

STANDING COMMITTEE REPORT NO. 14-66

RE: C.B. NO. 14-112/W&M

SUBJECT: ADB OMNIBUS INFRASTRUCTURE DEVELOPMENT PROJECT

NOVEMBER 15, 2005

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

Dear Mr. Speaker:

Your Committee on Ways and Means to which was referred C.B. No. 14-112 entitled:

"A BILL FOR AN ACT TO AUTHORIZE THE FSM TO BORROW APPROXIMATELY \$19,000,000 FROM THE ASIAN DEVELOPMENT BANK AND RELEND APPROXIMATELY \$19,000,000 TO THE STATES AND THEIR UTILITIES FOR THE PURPOSE OF FUNDING THE OMNIBUS INFRASTRUCTURE DEVELOPMENT PROJECT: TO FURTHER AMEND TITLE 55 OR THE CODE OF THE FSM, AS AMENDED, BY ENACTING A NEW SUBCHAPTER XVI TO CHAPTER 6 THEREOF TO ESTABLISH AN EXTERNAL DEBT MANAGEMENT FUND; AND FOR OTHER PURPOSES.",

begs leave to report as follows:

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

The subject bill would authorize the National Government to borrow approximately \$19,000,000 from the Asian Development Bank (the "ADB") and relend it to the States and their utility corporations to fund certain infrastructure projects.

Your Committee held a public hearing on the subject bill on November 7, 2005 and subsequently conducted additional consultations with the President and each of the States.

Loan Structures

There are two different loan packages in this project relying on two separate pools of funds from which the ADB makes loans. The first, from Ordinary Operations, is a \$4,800,000 loan from the ADB to the National Government. Under the loan agreement, the National Government shall then relend the funds through the respective States to CPUC and PUC. The term of the ADB/FSM loan is 25 years with a 5 year grace period. The two utility corporations are primarily responsible for repaying the loans. Should PUC or CPUC default on any loan payments, under the terms of the relending agreements, the respective State shall be responsible for making the payments.

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Ultimately, the National Government will be empowered to hold back tax revenues or amended Compact funds accruing to the relevant state in order to meet repayments.

The second loan, from Special Operations, is a loan for approximately \$14,200,000 from the ADB to the National Government. The term of this loan is 32 years with an 8 year grace period. Under the loan agreement, the National Government will relend a portion of the second loan, through the respective States to CPUC and PUC. Once again, the two utility corporations are primarily responsible for repaying the loans and the arrangements in the event of a default in repayments are the same as for the first loan.

As the privatization of Yap and Kosrae's utilities has not yet been completed, the National Government will relend the remainder of the second loan directly to those states to undertake the stipulated projects. As with the Chuuk and Pohnpei portion of the Second loan, the National Government may withhold tax revenues or Compact funds accruing to Yap or Kosrae to meet the cost of any repayments the relevant state fails to make.

Although the terms of each loan would extend beyond the period of the amended Compact, your Committee has been advised that the States intend to accelerate payments so that both loans are repaid prior to the conclusion of the amended Compact.

Additional matters

Your Committee notes that the subject loans were initially conceived to enable the States to finance large-scale infrastructure projects before it was apparent that the Compact public infrastructure grant for FY 2004, FY 2005 and FY 2006 would be disbursed to the FSM in a lump sum. However, the States have advised that the ADB loans are still necessary to enable the public infrastructure projects they cover to go ahead.

Your Committee does not have the resources to conduct its own assessment of whether it is reasonable to expect that each of the State utilities will have the capacity to repay their share of the loans. Our consultations in the States suggest that there is some doubt on this point.

The structure of the loans should mean that in the case of default by

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a utility it will be possible to use Compact funds to meet repayments. However, we understand that the FSM is yet to receive any formal communication of US agreement and that the precise mechanism for achieving this is yet to be agreed upon. We therefore urge the Executive to finalize these critical arrangements as soon as possible.

Your Committee on Ways and Means is in accord with the intent and purpose of C.B. No. 14-112 and recommends its passage on First Reading, and that it be placed on the Calendar for Second and Final Reading.

Respectfully submitted,

/s/ Isaac V. Figir

Isaac V. Figir, chairman

/s/ Roosevelt D. Kansou

Roosevelt D. Kansou, vice
chairman

Peter M. Christian

Dohsis Halbert

/s/ Manny Mori

Manny Mori

Claude H. Phillip

/s/ Simiram Sipenuk

Simiram Sipenuk