/S Voyager clearly provides a valuable service to outer islands, however, we are reluctant to appropriate the full amount before we have had an opportunity to review information concerning the use of the vessel during the first half of the fiscal year and the current status of M/S Voyager's revolving fund. We therefore recommend that further consideration of this matter be postponed until the May 2005 session of Congress.

Your Committee supports the request for \$250,000 for site preparation to enable construction of four residences for National Government Officials. The construction itself will be paid for by a Chinese grant of \$1.8 million. However, it is a necessary precondition of the grant that the FSM undertake the initial site preparation.

6. Department of Justice

The President has requested the appropriation of an additional \$100,000 to purchase fuel for the three patrol boats that conduct surveillance within the FSM fisheries zone. Your Committee notes that \$100,000 was appropriated for this purpose in December 2004. On this basis, your Committee recommends that consideration of this issue be postponed until the next regular session of Congress is held in May.

Requests have also been made for \$38,000 for equipment, \$30,000 to fund litigation, \$50,000 for Chuuk to undertake Joint Law Enforcement Activities for the remainder of the fiscal year and \$80,200 for Dekehtik lease payments. Your Committee recommends that consideration of these matters is likewise postponed until May, 2005.

In regard to the request for funding for lease payments to the Pohnpei Port Authority, your Committee suggests that further consideration should be given to this matter by the Department. For some time we have been concerned that the Pohnpei Port Authority has been retaining the interest accrued on the National Government appropriation to build an outer island airport. Your Committee recommends that the Department undertake further negotiations with the Pohnpei Port Authority in relation to both issues and report back to Congress during the next session.

7. Department of HESA

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An additional \$150,000 has been sought to finance the FSM Games for 2005. At present there is some uncertainty as to whether Pohnpei will have the capacity to host the Games. Your Committee understands that the FSM Games provide an opportunity for athletes from the different states to meet and compete, ahead of the South Pacific Mini-Games. On this basis, we recommend that further appropriations for the FSM Games be delayed until it is clear that they will in fact go ahead, but that \$200,000 be provided in the interim to fund participation in the South Pacific Mini-Games.

Your Committee supports the appropriation of \$50,000 from Compact I carryover funds to undertake a comprehensive survey of the primary health care system as the survey is required under the terms of the Amended Compact. Your Committee likewise supports the appropriation of \$50,000 to fund the management and administration of the Basic Social Services project as it is necessary to meet the requirements of the loan agreement.

8. College of Micronesia

The appropriation in the FY 2005 budget for FMI was significantly smaller than it has been in previous years. This was because it was anticipated that the Institute would be receiving additional funds from other sources. This has not occurred and the additional \$100,000 requested would simply ensure that the funding level for FY 2005 is restored to that of previous years. Your Committee supports this request.

9. Office of the Public Auditor

The President has requested an additional \$2,500 be appropriated and that \$5,000 of existing funding be provided from the General Fund rather than from the Public Capacity Building Sector grant. This amendment will provide \$5,000 in representation funds for the office. Your Committee supports this request.

10. Coconut Development Authority

Your Committee supports the appropriation of an additional \$50,000 to increase the purchase price of copra. However, we believe that in order to have any discernable impact, it will be necessary for the price per pound to be increased significantly. For this reason we recommend that the proposed increase be not less than 5 cents per pound.

Your Committee would also like to see consideration given to means by which the outer islands can develop the capacity to process

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copra and alternative coconut products such as oil. The Coconut Development Authority, in connection with its request for an FY 2006 appropriation, should advise Congress concerning plans for the development of that capacity.

11. Attorney Fees - Udot v FSM

Your Committee recommends an appropriation in order to make the final payment of attorney's fees in relation to this case.

12. Traditional Leaders Conference in Yap

Your Committee recognizes the importance of such events and is in support of an appropriation of \$30,000 to partially cover the costs associated with it. We encourage the Yap State government to likewise appropriate the \$27,000 that is its share of the cost of this event.

In addition to the items proposed by the President, your Committee recommends the following supplemental appropriations:

1. An increase of funding for the Legislative Branch in the amount of \$120,000. Of this amount \$25,000 would fund a regional legislators conference, \$20,000 would fund the attendance of traditional and former leaders at significant events and meetings, \$40,000 would be used for member travel, \$25,000 would be used for congressional staff travel and \$10,000 would fund the printing and shipping of copies of the Amended Compact (see discussion at section 2 above).
2. \$100,000 to fund the establishment and operations of an Office of Compact Management in accordance with P.L. No. 13-75. Your Committee considers implementation of P.L. No. 13-75 to be critical to the National Government's on-going capacity to successfully manage the Compact. We note that the FSM currently has no central point of contact on Compact issues and has failed to comply with a number of Compact obligations.
3. \$29,000 to fund the payment of a housing allowance to consular staff in Hawaii. Your Committee has been advised that a number of consular staff in Honolulu are not receiving a housing allowance. This circumstance is of significant concern to your Committee, and we note that Congress has previously raised this issue with the Department. In order to alleviate the financial burden experienced by the consular staff in Hawaii, your Committee recommends that funds be appropriated to pay housing allowances.

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4. \$16,000 to fund the payment of the professional premium to eligible staff at the Office of the Public Defender.

The total of all supplemental appropriations recommended by your Committee is \$919,950. This would bring the total appropriations from the FY 2005 General Fund to \$31,074,501, including appropriations from local revenues, amended Compact funds and Compact I carryover funds. Projected total revenues from these sources are \$34,876,062.

Your Committee therefore recommends the following amendments to C.B. No. 13-206:

1. Title, in the second line, after "2," insert "3,".
2. Title, in the third line, delete "1,625,150" and insert "919,950" in lieu thereof.
3. Page 1, line 5, delete "15,306,672" and insert "13,590,122" in lieu thereof.
4. Page 1, line 13, delete "690,864" and insert "700,864" in lieu thereof.
5. Page 1, line 18, after "Department of" delete "f" and insert "F" in lieu thereof.
6. Page 1, line 19, delete "3,407,792" and insert "3,426,792" in lieu thereof.
7. Page 2, line 2, after "book" insert ", provided that \$29,000, or so much thereof as may be necessary, is to be used to provide housing allowances to consular staff in Honolulu and, notwithstanding any other section of Public Law No. 13-46, shall not be reprogrammed or used for any other purpose.
8. Page 2, line 6, delete "2,879,532" and insert "2,439,532" in lieu thereof.
9. Page 2, line 8, delete "\$500,000" and insert "\$100,000" in lieu thereof.
10. Page 2, lines 10-15, delete all language between "fiscal year 2003" and ". Of the total funds" and insert "(which funds have been reprogrammed for disaster relief under the President's emergency powers)" in lieu thereof.

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11. Page 3, line 2, delete "1,364,922" and insert "1,264,922" in lieu thereof.
12. Page 3, line 8, delete "1,576,808" and insert "1,526,808" in lieu thereof.
13. Page 3, line 10, after "Of the total funds appropriated," insert "\$50,000 shall be deemed to come from carryover funds available under section 216(a)(2) of Compact I for Health,".
14. Page 3, line 16, delete "2,680,538" and insert "2,382,338" in lieu thereof.
15. Page 4, line 7, delete "661,513" and insert "677,513" in lieu thereof.
16. Page 4, line 8, after "budget book" insert ", provided that \$16,000, or so much thereof as may be necessary, is to be used for payment of the professional premium to any eligible person or persons, and notwithstanding any other section of Public Law No. 13-46, shall not be reprogrammed or used for any other purpose".
17. Page 4, line 11, after "Compact I for Communications." insert a new subsection as follows:

"(9) Office of Compact Management
\$100,000 to fund the establishment and operations of an Office of Compact Management in accordance with Public Law No. 13-75, provided that these funds shall not be used to meet the cost of activities that are already being undertaken within the National Government."
18. Page 4, line 12, before the existing section 2, insert a new section as follows:

"Section 2. Section 3 of Public Law No. 13-46, as amended by Public Law No. 13-62, is hereby amended as follows:

'Section 3. Operating Expenses of the Legislative Branch.
The sum of \$3,248,077, or so much thereof as may be necessary, is hereby appropriated from the General Fund of the Federated States of Micronesia for the fiscal year ending September 30, 2005, for the operations of the Legislative Branch of the National Government during the fiscal year 2005, in order to achieve the activities set forth in the performance budget pages 380 through 381 of the budget book. Of the funds appropriated, \$40,000 shall be deemed to come from the

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carryover funds available under section 215(b) (2) of Compact I
for communications.'"

19. Page 4, line 12, delete "Section 2" and insert "Section 3" in lieu thereof.
20. Page 5, line 2, after "funded from domestic revenues" insert ",,."
21. Page 5, line 5, delete "Section 3" and insert "Section 4" in lieu thereof.
22. Page 6, line 21, delete "Section 4" and insert "Section 5" in lieu thereof.
23. Page 6, line 24, delete "\$2,131,253" and insert "\$2,920,103" in lieu thereof.
24. Page 7, line 8, delete "200,000" and insert "100,000" in lieu thereof.
25. Page 11, line 1, after "grant-aid" insert ", provided that,
notwithstanding any other section of Public Law No. 13-46, these
funds shall not be reprogrammed or used for any other purpose"
26. Page 11, line 17, delete "150,000" and insert "100,000" in lieu thereof.
27. Page 11, line 23, delete "FSM Games 400,000" and insert "South
Pacific Mini-Games \$200,000" in lieu thereof.
28. Page 12, line 3, delete "8,850,000" and insert "8,850" in lieu thereof.
29. Page 12, line 4, delete "Section 5" and insert "Section 6" in lieu thereof.
30. Page 12, line 7, delete "\$6,913,287" and insert "7,013,287" in lieu thereof.
31. Page 13, line 22, delete "82,000" and insert "-0-" in lieu thereof.
32. Page 14, line 7, delete "Section 4" and insert "Section 7" in lieu thereof.

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With these amendments, your Committee on Ways and Means is in accord with the intent and purpose of C.B. No. 13-206 and recommends its passage on First Reading, and that it be placed on the Calendar for Second and Final Reading in the form attached hereto as C.B. No. 13-206, C.D.1.

Respectfully submitted,

/s/ Sabino S. Asor
Sabino S. Asor, chairman

Roosevelt D. Kansou, vice chairman

/s/ Claude H. Phillip
Claude H. Phillip, member

/s/ Henry C. Asugar
Henry C. Asugar, member

/s/ Peter M. Christian
Peter M. Christian, member

Dohsis Halbert, member

/s/ Isaac V. Figir
Isaac V. Figir, member