Calendar No. 299

108TH CONGRESS, *1st Session* | SENATE | REPORT 108–159

COMPACT OF FREE ASSOCIATION AMENDMENTS ACT OF 2003

OCTOBER 1, 2003.—Ordered to be printed

Mr. DOMENICI, from the Committee on Energy and Natural Resources, submitted the following

R E P O R T

[To accompany S.J. Res. 16]

The Committee on Energy and Natural Resources, to which was referred the joint resolution (S.J. Res. 16) to approve the "Compact of Free Association, as amended between the Government of the United States of America and the Government of the Federated States of Micronesia", and the "Compact of Free Association, as amended between the Government of the United State of America and the Government of the Republic of the Marshall Islands", and otherwise to amend Public Law 99–239, and to appropriate for the purposes of amended Public Law 99–239 for fiscal years ending on or before September 30, 2023, and for other purposes, having considered the same, reports favorably thereon with amendments and an amendment to the preamble and recommends that the joint resolution, as amended, do pass.

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29–010

AMENDMENTS

The amendments are as follows:

1. Strike the preamble and insert in lieu thereof the following:

Whereas the United States (in accordance with the Trusteeship Agreement for the Trust Territory of the Pacific Islands, the United Nations Charter, and the objectives of the international trusteeship system of the United Nations) fulfilled its obligations to promote the development of the people of the Trust Territory toward self-government or independence as appropriate to the particular circumstances of the Trust Territory and its peoples and the freely expressed wishes of the peoples concerned;

Whereas the United States, the Federated States of Micronesia, and the Republic of the Marshall Islands entered into the Compact of Free Association set forth in title II of Public Law 99–239, January 14, 1986, 99 Stat. 1770, to create and maintain a close and mutually beneficial relationship;

Whereas the United States, in accordance with section 231 of the Compact of Free Association entered into negotiations with the Governments of the Federated States of Micronesia and the Republic of the Marshall Islands to provide continued United States assistance and to reaffirm its commitment to this close and beneficial relationship; and

Whereas these negotiations, in accordance with section 431 of the Compact, resulted in the "Compact of Free Association, as amended between the Government of the United States of America and the Government of the Federated States of Micronesia", and the "Compact of Free Association, as amended between the Government of the United States of America and the Government of the Republic of the Marshall Islands", which, together with their related agreements, were signed by the Government of the United States and the Governments of the Federated States of Micronesia and the Republic of the Marshall Islands on May 14, and April 30, 2003, respectively: Now, therefore, be it

2. Beginning on page 2, strike line 3 and all that follows through page 69, line 25, and insert the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This joint resolution, together with the table of contents in subsection (b) of this section, may be cited as the "Compact of Free Association Amendments Act of 2003".

(b) TABLE OF CONTENTS.—The table of contents for this joint resolution is as follows:

TITLE I—APPROVAL OF U.S.-FSM COMPACT AND U.S.-RMI COMPACT; INTERPRETATION OF, AND U.S. POLICIES REGARDING, U.S.-FSM COMPACT AND U.S.-RMI COMPACT; SUPPLEMENTAL PROVISIONS

SEC. 101. APPROVAL OF U.S.-FSM COMPACT OF FREE ASSOCIATION AND THE U.S.-RMI COMPACT OF FREE ASSOCIATION; REFERENCES TO SUBSIDIARY EXIT AGREEMENTS OR SEPARATE AGREEMENTS.

(a) FEDERATED STATES OF MICRONESIA.—The Compact of Free Association, as amended with respect to the Federated States of Micronesia and signed by the United States and the Government of the Federated States of Micronesia and set forth in Title II (section 201(a)) of this joint resolution, is hereby approved, and Congress hereby consents to the subsidiary agreements and amended subsidiary agreements listed in section 462 of the U.S.-FSM Compact. Subject to the provisions of this joint resolution, the President is authorized to agree, in accordance with section 411 of the U.S.-FSM Compact, to an effective date for and thereafter to implement such U.S.-FSM Compact.

(b) REPUBLIC OF THE MARSHALL ISLANDS.—The Compact of Free Association, as amended with respect to the Republic of the Marshall Islands and signed by the United States and the Government of the Republic of the Marshall Islands and set forth in Title II (section 201(b)) of this joint resolution, is hereby approved, and Congress hereby consents to the subsidiary agreements and amended subsidiary agreements listed in section 462 of the U.S.-RMI Compact. Subject to the provisions of this joint resolution, the President is authorized to agree, in accordance with section 411 of the U.S.-RMI Compact, to an effective date for and thereafter to implement such U.S.-RMI Compact.

(c) REFERENCES TO THE COMPACT, THE U.S.-FSM COMPACT, AND THE U.S.-RMI COMPACT; REFERENCES TO SUBSIDIARY AGREEMENTS OR SEPARATE AGREEMENTS.—

(1) Any reference in this joint resolution (except references in Title II) to "the Compact" shall be treated as a reference to the Compact of Free Association set forth in title II of Public Law 99–239, January 14, 1986, 99 Stat. 1770. Any reference in this joint resolution to the "U.S.-FSM Compact" shall be treated as a reference to the Compact of Free Association, as amended between the Government of the United States of America and the Government of the Federated States of Micronesia and set forth in Title II (section 201(a)) of this joint resolution. Any reference in this joint resolution to the "U.S.-RMI Compact" shall be treated as a reference to the Compact of Free Association, as amended between the Government of the United States of America and the Government of the Republic of the Marshall Islands and set forth in Title II (section 201(b)) of this joint resolution.

(2) Any reference to the term "subsidiary agreements" or "separate agreements" in this joint resolution shall be treated as a reference to agreements listed in section 462 of the U.S.-FSM Compact and the U.S.-RMI Compact, and any other agreements that the United States may from time to time enter into with either the Government of the Federated States of Micronesia or the Government of the Republic of the Marshall Islands, or with both such governments in accordance with the provisions of the U.S.-FSM Compact and the U.S.-RMI Compact.

(d) AMENDMENT, CHANGE, OR TERMINATION IN THE U.S.-FSM COMPACT AND U.S.-RMI COMPACT AND CERTAIN AGREEMENTS.—

(1) Any amendment, change, or termination by mutual agreement or by unilateral action of the Government of the United States of all or any part of the U.S.-FSM Compact or U.S.-RMI Compact shall not enter into force until after Congress has incorporated it in an Act of Congress.

(2) The provisions of paragraph (1) shall apply—

(A) to all actions of the Government of the United States under the U.S.-FSM Compact or U.S.-RMI Compact including, but not limited to, actions taken pursuant to sections 431, 441, or 442;

(B) to any amendment, change, or termination in the Agreement Between the Government of the United States and the Government of the Federated States of Micronesia Regarding Friendship, Cooperation and Mutual Security Concluded Pursuant to Sections 321 and 323 of the Compact of Free Association referred to in section 462(a)(2) of the U.S.-FSM Compact and the Agreement Between the Government of the United States and the Government of the Marshall Islands Regarding Mutual Security Concluded Pursuant to Sections 321 and 323 of the Compact of Free Associa-

tion referred to in section 462(a)(5) of the U.S.-RMI Compact;

(C) to any amendment, change, or termination of the agreements concluded pursuant to Compact section 177, and section 215(a) of the U.S.-FSM Compact and section 216(a) of the U.S.-RMI Compact, the terms of which are incorporated by reference into the U.S.-FSM Compact and the U.S.-RMI Compact; and

(D) to the following subsidiary agreements, or portions thereof:

(i) Articles III, IV, and X of the agreement referred to in section 462(b)(6) of the U.S.-RMI Compact:

(ii) Article III and IV of the agreement referred to in section 462(b)(6) of the U.S.-FSM Compact.

(iii) Articles VI, XV, and XVII of the agreement referred to in section 462(b)(7) of the U.S.-FSM Compact and U.S.-RMI Compact.

(e) SUBSIDIARY AGREEMENTS DEEMED BILATERAL.—For purposes of implementation of the U.S.-FSM Compact and the U.S.-RMI Compact and this joint resolution, the Agreement Concluded Pursuant to Section 234 of the Compact of Free Association and referred to in section 462(a)(1) of the U.S.-FSM Compact and section 462(a)(4) of the U.S.-RMI Compact shall be deemed to be a bilateral agreement between the United States and each other party to such subsidiary agreement. The consent or concurrence of any other party shall not be required for the effectiveness of any actions taken by the United States in conjunction with either the Federated States of Micronesia or the Republic of the Marshall Islands which are intended to affect the implementation, modification, suspension, or termination of such subsidiary agreement (or any provision thereof) as regards the mutual responsibilities of the United States and the party in conjunction with whom the actions are taken.

(f) ENTRY INTO FORCE OF FUTURE AMENDMENTS TO SUBSIDIARY AGREEMENTS.—No agreement between the United States and the government of either the Federated States of Micronesia or the Republic of the Marshall Islands which would amend, change, or terminate any subsidiary agreement or portion thereof, other than those set forth in subsection (d) of this section shall enter into force until after the President has transmitted such agreement to the President of the Senate and the Speaker of the House of Representatives together with an explanation of the agreement and the reasons therefor. In the case of the agreement referred to in section 462(b)(3) of the U.S.-FSM Compact and the U.S.-RMI Compact, such transmittal shall include a specific statement by the Secretary of Labor as to the necessity of such amendment, change, or termination, and the impact thereof.

SEC. 102. AGREEMENTS WITH FEDERATED STATES OF MICRONESIA.

(a) LAW ENFORCEMENT ASSISTANCE.—Pursuant to sections 222 and 224 of the U.S.-FSM Compact, the United States shall provide non-reimbursable technical and training assistance as appropriate, including training and equipment for postal inspection of illicit drugs and other contraband, to enable the Government of the Federated States of Micronesia to develop and adequately enforce laws of the Federated States of Micronesia and to cooperate with the United States in the enforcement of criminal laws of the United States. Funds appropriated pursuant to section 105(j) of this title may be used to reimburse State or local agencies providing such assistance.

(b) AGREEMENT ON AUDITS.—The Comptroller General (and his duly authorized representatives) shall have the authorities necessary to carry out his responsibilities under section 232 of the U.S.-FSM Compact and the agreement referred to in section 462(b)(4) of the U.S.-FSM Compact, including the following authorities:

(1) GENERAL AUTHORITY OF THE COMPTROLLER GENERAL TO AUDIT.—

(A) The Comptroller General of the United States (and his duly authorized representatives) shall have the authority to audit—

(i) all grants, program assistance, and other assistance provided to the Government of the Federated States of Micronesia under Articles I and II of Title Two of the U.S.-FSM Compact; and

(ii) any other assistance provided by the Government of the United States to the Government of the Federated States of Micronesia.

Such authority shall include authority for the Comptroller General to conduct or cause to be conducted any of the audits provided for in section 232 of the U.S.-FSM Compact. The authority provided in this paragraph shall continue for at least three years after the last such grant has been made or assistance has been provided.

(B) The Comptroller General (and his duly authorized representatives) shall also have authority to review any audit conducted by or on behalf of the Government of the United States. In this connection, the Comptroller General shall have access to such personnel and to such records, documents, working papers, automated data and files, and other information relevant to such review.

(2) COMPTROLLER GENERAL ACCESS TO RECORDS.—

(A) In carrying out paragraph (1), the Comptroller General (and his duly authorized representatives) shall have such access to the personnel and (without cost) to records, documents, working papers, automated data and files, and

other information relevant to such audits. The Comptroller General may duplicate any such records, documents, working papers, automated data and files, or other information relevant to such audits.

(B) Such records, documents, working papers, automated data and files, and other information regarding each such grant or other assistance shall be maintained for at least five years after the date such grant or assistance was provided and in a manner that permits such grants, assistance, and payments to be accounted for distinct from any other funds of the Government of the Federated States of Micronesia.

(3) STATUS OF COMPTROLLER GENERAL REPRESENTATIVES.—The Comptroller General and his duly authorized representatives shall be immune from civil and criminal process relating to words spoken or written and all acts performed by them in their official capacity and falling within their functions, except insofar as such immunity may be expressly waived by the Government of the United States. The Comptroller General and his duly authorized representatives shall not be liable to arrest or detention pending trial, except in the case of a grave crime and pursuant to a decision by a competent judicial authority, and such persons shall enjoy immunity from seizure of personal property, immigration restrictions, and laws relating to alien registration, fingerprinting, and the registration of foreign agents. Such persons shall enjoy the same taxation exemptions as are set forth in Article 34 of the Vienna Convention on Diplomatic Relations. The privileges, exemptions and immunities accorded under this paragraph are not for the personal benefit of the individuals concerned but are to safeguard the independent exercise of their official functions. Without prejudice to those privileges, exemptions and immunities, it is the duty of all such persons to respect the laws and regulations of the Government of the Federated States of Micronesia.

(4) AUDITS DEFINED.—As used in this subsection, the term "audits" includes financial, program, and management audits, including determining—

(A) whether the Government of the Federated States of Micronesia has met the requirements set forth in the U.S.-FSM Compact, or any related agreement entered into under the U.S.-FSM Compact, regarding the purposes for which such grants and other assistance are to be used; and

(B) the propriety of the financial transactions of the Government of the Federated States of Micronesia pursuant to such grants or assistance.

(5) COOPERATION BY FEDERATED STATES OF MICRONESIA.—The Government of the Federated States of Micronesia will cooperate fully with the Comptroller

General of the United States in the conduct of such audits as the Comptroller General determines necessary to enable the Comptroller General to fully discharge his responsibilities under this joint resolution.

SEC. 103. AGREEMENTS WITH AND OTHER PROVISIONS RELATED TO THE REPUBLIC OF THE MARSHALL ISLANDS.

(a) LAW ENFORCEMENT ASSISTANCE.—Pursuant to sections 222 and 224 of the U.S.-RMI Compact, the United States shall provide non-reimbursable technical and training assistance as appropriate, including training and equipment for postal inspection of illicit drugs and other contraband, to enable the Government of the Marshall Islands to develop and adequately enforce laws of the Marshall Islands and to cooperate with the United States in the enforcement of criminal laws of the United States. Funds appropriated pursuant to section 105(j) of this title may be used to reimburse State or local agencies providing such assistance.

(b) EJIT.—

(1) In the joint resolution of January 14, 1986 (Public Law 99–239) Congress provided that the President of the United States shall negotiate with the Government of the Marshall Islands an agreement whereby, without prejudice as to any claims which have been or may be asserted by any party as to rightful title and ownership of any lands on Ejit, the Government of the Marshall Islands shall assure that lands on Ejit used as of January 1, 1985, by the people of Bikini, will continue to be available without charge for their use, until such time as Bikini is restored and inhabitable and the continued use of Ejit is no longer necessary, unless a Marshall Islands court of competent jurisdiction finally determines that there are legal impediments to continued use of Ejit by the people of Bikini.

(2) In the joint resolution of January 14, 1986 (Public Law 99–239) Congress provided that if the impediments described in paragraph (1) do arise, the United States will cooperate with the Government of the Marshall Islands in assisting any person adversely affected by such judicial determination to remain on Ejit, or in locating suitable and acceptable alternative lands for such person's use.

(3) In the joint resolution of January 14, 1986 (Public Law 99–239) Congress provided that paragraph (1) shall not be applied in a manner which would prevent the Government of the Marshall Islands from acting in accordance with its constitutional processes to resolve title and ownership claims with respect to such lands or from taking substitute or additional measures to meet the needs of the people of Bikini with their democratically expressed consent and approval.

(c) SECTION 177 AGREEMENT.—

(1) In the joint resolution of January 14, 1986 (Public Law 99–239) Congress provided that in furtherance

of the purposes of Article I of the Subsidiary Agreement for Implementation of Section 177 of the Compact, the payment of the amount specified therein shall be made by the United States under Article I of the Agreement between the Government of the United States and the Government of the Marshall Islands for the Implementation of section 177 of the Compact (hereafter in this subsection referred to as the "Section 177 Agreement") only after the Government of the Marshall Islands has notified the President of the United States as to which investment management firm has been selected by such Government to act as Fund Manager under Article I of the Section 177 Agreement.

(2) In the joint resolution of January 14, 1986 (Public Law 99–239) Congress provided that in the event that the President determines that an investment management firm selected by the Government of the Marshall Islands does not meet the requirements specified in Article I of the Section 177 Agreement, the United States shall invoke the conference and dispute resolution procedures of Article II of Title Four of the Compact. Pending the resolution of such a dispute and until a qualified Fund Manager has been designated, the Government of the Marshall Islands shall place the funds paid by the United States pursuant to Article I of the Section 177 Agreement into an interest-bearing escrow account. Upon designation of a qualified Fund Manager, all funds in the escrow account shall be transferred to the control of such Fund Manager for management pursuant to the Section 177 Agreement.

(3) In the joint resolution of January 14, 1986 (Public Law 99–239) Congress provided that if the Government of the Marshall Islands determines that some other investment firm should act as Fund Manager in place of the firm first (or subsequently) selected by such Government, the Government of the Marshall Islands shall so notify the President of the United States, identifying the firm selected by such Government to become Fund Manager, and the President shall proceed to evaluate the qualifications of such identified firm.

(4) In the joint resolution of January 14, 1986 (Public Law 99–239) Congress provided that at the end of 15 years after the effective date of the Compact, the firm then acting as Fund Manager shall transfer to the Government of the Marshall Islands, or to such account as such Government shall so notify the Fund Manager, all remaining funds and assets being managed by the Fund Manager under the Section 177 Agreement.

(d) NUCLEAR TEST EFFECTS.—In the joint resolution of January 14, 1986 (Public Law 99–239) Congress provided that in approving the Compact, the Congress understands

and intends that the peoples of Bikini, Enewetak, Rongelap, and Utrik, who were affected by the United States nuclear weapons testing program in the Marshall Islands, will receive the amounts of $75,000,000 (Bikini); $48,750,000 (Enewetak); $37,500,000 (Rongelap); and $22,500,000 (Utrik), respectively, which amounts shall be paid out of proceeds from the fund established under Article I, section 1 of the subsidiary agreement for the implementation of section 177 of the Compact. The amounts specified in this subsection shall be in addition to any amounts which may be awarded to claimants pursuant to Article IV of the subsidiary agreement for the implementation of Section 177 of the Compact. Nothing in this subsection creates any rights or obligations beyond those provided for in the original enacted version of Public Law 99–239.

(e) ESPOUSAL PROVISIONS.—

(1) In the joint resolution of January 14, 1986 (Public Law 99–239) Congress provided that it is the intention of the Congress of the United States that the provisions of section 177 of the Compact of Free Association and the Agreement between the Government of the United States and the Government of the Marshall Islands for the Implementation of Section 177 of the Compact (hereafter in this subsection referred to as the "Section 177 Agreement") constitute a full and final settlement of all claims described in Articles X and XI of the Section 177 Agreement, and that any such claims be terminated and barred except insofar as provided for in the Section 177 Agreement.

(2) In the joint resolution of January 14, 1986 (Public Law 99–239) Congress provided that in furtherance of the intention of Congress as stated in paragraph (1) of this subsection, the Section 177 Agreement is hereby ratified and approved. It is the explicit understanding and intent of Congress that the jurisdictional limitations set forth in Article XII of such Agreement are enacted solely and exclusively to accomplish the objective of Article X of such Agreement and only as a clarification of the effect of Article X, and are not to be construed or implemented separately from Article X.

(f) DOE RADIOLOGICAL HEALTH CARE PROGRAM; USDA AGRICULTURAL AND FOOD PROGRAMS.—

(1) MARSHALL ISLANDS PROGRAM.—Notwithstanding any other provision of law, upon the request of the Government of the Republic of the Marshall Islands, the President (either through an appropriate department or agency of the United States or by contract with a United States firm) shall continue to provide special medical care and logistical support thereto for the remaining members of the population of Rongelap and Utrik who were exposed to radiation resulting from the 1954 United States thermo-nuclear "Bravo" test, pursuant to Public Laws 95–134 and 96–205.

(2) AGRICULTURAL AND FOOD PROGRAMS.—

(A) IN GENERAL.—In the joint resolution of January 14, 1986 (Public Law 99–239) Congress provided that notwithstanding any other provision of law, upon the request of the Government of the Marshall Islands, for the first fifteen years after the effective date of the Compact, the President (either through an appropriate department or agency of the United States or by contract with a United States firm or by a grant to the Government of the Republic of the Marshall Islands which may further contract only with a United States firm or a Republic of the Marshall Islands firm, the owners, officers and majority of the employees of which are citizens of the United States or the Republic of the Marshall Islands) shall provide technical and other assistance—

(i) without reimbursement, to continue the planting and agricultural maintenance program on Enewetak, as provided in subparagraph (C); and

(ii) without reimbursement, to continue the food programs of the Bikini and Enewetak people described in section 1(d) of Article II of the Subsidiary Agreement for the Implementation of Section 177 of the Compact and for continued waterborne transportation of agricultural products to Enewetak including operations and maintenance of the vessel used for such purposes.

(B) POPULATION CHANGES.—The President shall ensure the assistance provided under these programs reflects the changes in the population since the inception of such programs.

(C) PLANTING AND AGRICULTURAL MAINTENANCE PROGRAM.—

(i) IN GENERAL.—The planting and agricultural maintenance program on Enewetak shall be funded at a level of not less than $1,300,000 per year, as adjusted for inflation under section 218 of the U.S.-RMI Compact.

(ii) AUTHORIZATION AND CONTINUING APPROPRIATION.—There is hereby authorized and appropriated to the Secretary of the Interior, out of any funds in the Treasury not otherwise appropriated, to remain available until expended, for each fiscal year from 2004 through 2023, $1,300,000, as adjusted for inflation under section 218 of the U.S.-RMI Compact, for grants to carry out the planting and agricultural maintenance program.

(3) PAYMENTS.—In the joint resolution of January 14, 1986 (Public Law 99–239) Congress provided that payments under this subsection shall be provided to such extent or in such amounts as are necessary for

services and other assistance provided pursuant to this subsection. It is the sense of Congress that after the periods of time specified in paragraphs (1) and (2) of this subsection, consideration will be given to such additional funding for these programs as may be necessary.

(g) RONGELAP.—

(1) In the joint resolution of January 14, 1986 (Public Law 99–239) Congress provided that because Rongelap was directly affected by fallout from a 1954 United States thermonuclear test and because the Rongelap people remain unconvinced that it is safe to continue to live on Rongelap Island, it is the intent of Congress to take such steps (if any) as may be necessary to overcome the effects of such fallout on the habitability of Rongelap Island, and to restore Rongelap Island, if necessary, so that it can be safely inhabited. Accordingly, it is the expectation of the Congress that the Government of the Marshall Islands shall use such portion of the funds specified in Article II, section 1(e) of the subsidiary agreement for the implementation of section 177 of the Compact as are necessary for the purpose of contracting with a qualified scientist or group of scientists to review the data collected by the Department of Energy relating to radiation levels and other conditions on Rongelap Island resulting from the thermonuclear test. It is the expectation of the Congress that the Government of the Marshall Islands, after consultation with the people of Rongelap, shall select the party to review such data, and shall contract for such review and for submission of a report to the President of the United States and the Congress as to the results thereof.

(2) In the joint resolution of January 14, 1986 (Public Law 99–239) Congress provided that the purpose of the review referred to in paragraph (1) of this subsection shall be to establish whether the data cited in support of the conclusions as to the habitability of Rongelap Island, as set forth in the Department of Energy report entitled: "The Meaning of Radiation for Those Atolls in the Northern Part of the Marshall Islands That Were Surveyed in 1978", dated November 1982, are adequate and whether such conclusions are fully supported by the data. If the party reviewing the data concludes that such conclusions as to habitability are fully supported by adequate data, the report to the President of the United States and the Congress shall so state. If the party reviewing the data concludes that the data are inadequate to support such conclusions as to habitability or that such conclusions as to habitability are not fully supported by the data, the Government of the Marshall Islands shall contract with an appropriate scientist or group of scientists to undertake a complete survey of radiation and other effects of the nuclear testing program relating to the

habitability of Rongelap Island. Such sums as are necessary for such survey and report concerning the results thereof and as to steps needed to restore the habitability of Rongelap Island are authorized to be made available to the Government of the Marshall Islands.

(3) In the joint resolution of January 14, 1986 (Public Law 99–239) Congress provided that it is the intent of Congress that such steps (if any) as are necessary to restore the habitability of Rongelap Island and return the Rongelap people to their homeland will be taken by the United States in consultation with the Government of the Marshall Islands and, in accordance with its authority under the Constitution of the Marshall Islands, the Rongelap local government council.

(4) There is hereby authorized and appropriated to the Secretary of the Interior, out of any funds in the Treasury not otherwise appropriated, to remain available until expended, for fiscal year 2005, $5,300,000 as the final contribution of the United States to the Rongelap Resettlement Trust Fund as established pursuant to Public Law 102–154 (105 Stat. 1009), for the purposes of establishing a food importation program as a part of the overall resettlement program of Rongelap Island.

(h) FOUR ATOLL HEALTH CARE PROGRAM.—

(1) In the joint resolution of January 14, 1986 (Public Law 99–239) Congress provided that services provided by the United States Public Health Service or any other United States agency pursuant to section 1(a) of Article II of the Agreement for the Implementation of Section 177 of the Compact (hereafter in this subsection referred to as the "Section 177 Agreement") shall be only for services to the people of the Atolls of Bikini, Enewetak, Rongelap, and Utrik who were affected by the consequences of the United States nuclear testing program, pursuant to the program described in Public Law 95–134 (91 Stat. 1159) and Public Law 96–205 (94 Stat. 84) and their descendants (and any other persons identified as having been so affected if such identification occurs in the manner described in such public laws). Nothing in this subsection shall be construed as prejudicial to the views or policies of the Government of the Marshall Islands as to the persons affected by the consequences of the United States nuclear testing program.

(2) In the joint resolution of January 14, 1986 (Public Law 99–239) Congress provided that at the end of the first year after the effective date of the Compact and at the end of each year thereafter, the providing agency or agencies shall return to the Government of the Marshall Islands any unexpended funds to be returned to the Fund Manager (as described in Article I of the Section 177 Agreement) to be covered into the Fund to be available for future use.

(3) In the joint resolution of January 14, 1986 (Public Law 99–239) Congress provided that the Fund Manager shall retain the funds returned by the Government of the Marshall Islands pursuant to paragraph (2) of this subsection, shall invest and manage such funds, and at the end of 15 years after the effective date of the Compact, shall make from the total amount so retained and the proceeds thereof annual disbursements sufficient to continue to make payments for the provision of health services as specified in paragraph (1) of this subsection to such extent as may be provided in contracts between the Government of the Marshall Islands and appropriate United States providers of such health services.

(i) ENJEBI COMMUNITY TRUST FUND.—In the joint resolution of January 14, 1986 (Public Law 99–239) Congress provided that notwithstanding any other provision of law, the Secretary of the Treasury shall establish on the books of the Treasury of the United States a fund having the status specified in Article V of the subsidiary agreement for the implementation of Section 177 of the Compact, to be known as the "Enjebi Community Trust Fund" (hereafter in this subsection referred to as the "Fund"), and shall credit to the Fund the amount of $7,500,000. Such amount, which shall be ex gratia, shall be in addition to and not charged against any other funds provided for in the Compact and its subsidiary agreements, this joint resolution, or any other Act. Upon receipt by the President of the United States of the agreement described in this subsection, the Secretary of the Treasury, upon request of the Government of the Marshall Islands, shall transfer the Fund to the Government of the Marshall Islands, provided that the Government of the Marshall Islands agrees as follows:

(1) ENJEBI TRUST AGREEMENT.—In the joint resolution of January 14, 1986 (Public Law 99–239) Congress provided that the Government of the Marshall Islands and the Enewetak Local Government Council, in consultation with the people of Enjebi, shall provide for the creation of the Enjebi Community Trust Fund and the employment of the manager of the Enewetak Fund established pursuant to the Section 177 Agreement as trustee and manager of the Enjebi Community Trust Fund, or, should the manager of the Enewetak Fund not be acceptable to the people of Enjebi, another United States investment manager with substantial experience in the administration of trusts and with funds under management in excess of $250,000,000.

(2) MONITOR CONDITIONS.—In the joint resolution of January 14, 1986 (Public Law 99–239) Congress provided that upon the request of the Government of the Marshall Islands, the United States shall monitor the radiation and other conditions on Enjebi and within one year of receiving such a request shall report to the Government of the Marshall Islands when the people

of Enjebi may resettle Enjebi under circumstances where the radioactive contamination at Enjebi, including contamination derived from consumption of locally grown food products, can be reduced or otherwise controlled to meet whole body Federal radiation protection standards for the general population, including mean annual dose and mean 30-year cumulative dose standards.

(3) RESETTLEMENT OF ENJEBI.—In the joint resolution of January 14, 1986 (Public Law 99–239) Congress provided that in the event that the United States determines that the people of Enjebi can within 25 years of January 14, 1986, resettle Enjebi under the conditions set forth in paragraph (2) of this subsection, then upon such determination there shall be available to the people of Enjebi from the Fund such amounts as are necessary for the people of Enjebi to do the following, in accordance with a plan developed by the Enewetak Local Government Council and the people of Enjebi, and concurred with by the Government of the Marshall Islands to assure consistency with the government's overall economic development plan:

(A) Establish a community on Enjebi Island for the use of the people of Enjebi.

(B) Replant Enjebi with appropriate food-bearing and other vegetation.

(4) RESETTLEMENT OF OTHER LOCATION.—In the joint resolution of January 14, 1986 (Public Law 99–239) Congress provided that in the event that the United States determines that within 25 years of January 14, 1986, the people of Enjebi cannot resettle Enjebi without exceeding the radiation standards set forth in paragraph (2) of this subsection, then the fund manager shall be directed by the trust instrument to distribute the Fund to the people of Enjebi for their resettlement at some other location in accordance with a plan, developed by the Enewetak Local Government Council and the people of Enjebi and concurred with by the Government of the Marshall Islands, to assure consistency with the government's overall economic development plan.

(5) INTEREST FROM FUND.—In the joint resolution of January 14, 1986 (Public Law 99–239) Congress provided that prior to and during the distribution of the corpus of the Fund pursuant to paragraphs (3) and (4) of this subsection, the people of Enjebi may, if they so request, receive the interest earned by the Fund on no less frequent a basis than quarterly.

(6) DISCLAIMER OF LIABILITY.—In the joint resolution of January 14, 1986 (Public Law 99–239) Congress provided that neither under the laws of the Marshall Islands nor under the laws of the United States, shall the Government of the United States be liable for any loss or damage to person or property in respect to the

resettlement of Enjebi by the people of Enjebi, pursuant to the provision of this subsection or otherwise.

(j) BIKINI ATOLL CLEANUP.—

(1) DECLARATION OF POLICY.—In the joint resolution of January 14, 1986 (Public Law 99–239), the Congress determined and declared that it is the policy of the United States, to be supported by the full faith and credit of the United States, that because the United States, through its nuclear testing and other activities, rendered Bikini Atoll unsafe for habitation by the people of Bikini, the United States will fulfill its responsibility for restoring Bikini Atoll to habitability, as set forth in paragraphs (2) and (3) of this subsection.

(2) CLEANUP FUNDS.—The joint resolution of January 14, 1986 (Public Law 99–239) authorized to be appropriated such sums as necessary to implement the settlement agreement of March 15, 1985, in The People of Bikini, et al. against United States of America, et al., Civ. No. 84–0425 (D. Ha.).

(3) CONDITIONS OF FUNDING.—In the joint resolution of January 14, 1986 (Public Law 99–239) the Congress provided that the funds referred to in paragraph (2) were to be made available pursuant to Article VI, Section 1 of the Compact Section 177 Agreement upon completion of the events set forth in the settlement agreement referred to in paragraph (2) of this subsection.

(k) AGREEMENT ON AUDITS.—The Comptroller General (and his duly authorized representatives) shall have the authorities necessary to carry out his responsibilities under section 232 of the U.S.-RMI Compact and the agreement referred to in section 462(b)(4) of the U.S.-RMI Compact, including the following authorities:

(1) GENERAL AUTHORITY OF THE COMPTROLLER GENERAL TO AUDIT.—

(A) The Comptroller General of the United States (and his duly authorized representatives) shall have the authority to audit—

(i) all grants, program assistance, and other assistance provided to the Government of the Republic of the Marshall Islands under Articles I and II of Title Two of the U.S.-RMI Compact; and

(ii) any other assistance provided by the Government of the United States to the Government of the Republic of the Marshall Islands.

Such authority shall include authority for the Comptroller General to conduct or cause to be conducted any of the audits provided for in section 232 of the U.S.-RMI Compact. The authority provided in this paragraph shall continue for at least three years after the last such grant has been made or assistance has been provided.

(B) The Comptroller General (and his duly authorized representatives) shall also have authority to review any audit conducted by or on behalf of the Government of the United States. In this connection, the Comptroller General shall have access to such personnel and to such records, documents, working papers, automated data and files, and other information relevant to such review.

(2) COMPTROLLER GENERAL ACCESS TO RECORDS.—

(A) In carrying out paragraph (1), the Comptroller General (and his duly authorized representatives) shall have such access to the personnel and (without cost) to records, documents, working papers, automated data and files, and other information relevant to such audits. The Comptroller General may duplicate any such records, documents, working papers, automated data and files, or other information relevant to such audits.

(B) Such records, documents, working papers, automated data and files, and other information regarding each such grant or other assistance shall be maintained for at least five years after the date such grant or assistance was provided and in a manner that permits such grants, assistance and payments to be accounted for distinct from any other funds of the Government of the Republic of the Marshall Islands.

(3) STATUS OF COMPTROLLER GENERAL REPRESENTATIVES.—The Comptroller General and his duly authorized representatives shall be immune from civil and criminal process relating to words spoken or written and all acts performed by them in their official capacity and falling within their functions, except insofar as such immunity may be expressly waived by the Government of the United States. The Comptroller General and his duly authorized representatives shall not be liable to arrest or detention pending trial, except in the case of a grave crime and pursuant to a decision by a competent judicial authority, and such persons shall enjoy immunity from seizure of personal property, immigration restrictions, and laws relating to alien registration, fingerprinting, and the registration of foreign agents. Such persons shall enjoy the same taxation exemptions as are set forth in Article 34 of the Vienna Convention on Diplomatic Relations. The privileges, exemptions and immunities accorded under this paragraph are not for the personal benefit of the individuals concerned but are to safeguard the independent exercise of their official functions. Without prejudice to those privileges, exemptions and immunities, it is the duty of all such persons to respect the laws and regulations of the Government of the Republic of the Marshall Islands.

(4) AUDITS DEFINED.—As used in this subsection, the term "audits" includes financial, program, and management audits, including determining—

(A) whether the Government of the Republic of the Marshall Islands has met the requirements set forth in the U.S.-RMI Compact, or any related agreement entered into under the U.S.-RMI Compact, regarding the purposes for which such grants and other assistance are to be used; and

(B) the propriety of the financial transactions of the Government of the Republic of the Marshall Islands pursuant to such grants or assistance.

(5) COOPERATION BY THE REPUBLIC OF THE MARSHALL ISLANDS.—The Government of the Republic of the Marshall Islands will cooperate fully with the Comptroller General of the United States in the conduct of such audits as the Comptroller General determines necessary to enable the Comptroller General to fully discharge his responsibilities under this joint resolution.

(l) KWAJALEIN.—

(1) STATEMENT OF POLICY.—It is the policy of the United States that payment of funds by the Government of the Marshall Islands to the landowners of Kwajalein Atoll in accordance with the land use agreement dated October 19, 1982, or as amended or superseded, and any related allocation agreements, is required in order to ensure that the Government of the United States will be able to fulfill its obligation and responsibilities under Title Three of the Compact and the subsidiary agreements concluded pursuant to the Compact.

(2) FAILURE TO PAY.—

(A) IN GENERAL.—If the Government of the Marshall Islands fails to make payments in accordance with paragraph (1), the Government of the United States shall initiate procedures under section 313 of the Compact and consult with the Government of the Marshall Islands with respect to the basis for the nonpayment of funds.

(B) RESOLUTION.—The United States shall expeditiously resolve the matter of any nonpayment of funds required under paragraph (1) pursuant to section 313 of the Compact and the authority and responsibility of the Government of the United States for security and defense matters in or relating to the Marshall Islands. This paragraph shall be enforced, as may be necessary, in accordance with section 105(f).

(3) DISPOSITION OF INCREASED PAYMENTS PENDING NEW LAND USE AGREEMENT.—Until such time as the Government of the Marshall Islands and the landowners of Kwajalein Atoll have concluded an agreement amending or superseding the land use agreement dated October 19, 1982, any amounts paid by the

United States to the Government of the Marshall Islands in excess of the amounts required to be paid pursuant to the land use agreement dated October 19, 1982, shall be paid into, and held in, an interest bearing escrow account in a United States financial institution by the Government of the Republic of the Marshall Islands. At such time, the funds and interest held in escrow shall be paid to the landowners of Kwajalein in accordance with the new land use agreement. If no such agreement is concluded by the date which is five years after the date of enactment of this resolution, then such funds shall, unless otherwise mutually agreed between the Government of the United States of America and the Government of the Republic of the Marshall Islands, be returned to the U.S. Treasury.

(4) NOTIFICATIONS AND REPORT.—

(A) The Government of the Republic of the Marshall Islands shall notify the Government of the United States of America when an agreement amending or superseding the land use agreement dated October 19, 1982, is concluded.

(B) If no agreement amending or superseding the land use agreement dated October 19, 1982 is concluded by the date five years after the date of enactment of this resolution, then the President shall report to Congress on the intentions of the United States with respect to the use of Kwajalein Atoll after 2016, on any plans to relocate activities carried out on Kwajalein Atoll, and on the disposition of the funds and interest held in escrow under to paragraph (3).

(5) ASSISTANCE.—The President is authorized to make loans and grants to the Government of the Marshall Islands to address the special needs of the community at Ebeye, Kwajalein Atoll, and other Marshallese communities within the Kwajalein Atoll, pursuant to development plans adopted in accordance with applicable laws of the Marshall Islands. The loans and grants shall be subject to such other terms and conditions as the President, in the discretion of the President, may determine are appropriate.

SEC. 104. INTERPRETATION OF AND UNITED STATES POLICY REGARDING U.S.-FSM COMPACT AND U.S.-RMI COMPACT.

(a) HUMAN RIGHTS.—In approving the U.S.-FSM Compact and the U.S.-RMI Compact, Congress notes the conclusion in the Statement of Intent of the Report of The Future Political Status Commission of the Congress of Micronesia in July, 1969, that "our recommendation of a free associated state is indissolubly linked to our desire for such a democratic, representative, constitutional government" and notes that such desire and intention are reaffirmed and embodied in the Constitutions of the Federated States of Micronesia and the Republic of the Marshall Islands.

Congress also notes and specifically endorses the preamble to the U.S.-FSM Compact and the U.S.-RMI Compact, which affirms that the governments of the parties to the U.S.-FSM Compact and the U.S.-RMI Compact are founded upon respect for human rights and fundamental freedoms for all. The Secretary of State shall include in the annual reports on the status of internationally recognized human rights in foreign countries, which are submitted to Congress pursuant to sections 116 and 502B of the Foreign Assistance Act of 1961, "22 U.S.C. 2151n, 2304" a full and complete report regarding the status of internationally recognized human rights in the Federated States of Micronesia and the Republic of the Marshall Islands.

(b) IMMIGRATION AND PASSPORT SECURITY.—

(1) NATURALIZED CITIZENS.—The rights of a bona fide naturalized citizen of the Federated States of Micronesia or the Republic of the Marshall Islands to enter the United States, to lawfully engage therein in occupations, and to establish residence therein as a nonimmigrant, to the extent such rights are provided under section 141 of the U.S.-FSM Compact and U.S.-RMI Compact, shall not be deemed to extend to any such naturalized citizen with respect to whom circumstances associated with the acquisition of the status of a naturalized citizen are such as to allow a reasonable inference, on the part of appropriate officials of the United States and subject to United States procedural requirements, that such naturalized status was acquired primarily in order to obtain such rights.

(2) PASSPORTS.—It is the sense of Congress that up to $250,000 of the grant assistance provided to the Federated States of Micronesia pursuant to section 211(a)(4) of the U.S.-FSM Compact, and up to $250,000 of the grant assistance provided to the Republic of the Marshall Islands pursuant to section 211(a)(4) of the U.S.-RMI Compact (or a greater amount of the section 211(a)(4) grant, if mutually agreed between the Government of the United States and the government of the Federated States of Micronesia or the government of the Republic of the Marshall Islands), be used for the purpose of increasing the machine-readability and security of passports issued by such jurisdictions. It is further the sense of Congress that such funds be obligated by September 30, 2004 and in the amount and manner specified by the Secretary of State in consultation with the Secretary of Homeland Security and, respectively, with the government of the Federated States of Micronesia and the government of the Republic of the Marshall Islands. The United States Government is authorized to require that passports used for the purpose of seeking admission under section 141 of the U.S.-FSM Compact and the U.S.-RMI Compact contain the security enhancements funded by such assistance.

(3) INFORMATION-SHARING.—It is the sense of Congress that the governments of the Federated States of Micronesia and the Republic of the Marshall Islands develop, prior to October 1, 2004, the capability to provide reliable and timely information as may reasonably be required by the Government of the United States in enforcing criminal and security-related grounds of inadmissibility and deportability under the Immigration and Nationality Act, as amended, and shall provide such information to the Government of the United States.

(4) TRANSITION; CONSTRUCTION OF SECTIONS 141(A)(3) AND 141(A)(4) OF THE U.S.-FSM COMPACT AND U.S.-RMI COMPACT.—The words "the effective date of this Compact, as amended" in sections 141(a)(3) and 141(a)(4) of the U.S.-FSM Compact and the U.S.-RMI Compact shall be construed to read, "on the day prior to the enactment by the United States Congress of the Amended Compact Act.".

(c) NONALIENATION OF LANDS.—Congress endorses and encourages the maintenance of the policies of the Government of the Federated States of Micronesia and the Government of the Republic of the Marshall Islands to regulate, in accordance with their Constitutions and laws, the alienation of permanent interests in real property so as to restrict the acquisition of such interests to persons of Federated States of Micronesia citizenship and the Republic of the Marshall Islands citizenship, respectively.

(d) NUCLEAR WASTE DISPOSAL.—In approving the U.S.-FSM Compact and the U.S.-RMI Compact, Congress understands that the Government of the Federated States of Micronesia and the Government of the Republic of the Marshall Islands will not permit any other government or any nongovernmental party to conduct, in the Republic of the Marshall Islands or in the Federated States of Micronesia, any of the activities specified in subsection (a) of section 314 of the U.S.-FSM Compact and the U.S.-RMI Compact.

(e) IMPACT OF COMPACTS ON THE STATE OF HAWAII, GUAM, THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS AND AMERICAN SAMOA; RELATED AUTHORIZATION AND CONTINUING APPROPRIATION.—

(1) STATEMENT OF CONGRESSIONAL INTENT.—In reauthorizing the Compacts, it is not the intent of Congress to cause any adverse consequences for an affected jurisdiction.

(2) DEFINITIONS.—For the purposes of this subsection—

(A) the term "affected jurisdiction" means American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, or the State of Hawaii; and

(B) the term "qualified nonimmigrant" means a person, or their children under the age of 18, admitted or resident pursuant to section 141 of the

U.S.-RMI or U.S.-FSM Compact, or section 141 of the Palau Compact who, as of a date referenced in the most recently published enumeration is a resident of an affected jurisdiction. As used in this subsection, the term "resident" shall be a person who has a "residence," as that term is defined in section 101(a)(33) of the Immigration and Nationality Act, as amended.

(3) AUTHORIZATION AND CONTINUING APPROPRIATION.—There is hereby authorized and appropriated to the Secretary of the Interior, out of any funds in the Treasury not otherwise appropriated, to remain available until expended, for each fiscal year from 2004 through 2023, $30,000,000 for grants to affected jurisdictions to aid in defraying costs incurred by affected jurisdictions as a result of increased demands placed on health, educational, social, or public safety services or infrastructure related to such services due to the residence in affected jurisdictions of qualified nonimmigrants from the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau. The grants shall be—

(A) awarded and administered by the Department of the Interior, Office of Insular Affairs, or any successor thereto, in accordance with regulations, policies and procedures applicable to grants so awarded and administered, and

(B) used only for health, educational, social, or public safety services, or infrastructure related to such services, specifically affected by qualified nonimmigrants.

(4) ENUMERATION.—The Secretary of the Interior shall conduct periodic enumerations of qualified nonimmigrants in each affected jurisdiction. The enumerations—

(A) shall be conducted at such intervals as the Secretary of the Interior shall determine, but no less frequently than every five years, beginning in fiscal year 2003;

(B) shall be supervised by the United States Bureau of the Census or such other organization as the Secretary of the Interior may select; and

(C) after fiscal year 2003, shall be funded by the Secretary of the Interior by deducting such sums as are necessary, but not to exceed $300,000 as adjusted for inflation pursuant to section 217 of the U.S.-FSM Compact with fiscal year 2003 as the base year, per enumeration, from funds appropriated pursuant to the authorization contained in paragraph (2) of this subsection.

(5) ALLOCATION.—The Secretary of the Interior shall allocate to the government of each affected jurisdiction, on the basis of the results of the most recent enumeration, grants in an aggregate amount equal to the total amount of funds appropriated under paragraph

(3) of this subsection, as reduced by any deductions authorized by subparagraph (C) of paragraph (4) of this subsection, multiplied by a ratio derived by dividing the number of qualified nonimmigrants in such affected jurisdiction by the total number of qualified nonimmigrants in all affected jurisdictions.

(6) AUTHORIZATION FOR HEALTH CARE REIMBURSEMENT.—There are hereby authorized to be appropriated to the Secretary of the Interior such sums as may be necessary to reimburse health care institutions in the affected jurisdictions for costs resulting from the migration of citizens of the Republic of the Marshall Islands, the Federated States of Micronesia and the Republic of Palau to the affected jurisdictions as a result of the implementation of the Compact of Free Association, approved by Public Law 99–239, or the approval of the Compacts of Free Association by this resolution.

(7) USE OF DOD MEDICAL FACILITIES AND NATIONAL HEALTH SERVICE CORPS.—

(A) DOD MEDICAL FACILITIES.—The Secretary of Defense shall make available, on a space available and reimbursable basis, the medical facilities of the Department of Defense for use by citizens of the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau who are properly referred to the facilities by government authorities responsible for provision of medical services in the Federated States of Micronesia, the Republic of the Marshall Islands, the Republic of Palau and the affected jurisdictions.

(B) NATIONAL HEALTH SERVICE CORPS.—The Secretary of Health and Human Services shall continue to make the services of the National Health Service Corps available to the residents of the Federated States of Micronesia and the Republic of the Marshall Islands to the same extent and for so long as such services are authorized to be provided to persons residing in any other areas within or outside the United States.

(C) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this paragraph such sums as are necessary for each fiscal year.

(8) REPORTING REQUIREMENT.—The Governor of an affected jurisdiction may report to the Secretary of the Interior by February 1 of each year with respect to the adverse consequences from implementation of the Compacts on the Governor's respective jurisdiction. If any such reports are received, the Secretary of the Interior shall review and forward them, by April 1 of that year, to Congress with the views of the Administration on the issues raised and on any recommendations made in such reports.

(9) RECONCILIATION OF UNREIMBURSED IMPACT EXPENSES.—

(A) IN GENERAL.—Notwithstanding any other provision of law, the President, to address previously accrued and unreimbursed impact expenses, may at the request of the Governor of Guam or the Governor of the Commonwealth of the Northern Mariana Islands, reduce, release, or waive all or part of any amounts owed by the Government of Guam or the Government of the Commonwealth of the Northern Mariana Islands (or either government's autonomous agencies or instrumentalities), respectively, to any department, agency, independent agency, office, or instrumentality of the United States.

(B) TERMS AND CONDITIONS.—

(i) SUBSTANTIATION OF IMPACT COSTS.—Not later than 120 days after the date of the enactment of this resolution, the Governor of Guam and the Governor of the Commonwealth of the Northern Mariana Islands shall each submit to the Secretary of the Interior a report, prepared in consultation with an independent accounting firm, substantiating unreimbursed impact expenses claimed for the period from January 14, 1986, through September 30, 2003. Upon request of the Secretary of the Interior, the Governor of Guam and the Governor of the Commonwealth of the Northern Mariana Islands shall submit to the Secretary of the Interior copies of all documents upon which the report submitted by that Governor under this clause was based.

(ii) CONGRESSIONAL NOTIFICATION.—The President shall notify Congress of his intent to exercise the authority granted in subparagraph (A).

(iii) CONGRESSIONAL REVIEW AND COMMENT.—Any reduction, release, or waiver under this Act shall not take effect until 60 days after the President notifies Congress of his intent to approve a request of the Governor of Guam or the Governor of the Commonwealth of the Northern Mariana Islands. In exercising his authority under this section and in determining whether to give final approval to a request, the President shall take into consideration comments he may receive after Congressional review.

(iv) EXPIRATION.—The authority granted in subparagraph (A) shall expire on February 28, 2005.

(f) FOREIGN LOANS.—Congress hereby reaffirms the United States position that the United States Government is not responsible for foreign loans or debt obtained by the

Governments of the Federated States of Micronesia and the Republic of the Marshall Islands.

(g) SENSE OF CONGRESS CONCERNING FUNDING OF PUBLIC INFRASTRUCTURE.—It is the sense of Congress that not less than 30 percent of the United States annual grant assistance provided under section 211 of the Compact of Free Association, as amended, between the Government of the United States of America and the Government of the Federated States of Micronesia, and not less than 30 percent of the total amount of section 211 funds allocated to each of the States of the Federated States of Micronesia, shall be invested in infrastructure improvements and maintenance in accordance with section 211(a)(6). It is further the sense of Congress that not less than 30 percent of the United States annual grant assistance provided under section 211 of the Compact of Free Association, as amended, between the Government of the United States of America and the Government of the Republic of the Marshall Islands, shall be invested in infrastructure improvements and maintenance in accordance with section 211(d).

(h) REPORTS AND REVIEWS.—

(1) REPORT BY THE PRESIDENT.—Not later than the end of the first full calendar year following enactment of this resolution, and not later than December 31 of each year thereafter, the President shall report to Congress regarding the Federated States of Micronesia and the Republic of the Marshall Islands, including but not limited to—

(A) general social, political, and economic conditions, including estimates of economic growth, per capita income, and migration rates;

(B) the use and effectiveness of United States financial, program, and technical assistance;

(C) the status of economic policy reforms including but not limited to progress toward establishing self-sufficient tax rates;

(D) the status of the efforts to increase investment including: the rate of infrastructure investment of U.S. financial assistance under the Compacts; non-U.S. contributions to the trust funds, and the level of private investment; and

(E) recommendations on ways to increase the effectiveness of United States assistance and to meet overall economic performance objectives, including, if appropriate, recommendations to Congress to adjust the inflation rate or to adjust the contributions to the Trust Funds based on non-U.S. contributions.

(2) REVIEW.—During the year of the fifth, tenth, and fifteenth anniversaries of the date of enactment of this resolution, the Government of the United States of America and the Government of the Federated States of Micronesia; and the Government of the United States of America and the Government of the Republic of the Marshall Islands, shall formally review the

overall political, economic, and security aspects of their relationship, the topics set forth in paragraphs (1)(A) through (1)(E) above, and progress in meeting the development objectives set forth in their respective development plans. The governments may agree to commit themselves to take specific actions in response to the findings resulting from the reviews, such as changes to the inflation adjustment, or adjustments to the U.S. contribution to the trust funds based on substantial non-U.S. contributions to the Trust Funds. The President shall include the findings resulting from these reviews, and any recommendations for actions to respond to such findings, in the annual reports to Congress made under this section, in the years following the reviews.

(3) BY THE COMPTROLLER GENERAL.—Not later than the date that is three years after the date of enactment of this joint resolution, and every 5 years thereafter, the Comptroller General of the United States shall submit to Congress a report on the Federated States of Micronesia and the Republic of the Marshall Islands including the topics set forth in paragraphs (1)(A) through (E) above, and on the effectiveness of administrative oversight by the United States.

(i) CONSTRUCTION OF SECTION 141(f).—Section 141(f)(2) of the Compact of Free Association, as amended, between the Government of the United States of America and the Government of the Federated States of Micronesia and of the Compact of Free Association, as amended, between the Government of the United States of America and the Government of the Republic of the Marshall Islands, shall be construed as though, after "may by regulations prescribe", there were included the following: ", except that any such regulations that would have a significant effect on the admission, stay and employment privileges provided under this section shall not become effective until 90 days after the date of transmission of the regulations to the Committee on Energy and Natural Resources and the Committee on the Judiciary of the Senate and the Committee on Resources, the Committee on International Relations, and the Committee on the Judiciary of the House of Representatives".

(j) CONSTRUCTION OF SECTION 216 of the U.S.-FSM Compact.—The table under section 216 of the Compact between the Government of the United States of America and the Government of the Federated States of Micronesia shall be construed as though $16,810,000 is added to the amount for each year in column two, "Annual Grants Section 211", and to the amount for each year in column five, "Total".

(k) CONSTRUCTION OF SECTION 217 OF THE U.S.-RMI COMPACT.—The table under section 217 of the Compact between the Government of the United States of America and the Government of the Republic of the Marshall Islands shall be construed as though: $6,350,000 is added to

the amount for each year in column two, "Annual Grants Section 211"; and to the amount for each year in column six, " Total".

(l) INFLATION ADJUSTMENT.—As of Fiscal Year 2015, if the United States Gross Domestic Product Implicit Price Deflator average for Fiscal Years 2009 through 2014 is greater than United States Gross Domestic Product Implicit Price Deflator average for Fiscal Years 2004 through 2008 (as reported in the Survey of Current Business or subsequent publication and compiled by the Department of Interior), then section 217 of the U.S.-FSM Compact and paragraph 5 of Article II of the U.S.-FSM Fiscal Procedures Agreement and section 218 of the U.S.-RMI Compact and paragraph 5 of Article II of the U.S.-RMI Fiscal Procedures Agreement shall be construed as if "the full" appeared in place of "two-thirds of the" each place those words appear.

(m) PROMOTION OF TELECOMMUNICATIONS.—

(1) REQUIREMENT FOR COOPERATION.—In accordance with the FSM Federal Programs and Services Agreements and the RMI Federal Programs and Services Agreement, the Government of the United States, the Government of the Federated States of Micronesia, and the Government of the Republic of the Marshall Islands shall cooperate with each other in the development of telecommunications infrastructure that is mutually beneficial and improves the telecommunications connectivity and interoperability among the United States, Micronesia, and the Marshall Islands.

(2) EXECUTIVE AGENT.—For the purpose of carrying out this Agreement and the Federal Programs and Services Agreements, the United States Department of the Army shall serve as the Executive Agent for the Department of Defense in promoting and coordinating such telecommunication initiatives with the Governments of the Republic of the Marshall Islands and the Federated States of Micronesia.

(3) DEFINITIONS.—In this subsection:

(A) FEDERAL PROGRAMS AND SERVICES AGREEMENTS.—The term "Federal Programs and Services Agreements" means—

(i) the FSM Federal Programs and Services Agreement; and

(ii) the RMI Federal Programs and Services Agreement.

(B) FSM FEDERAL PROGRAMS AND SERVICES AGREEMENT.—The term "FSM Federal Programs and Services Agreement" means the Federal Programs and Services Agreement Between the Government of the United States of America and the Government of the Federated States of Micronesia Concluded Pursuant to Article III of Title One, Article II of Title Two (including Section 222), and Section 231 of the U.S.-FSM Compact.

(C) RMI FEDERAL PROGRAMS AND SERVICES AGREEMENT.—The term "RMI Federal Programs and Services Agreement" means the Federal Programs and Services Agreement Between the Government of the United States of America and the Government of the Republic of the Marshall Islands Concluded Pursuant to Article III of Title One, Article II of Title Two (including Section 222), and Section 231 of the U.S.-RMI Compact.

(n) PARTICIPATION BY SECONDARY SCHOOLS IN THE ARMED SERVICES VOCATIONAL APTITUDE BATTERY (ASVAB) STUDENT TESTING PROGRAM.—In furtherance of the provisions of Title Three, Article IV, Section 341 of the U.S.-FSM and the U.S.-RMI Compacts, the purpose of which is to establish the privilege to volunteer for service in the U.S. Armed Forces, it is the sense of Congress that, to facilitate eligibility of FSM and RMI secondary school students to qualify for such service, the Department of Defense may extend the Armed Services Vocational Aptitude Battery (ASVAB) Student Testing Program (STP) and the ASVAB Career Exploration Program to selected secondary Schools in the FSM and the RMI to the extent such programs are available to Department of Defense Dependent Schools located in foreign jurisdictions.

SEC. 105. SUPPLEMENTAL PROVISIONS.

(a) DOMESTIC PROGRAM REQUIREMENTS.—Except as may otherwise be provided in this joint resolution, all United States Federal programs and services extended to or operated in the Federated States of Micronesia or the Republic of the Marshall Islands are and shall remain subject to all applicable criteria, standards, reporting requirements, auditing procedures, and other rules and regulations applicable to such programs when operating in the United States (including its territories and commonwealths).

(b) RELATIONS WITH THE FEDERATED STATES OF MICRONESIA AND THE REPUBLIC OF THE MARSHALL ISLANDS.—

(1) Appropriations made pursuant to Article I of Title Two and subsection (a)(2) of section 221 of article II of Title Two of the U.S.-FSM Compact and the U.S.-RMI Compact shall be made to the Secretary of the Interior, who shall have the authority necessary to fulfill his responsibilities for monitoring and managing the funds so appropriated consistent with the U.S.-FSM Compact and the U.S.-RMI Compact, including the agreements referred to in section 462(b)(4) of the U.S.-FSM Compact and U.S.-RMI Compact (relating to Fiscal Procedures) and the agreements referred to in section 462(b)(5) of the U.S.-FSM Compact and the U.S.-RMI Compact (regarding the Trust Fund).

(2) Appropriations made pursuant to subsections (a)(1) and (a)(3) through (6) of section 221 of Article II of Title Two of the U.S.-FSM Compact and subsection (a)(1) and (a)(3) through (5) of the U.S.-RMI Compact shall be made directly to the agencies named in those subsections.

(3) Appropriations for services and programs referred to in subsection (b) of section 221 of Article II of Title Two of the U.S.-FSM Compact or U.S.-RMI Compact and appropriations for services and programs referred to in sections 105(f) and 108(a) of this joint resolution shall be made to the relevant agencies in accordance with the terms of the appropriations for such services and programs.

(4) Federal agencies providing programs and services to the Federated States of Micronesia and the Republic of the Marshall Islands shall coordinate with the Secretaries of the Interior and State regarding provision of such programs and services. The Secretaries of the Interior and State shall consult with appropriate officials of the Asian Development Bank and with the Secretary of the Treasury regarding overall economic conditions in the Federated States of Micronesia and the Republic of the Marshall Islands and regarding the activities of other donors of assistance to the Federated States of Micronesia and the Republic of the Marshall Islands.

(5) United States Government employees in either the Federated States of Micronesia or the Republic of the Marshall Islands are subject to the authority of the United States Chief of Mission, including as elaborated in section 207 of the Foreign Service Act and the President's Letter of Instruction to the United States Chief of Mission and any order or directive of the President in effect from time to time.

(6) INTERAGENCY GROUP ON FREELY ASSOCIATED STATES' AFFAIRS.—

(A) IN GENERAL.—The President is hereby authorized to appoint an Interagency Group on Freely Associated States' Affairs to provide policy guidance and recommendations on implementation of the U.S.-FSM Compact and the U.S.-RMI Compact to Federal departments and agencies.

(B) SECRETARIES.—It is the sense of Congress that the Secretary of State and the Secretary of the Interior shall be represented on the Interagency Group.

(7) UNITED STATES APPOINTEES TO JOINT COMMITTEES.—

(A) JOINT ECONOMIC MANAGEMENT COMMITTEE.—

(i) IN GENERAL.—The three United States appointees (United States chair plus two members) to the Joint Economic Management Committee provided for in section 213 of the U.S.—FSM Compact and Article III of the U.S.-FSM Fiscal Procedures Agreement referred to in section 462(b)(4) of the U.S.-FSM Compact shall be United States Government officers or employees.

(ii) DEPARTMENTS.—It is the sense of Congress that the appointees should be designated from the Department of State and the Department of the Interior, and that U.S. officials of the Asian Development Bank shall be consulted in order to properly coordinate U.S. and Asian Development Bank financial, program, and technical assistance.

(iii) ADDITIONAL SCOPE.—Section 213 of the U.S.-FSM Compact shall be construed to read as though the phrase, "the implementation of economic policy reforms to encourage investment and to achieve self-sufficient tax rates," were inserted after "with particular focus on those parts of the plan dealing with the sectors identified in subsection (a) of section 211".

(B) JOINT ECONOMIC MANAGEMENT AND FINANCIAL ACCOUNTABILITY COMMITTEE.—

(i) IN GENERAL.—The three United States appointees (United States chair plus two members) to the Joint Economic Management and Financial Accountability Committee provided for in section 214 of the U.S.-RMI Compact and Article III of the U.S.-RMI Fiscal Procedures Agreement referred to in section 462(b)(4) of the U.S.-RMI Compact shall be United States Government officers or employees.

(ii) DEPARTMENTS.—It is the sense of Congress that the appointees should be designated from the Department of State and the Department of the Interior, and that U.S. officials of the Asian Development Bank shall be consulted in order to properly coordinate U.S. and Asian Development Bank financial, program, and technical assistance.

(iii) ADDITIONAL SCOPE.—Section 214 of the U.S.-RMI Compact shall be construed to read as though the phrase, "the implementation of economic policy reforms to encourage investment and to achieve self-sufficient tax rates," were inserted after "with particular focus on those parts of the framework dealing with the sectors and areas identified in subsection (a) of section 211".

(8) OVERSIGHT AND COORDINATION.—It is the sense of Congress that the Secretary of State and the Secretary of the Interior shall ensure that there are personnel resources committed in the appropriate numbers and locations to ensure effective oversight of United States assistance, and effective coordination of assistance among United States agencies and with other international donors such as the Asian Development Bank.

(9) The United States voting members (United States chair plus two or more members) of the Trust Fund Committee appointed by the Government of the United States pursuant to Article 7 of the Trust Fund Agreement implementing section 215 of the U.S.-FSM Compact and referred to in section 462(b)(5) of the U.S.-FSM Compact and any alternates designated by the Government of the United States shall be United States Government officers or employees. The United States voting members (United States chair plus two or more members) of the Trust Fund Committee appointed by the Government of the United States pursuant to Article 7 of the Trust Fund Agreement implementing section 216 of the U.S.-RMI Compact and referred to in section 462(b)(5) of the U.S.-RMI Compact and any alternates designated by the Government of the United States shall be United States Government officers or employees. It is the sense of Congress that the appointees should be designated from the Department of State, the Department of the Interior, and the Department of the Treasury.

(10) The Trust Fund Committee provided for in Article 7 of the U.S.-FSM Trust Fund Agreement implementing section 215 of the U.S.-FSM Compact shall be a nonprofit corporation incorporated under the laws of the District of Columbia. To the extent that any law, rule, regulation or ordinance of the District of Columbia, or of any State or political subdivision thereof in which the Trust Fund Committee is incorporated or doing business, impedes or otherwise interferes with the performance of the functions of the Trust Fund Committee pursuant to this joint resolution, such law, rule, regulation, or ordinance shall be deemed to be preempted by this joint resolution. The Trust Fund Committee provided for in Article 7 of the U.S.-RMI Trust Fund Agreement implementing section 216 of the U.S.-RMI Compact shall be a non-profit corporation incorporated under the laws of the District of Columbia. To the extent that any law, rule, regulation or ordinance of the District of Columbia, or of any State or political subdivision thereof in which the Trust Fund Committee is incorporated or doing business, impedes or otherwise interferes with the performance of the functions of the Trust Fund Committee pursuant to this joint resolution, such law, rule, regulation, or ordinance shall be deemed to be preempted by this joint resolution.

(c) CONTINUING TRUST TERRITORY AUTHORIZATION.—The authorization provided by the Act of June 30, 1954, as amended (68 Stat. 330) shall remain available after the effective date of the Compact with respect to the Federated States of Micronesia and the Republic of the Marshall Islands for the following purposes:

(1) Prior to October 1, 1986, for any purpose authorized by the Compact or the joint resolution of January 14, 1986 (Public Law 99–239).

(2) Transition purposes, including but not limited to, completion of projects and fulfillment of commitments or obligations; termination of the Trust Territory Government and termination of the High Court; health and education as a result of exceptional circumstances; ex gratia contributions for the populations of Bikini, Enewetak, Rongelap, and Utrik; and technical assistance and training in financial management, program administration, and maintenance of infrastructure.

(d) SURVIVABILITY.—In furtherance of the provisions of Title Four, Article V, sections 452 and 453 of the U.S.-FSM Compact and the U.S.-RMI Compact, any provisions of the U.S.-FSM Compact or the U.S.-RMI Compact which remain effective after the termination of the U.S.-FSM Compact or U.S.-RMI Compact by the act of any party thereto and which are affected in any manner by provisions of this title shall remain subject to such provisions.

(e) NONCOMPLIANCE SANCTIONS; ACTIONS INCOMPATIBLE WITH UNITED STATES AUTHORITY.—Congress expresses its understanding that the Governments of the Federated States of Micronesia and the Republic of the Marshall Islands will not act in a manner incompatible with the authority and responsibility of the United States for security and defense matters in or related to the Federated States of Micronesia or the Republic of the Marshall Islands pursuant to the U.S.-FSM Compact or the U.S.-RMI Compact, including the agreements referred to in sections 462(a)(2) of the U.S.-FSM Compact and 462(a)(5) of the U.S.-RMI Compact. Congress further expresses its intention that any such act on the part of either such Government will be viewed by the United States as a material breach of the U.S.-FSM Compact or U.S.-RMI Compact. The Government of the United States reserves the right in the event of such a material breach of the U.S.-FSM Compact by the Government of the Federated States of Micronesia or the U.S.-RMI Compact by the Government of the Republic of the Marshall Islands to take action, including (but not limited to) the suspension in whole or in part of the obligations of the Government of the United States to that Government.

(f) CONTINUING PROGRAMS AND LAWS.—

(1) FEDERATED STATES OF MICRONESIA AND REPUBLIC OF THE MARSHALL ISLANDS.—In addition to the programs and services set forth in section 221 of the Compact, and pursuant to section 222 of the Compact, the programs and services of the following agencies shall be made available to the Federated States of Micronesia and to the Republic of the Marshall Islands:

(A) CONTINUATION OF THE PROGRAMS AND SERVICES OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY.—Except as provided in clause (ii) below, the programs and services of the Department of

Homeland Security, Federal Emergency Management Agency shall continue to be available to the Federated States of Micronesia and the Republic of the Marshall Islands to the same extent as such programs and services were available in fiscal year 2003.

(i) Paragraph (a)(6) of section 221 of the U.S.-FSM Compact and paragraph (a)(5) of the U.S-RMI Compact shall each be construed as though the paragraph reads as follows: "the Department of Homeland Security, United States Federal Emergency Management Agency."

(ii) Subsection (d) of section 211 of the U.S-FSM Compact and subsection (e) of section 211 of the U.S-RMI Compact shall each be construed as though the subsection reads as follows: "Of the total amount of assistance made available under subsection (a) of this section, $200,000 shall be made available to the Department of Homeland Security, Federal Emergency Management Agency to facilitate the activities of the Federal Emergency Management Agency in accordance with and to the extent provided in the Federal Programs and Services Agreement."

(B) TREATMENT OF EDUCATION AND LABOR PROGRAMS.—

(i) IDEA AND PELL GRANTS.—The Government of the United States shall continue to make available to the Federated States of Micronesia and the Republic of the Marshall Islands for fiscal years 2004 through 2023, the services to individuals eligible for such services under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) to the extent that such services continue to be available to individuals in the United States; and shall continue to make available to eligible institutions in the Federated States of Micronesia and the Republic of the Marshall Islands, and to students enrolled in such institutions, and in institutions in the United States and its territories, for fiscal years 2004 through 2023, grants under subpart 1 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a et seq.) to the extent that such grants continue to be available to institutions and students in the United States, and in accordance with and to the extent provided in the Federal Programs and Services Agreement.

(ii) OTHER FORMULA-GRANT PROGRAMS.—For fiscal years 2006 through 2023, except as provided in clause (i), the Governments of the

Federated States of Micronesia and the Republic of the Marshall Islands shall not receive grants under the Head Start Act (42 U.S.C. 9801 et seq.) or any formula grant program administered by the Secretary of Education. In place of such grants, the Government of the Federated States of Micronesia shall receive, as a supplement to the education sector grant under section 211(a)(1), $16,810,000 annually; and the Government of the Republic of the Marshall Islands shall receive, as a supplement to the education sector grant under section 211(a)(1), $6,350,000 annually. Both of these supplemental amounts are to be adjusted for inflation pursuant to section 217 of the U.S.-FSM Compact and section 218 of the U.S.-RMI Compact.

(iii) TRANSITION.—For fiscal years 2004 and 2005 the Governments of the Federated States of Micronesia and the Republic of the Marshall Islands shall continue to receive grants under any formula grant programs administered by the Secretary of Education or under the Head Start Act (42 U.S.C. 9801 et seq.) in the same amounts as in fiscal year 2003, except that such grants shall be modified to provide for a smooth transition from the formula grant programs being terminated to local programs designed to meet local education needs and with performance standards and technical assistance as necessary to meet those needs, and in accordance with the Federal Programs and Services Agreement.

(iv) TECHNICAL ASSISTANCE.—The Federated States of Micronesia and the Republic of the Marshall Islands may request technical assistance from the Secretary of Education or the Secretary of Health and Human Services, the terms of which, including reimbursement, shall be negotiated with the participation of the appropriate cabinet officer for inclusion in the Federal Programs and Services Agreement.

(v) CONTINUED ELIGIBILITY FOR COMPETITIVE GRANTS.—The Governments of the Federated States of Micronesia and the Republic of the Marshall Islands shall continue to be eligible for competitive grants administered by the Secretary of Education to the extent that such grants continue to be available to State and local governments in the United States.

(C) The Legal Services Corporation.

(D) The Public Health Service.

(E) The Rural Housing Service (formerly, the Farmers Home Administration) in the Marshall Islands and each of the four States of the Federated States of Micronesia: *Provided,* That in lieu of continuation of the program in the Federated States of Micronesia, the President may agree to transfer to the Government of the Federated States of Micronesia without cost, the portfolio of the Rural Housing Service applicable to the Federated States of Micronesia and provide such technical assistance in management of the portfolio as may be requested by the Federated States of Micronesia).

(2) TORT CLAIMS.—The provisions of section 178 of the U.S.-FSM Compact and the U.S.-RMI Compact regarding settlement and payment of tort claims shall apply to employees of any Federal agency of the Government of the United States (and to any other person employed on behalf of any Federal agency of the Government of the United States on the basis of a contractual, cooperative, or similar agreement) which provides any service or carries out any other function pursuant to or in furtherance of any provisions of the U.S.-FSM Compact or the U.S.-RMI Compact or this joint resolution, except for provisions of Title Three of the Compact and of the subsidiary agreements related to such Title, in such area to which such Agreement formerly applied.

(3) PCB CLEANUP.—The programs and services of the Environmental Protection Agency regarding PCBs shall, to the extent applicable, as appropriate, and in accordance with applicable law, be construed to be made available to such islands for the cleanup of PCBs imported prior to 1987. The Secretary of the Interior and the Secretary of Defense shall cooperate and assist in any such cleanup activities.

(g) COLLEGE OF MICRONESIA.—Until otherwise provided by Act of Congress, or until termination of the U.S.-FSM Compact and the U.S.-RMI Compact, the College of Micronesia shall retain its status as a land-grant institution and its eligibility for all benefits and programs available to such land-grant institutions.

(h) TRUST TERRITORY DEBTS TO U.S. FEDERAL AGENCIES.—Neither the Government of the Federated States of Micronesia nor the Government of the Marshall Islands shall be required to pay to any department, agency, independent agency, office, or instrumentality of the United States any amounts owed to such department, agency, independent agency, office, or instrumentality by the Government of the Trust Territory of the Pacific Islands as of the effective date of the Compact. There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this subsection.

(i) JUDICIAL TRAINING.—

(1) IN GENERAL.—In addition to amounts provided under section 211(a)(4) of the U.S.-FSM Compact and the U.S.-RMI Compact, the Secretary of the Interior shall annually provide $300,000 for the training of judges and officials of the judiciary in the Federated States of Micronesia and the Republic of the Marshall Islands in cooperation with the Pacific Islands Committee of the Ninth Circuit Judicial Council and in accordance with and to the extent provided in the Federal Programs and Services Agreement.

(2) AUTHORIZATION AND CONTINUING APPROPRIATION.—There is hereby authorized and appropriated to the Secretary of the Interior, out of any funds in the Treasury not otherwise appropriated, to remain available until expended, for each fiscal year from 2004 through 2023, $300,000, as adjusted for inflation under section 218 of the U.S.-FSM Compact and the U.S.-RMI Compact, to carry out the purposes of this section.

(j) TECHNICAL ASSISTANCE.—Technical assistance may be provided pursuant to section 224 of the U.S.-FSM Compact or the U.S.-RMI Compact by Federal agencies and institutions of the Government of the United States to the extent such assistance may be provided to States, territories, or units of local government. Such assistance by the Forest Service, the Natural Resources Conservation Service (acting through the Resource Conservation and Development Program), the Fish and Wildlife Service, the National Marine Fisheries Service, the United States Coast Guard, and the Advisory Council on Historic Preservation, the Department of the Interior, and other agencies providing assistance under the National Historic Preservation Act (80 Stat. 915; 16 U.S.C. 470–470t), shall be on a nonreimbursable basis. During the period the U.S.-FSM Compact and the U.S.-RMI Compact are in effect, the grant programs under the National Historic Preservation Act shall continue to apply to the Federated States of Micronesia and the Republic of the Marshall Islands in the same manner and to the same extent as prior to the approval of the Compact. Any funds provided pursuant to sections 102(a), 103(a), 103(b), 103(f), 103(g), 103(h), 103(j), 105(c), 105(g), 105(h), 105(i), 105(j), 105(k), 105(l), and 105(m) of this joint resolution shall be in addition to and not charged against any amounts to be paid to either the Federated States of Micronesia or the Republic of the Marshall Islands pursuant to the U.S.-FSM Compact, the U.S.-RMI Compact, or their related subsidiary agreements.

(k) PRIOR SERVICE BENEFITS PROGRAM.—Notwithstanding any other provision of law, persons who on January 1, 1985, were eligible to receive payment under the Prior Service Benefits Program established within the Social Security System of the Trust Territory of the Pacific Islands because of their services performed for the United States Navy or the Government of the Trust Territory of the Pacific Islands prior to July 1, 1968, shall continue to

receive such payments on and after the effective date of the Compact.

(l) INDEFINITE LAND USE PAYMENTS.—There are authorized to be appropriated such sums as may be necessary to complete repayment by the United States of any debts owed for the use of various lands in the Federated States of Micronesia and the Marshall Islands prior to January 1, 1985.

(m) COMMUNICABLE DISEASE CONTROL PROGRAM.—There are authorized to be appropriated for grants to the Government of the Federated States of Micronesia, the Government of the Republic of the Marshall Islands, and the governments of the affected jurisdictions, such sums as may be necessary for purposes of establishing or continuing programs for the control and prevention of communicable diseases, including (but not limited to) cholera, tuberculosis, and Hansen's Disease. The Secretary of the Interior shall assist the Government of the Federated States of Micronesia, the Government of the Republic of the Marshall Islands and the governments of the affected jurisdictions in designing and implementing such a program.

(n) USER FEES.—Any person in the Federated States of Micronesia or the Republic of the Marshall Islands shall be liable for user fees, if any, for services provided in the Federated States of Micronesia or the Republic of the Marshall Islands by the Government of the United States to the same extent as any person in the United States would be liable for fees, if any, for such services in the United States.

(o) TREATMENT OF JUDGMENTS OF COURTS OF THE FEDERATED STATES OF MICRONESIA, THE REPUBLIC OF THE MARSHALL ISLANDS, AND THE REPUBLIC OF PALAU.—No judgment, whenever issued, of a court of the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau, against the United States, its departments and agencies, or officials of the United States or any other individuals acting on behalf of the United States within the scope of their official duty, shall be honored by the United States, or be subject to recognition or enforcement in a court in the United States, unless the judgment is consistent with the interpretation by the United States of international agreements relevant to the judgment. In determining the consistency of a judgment with an international agreement, due regard shall be given to assurances made by the Executive Branch to Congress of the United States regarding the proper interpretation of the international agreement.

(p) ESTABLISHMENT OF TRUST FUNDS; EXPEDITION OF PROCESS.—

(1) IN GENERAL.—The Trust Fund Agreement executed pursuant to the U.S.-FSM Compact and the Trust Fund Agreement executed pursuant to the U.S.-RMI Compact each provides for the establishment of a trust fund.

(2) METHOD OF ESTABLISHMENT.—The trust fund may be established by—

(A) creating a new legal entity to constitute the trust fund; or

(B) assuming control of an existing legal entity including, without limitation, a trust fund or other legal entity that was established by or at the direction of the Government of the United States, the Government of the Federated States of Micronesia, the Government of the Republic of the Marshall Islands, or otherwise for the purpose of facilitating or expediting the establishment of the trust fund pursuant to the applicable Trust Fund Agreement.

(3) OBLIGATIONS.—For the purpose of expediting the commencement of operations of a trust fund under either Trust Fund Agreement, the trust fund may, but shall not be obligated to, assume any obligations of an existing legal entity and take assignment of any contract or other agreement to which the existing legal entity is party.

(4) ASSISTANCE.—Without limiting the authority that the United States Government may otherwise have under applicable law, the United States Government may, but shall not be obligated to, provide financial, technical, or other assistance directly or indirectly to the Government of the Federated States of Micronesia or the Government of the Republic of the Marshall Islands for the purpose of establishing and operating a trust fund or other legal entity that will solicit bids from, and enter into contracts with, parties willing to serve in such capacities as trustee, depositary, money manager, or investment advisor, with the intention that the contracts will ultimately be assumed by and assigned to a trust fund established pursuant to a Trust Fund Agreement.

SEC. 106. CONSTRUCTION CONTRACT ASSISTANCE.

(a) ASSISTANCE TO U.S. FIRMS.—In order to assist the Governments of the Federated States of Micronesia and of the Republic of the Marshall Islands through private sector firms which may be awarded contracts for construction or major repair of capital infrastructure within the Federated States of Micronesia or the Republic of the Marshall Islands, the United States shall consult with the Governments of the Federated States of Micronesia and the Republic of the Marshall Islands with respect to any such contracts, and the United States shall enter into agreements with such firms whereby such firms will, consistent with applicable requirements of such Governments—

(1) to the maximum extent possible, employ citizens of the Federated States of Micronesia and the Republic of the Marshall Islands;

(2) to the extent that necessary skills are not possessed by citizens of the Federated States of Micronesia and the Republic of the Marshall Islands, pro-

vide on the job training, with particular emphasis on the development of skills relating to operation of machinery and routine and preventative maintenance of machinery and other facilities; and

(3) provide specific training or other assistance in order to enable the Government to engage in long-term maintenance of infrastructure.

Assistance by such firms pursuant to this section may not exceed 20 percent of the amount of the contract and shall be made available only to such firms which meet the definition of United States firm under the nationality rule for suppliers of services of the Agency for International Development (hereafter in this section referred to as "United States firms"). There are authorized to be appropriated such sums as may be necessary for the purposes of this subsection.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to cover any additional costs incurred by the Government of the Federated States of Micronesia or the Republic of the Marshall Islands if such Governments, pursuant to an agreement entered into with the United States, apply a preference on the award of contracts to United States firms, provided that the amount of such preference does not exceed 10 percent of the amount of the lowest qualified bid from a non-United States firm for such contract.

SEC. 107. PROHIBITION.

The provisions of chapter 11 of title 18, United States Code, shall apply in full to any individual who has served as the United States negotiator of amendments to the Compact or its subsidiary agreements or of related agreements or who is or was an officer or employee of the Office in the Department of State responsible for negotiating amendments to the Compact or its subsidiary agreements or who is or was assigned or detailed to that Office or who served on the interagency group coordinating United States policy on the Compact negotiations.

SEC. 108. COMPENSATORY ADJUSTMENTS.

(a) ADDITIONAL PROGRAMS AND SERVICES.—In addition to the programs and services set forth in section 221 of the U.S.-FSM Compact and the U.S.-RMI Compact, and pursuant to section 222 of the U.S.-FSM Compact and the U.S.-RMI Compact, the services and programs of the following United States agencies shall be made available to the Federated States of Micronesia and the Republic of the Marshall Islands: the Small Business Administration, Economic Development Administration, the Rural Utilities Services (formerly Rural Electrification Administration); the programs and services of the Department of Labor under the Workforce Investment Act of 1998; and the programs and services of the Department of Commerce relating to tourism and to marine resource development.

(b) FURTHER AMOUNTS.—

(1) The joint resolution of January 14, 1986 (Public Law 99–239) provided that the governments of the Federated States of Micronesia and the Marshall Islands may submit to Congress reports concerning the overall financial and economic impacts on such areas resulting from the effect of title IV of that joint resolution upon Title Two of the Compact. There were authorized to be appropriated for fiscal years beginning after September 30, 1990, such amounts as necessary, but not to exceed $40,000,000 for the Federated States of Micronesia and $20,000,000 for the Marshall Islands, as provided in appropriation acts, to further compensate the governments of such islands (in addition to the compensation provided in subsections (a) and (b) of section 111 of the joint resolution of January 14, 1986 (Public Law 99–239) for adverse impacts, if any, on the finances and economies of such areas resulting from the effect of title IV of that joint resolution upon Title Two of the Compact. The joint resolution of January 14, 1986 (Public Law 99–239) further provided that at the end of the initial fifteen-year term of the Compact, should any portion of the total amount of funds authorized in section 111 of that resolution not have been appropriated, such amount not yet appropriated may be appropriated, without regard to divisions between amounts authorized in section 111 for the Federated States of Micronesia and for the Marshall Islands, based on either or both such government's showing of such adverse impact, if any, as provided in that subsection.

(2) The governments of the Federated States of Micronesia and the Republic of the Marshall Islands may each submit no more than one report or request for further compensation under section 111 of the joint resolution of January 14, 1986 (Public Law 99–239) and any such report or request must be submitted by September 30, 2009. Only adverse economic effects occurring during the initial 15-year term of the Compact may be considered for compensation under section 111 of the joint resolution of January 14, 1986 (Public Law 99–239).

SEC. 109. AUTHORIZATION AND CONTINUING APPROPRIATION.

(a) There are authorized and appropriated to the Department of the Interior, out of any funds in the Treasury not otherwise appropriated, to remain available until expended, such sums as are necessary to carry out the purposes of sections 211, 212(b), 215, and 217 of the U.S.-FSM Compact and sections 211, 212, 213(b), 216, and 218 of the U.S.-RMI Compact, in this and subsequent years.

(b) There are authorized to be appropriated to the Departments, agencies, and instrumentalities named in paragraphs (1) and (3) through (6) of section 221(a) of the U.S.-FSM Compact and paragraphs (1) and (3) through (5) of section 221(a) of the U.S.-RMI Compact, such sums as are

necessary to carry out the purposes of sections 221(a) of the U.S.-FSM Compact and the U.S.-RMI Compact, to remain available until expended.

SEC. 110. PAYMENT OF CITIZENS OF THE FEDERATED STATES OF MICRONESIA, THE REPUBLIC OF THE MARSHALL ISLANDS, AND THE REPUBLIC OF PALAU EMPLOYED BY THE GOVERNMENT OF THE UNITED STATES IN THE CONTINENTAL UNITED STATES.

Section 605 of Public Law 107–67 (the Treasury and General Government Appropriations Act, 2002) is amended by striking "or the Republic of the Philippines," in the last sentence and inserting the following: "the Republic of the Philippines, the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau,".

3. On page 102, line 4, strike "(Palau)" and insert "Palau".

4. On page 113, line 19, strike the word "section" the first time it appears on the line.

5. On page 118, lines 1 and 2, strike "Federal Emergency Management Agency," and insert "Department of Homeland Security,".

6. On page 155, line 5, strike "(2)" and insert "(b)".

7. On page 172, line 21, strike "to," and insert "to".

8. On page 180, line 5, strike "to," and insert "to".

9. On page 201, line 7, strike "the" and insert "this amended".

10. On page 208, line 16, strike "(i)" and insert "(1)".

PURPOSE

The purpose of S.J. Res. 16 is to approve the Compact of Free Association, as amended, between the Government of the United States of America and the Government of the Federated States of Micronesia, and the Compact of Free Association, as amended, between the Government of the United States of America and the Government of the Republic of the Marshall Islands, and to appropriate funds to carry out the amended Compacts.

SUMMARY OF MAJOR PROVISIONS

S.J. Res. 16 consists of a preamble and two titles. The preamble recites the purposes of the original Compact of Free Association between the United States and the Federated States of Micronesia (FSM), and the Republic of the Marshall Islands (RMI), and the purposes of the amended Compacts approved by this resolution. Title I approves the amended Compacts with the FSM and the RMI, and various subsidiary agreements and understandings. Title II sets forth the text of the two Compacts.

BACKGROUND AND NEED

In 1947, the United States became Administrator of the United Nation's Trust Territory of the Pacific Islands, composed of the Marshall, Caroline, Palau and Mariana (except Guam) islands. All of these islands had been captured from Japan in World War II and included those that now comprise the FSM and the RMI. U.S. obligations under the Trusteeship included promoting economic development and the self-government or independence of the inhabitants. Prior to 1962, administrative authority resided with the

U.S. Navy, and Cold War realities focused attention on security issues. During this period, the U.S. conducted nuclear weapons tests in the Northern Marshall Islands and maintained a military base at Kwajalein Atoll that is now used for missile testing. In 1962, administrative jurisdiction was transferred to the Department of the Interior and the process of promoting self-government was initiated. In the case of the FSM and RMI, political status negotiations culminated in the signing of the Compact of Free Association, which was approved by Congress in Public Law 99–239 in 1986, and which ultimately ended the Trusteeship and resulted in international recognition of these two new nations.

The FSM has a population of about 105,000 and a land area of roughly 270 square miles. The RMI has a population of about 50,000 and a land area of some 70 square miles. Per capita incomes are about $2,000 per year.

COMPACT I (1986–2003)

The Compact relationship had three goals: (1) to end the U.N. Trusteeship by securing full self-government for the islands; (2) to continue a close defense relationship; and (3) to assist the FSM and RMI in their efforts to advance economic self-sufficiency. The first goal was met when the FSM and RMI became independent nations and full members of the United Nations. The second goal was achieved through the Compact's obligation that the U.S. defend the FSM and RMI as if they are a part of the U.S. The Compact also grants the U.S. the right to deny access to the islands by the military forces of other nations, known as "strategic denial," as well as the right to veto local actions that the U.S. determines are incompatible with its defense responsibilities, known as the "defense veto." Finally, the Compact provides that the FSM and RMI will "sympathetically consider" U.S. requests for base rights, and a Compact-related agreement specifically secures U.S. access to the missile test site at Kwajalein until 2016.

The third goal of advancing economic development and self-sufficiency has not been as successfully achieved. This goal was to be accomplished through the payment of financial assistance by the Department of the Interior, and through the continued availability of a range of U.S. domestic programs from other departments. While significant development occurred from 1986 to 2003, the remote and resource poor island economies continue to be based on the government sector and are heavily dependent on U.S. assistance. In addition, the Compact had weak accountability mechanisms which failed to ensure that funds would be spent effectively. Finally, weak local institutions and technical capabilities resulted in poor planning and management in the use of U.S. assistance.

The Compact also granted FSM and RMI citizens the opportunity to live, work, and study in the U.S. as resident aliens. This privilege provided a critical outlet for the islands' high population growth rates, but has also resulted in significant migration to Hawaii, Guam, and the Commonwealth of the Northern Mariana Islands (CNMI). Due to relatively poor health and education conditions, these migrants pose a disproportionate impact on the affected jurisdictions. Finally, the Compact included a full and final settlement of all claims resulting from the U.S. nuclear testing program that was conducted in the RMI from 1947 to 1958. The settle-

ment included a provision that additional compensation could be sought based on a showing that changed circumstances rendered the original settlement "manifestly inadequate."

In 1999, negotiations began to extend those provisions of the Compact that were scheduled to expire on September 30, 2003, such as the financial assistance and the defense veto. Two new agreements, with the FSM and RMI respectively, were signed in the Spring of 2003. On June 27, 2003 the Secretary of State transmitted the proposed amended Compacts and draft legislation to approve and implement the agreements. On July 14, 2003, Senator Domenici (for himself and Senators Bingaman, Craig, and Akaka) introduced the administration's proposed legislation, by request, as S.J. Res. 16.

COMPACT II (2004–2023)

Under the proposed amended Compacts, as transmitted by the administration, the United States would provide about $3.5 billion in funding over the 20-year period from fiscal years 2004 to 2023 for grants, contributions to trust funds, payments to extend the lease at Kwajalein, and the cost of certain domestic services and programs. The package also would continue the availability of several domestic programs, and includes $15 million per year in "Compact impact" funding to be allocated among Hawaii, Guam, the Northern Mariana Islands, and American Samoa to mitigate the impact of migration from the FSM and RMI.

The amended Compacts have strengthened accountability mechanisms that could improve the effectiveness of U.S. assistance if diligently implemented. Instead of direct cash payments, funds would be disbursed as sector grants targeted to priority areas such as health and education. A new Agreement Concerning Procedures for the Implementation of United States Economic Assistance, known as the "Fiscal Procedures Agreement," would increase reporting and planning requirements, including the establishment of joint economic management committees with U.S. majority membership and the power to impose grant conditions and to withhold funds. Finally, the Compacts would end annual U.S. financial assistance by contributing to two trust funds that would provide an alternative source of funding after 2023. Although not set to expire, the amended Compacts would revise the existing immigration privileges.

Although U.S. military access to Kwajalein does not expire until 2016, these negotiations were used as an opportunity to extend U.S. access until 2066, with an option to extend for an additional 20 years to 2086. This agreement was made with the Marshall Islands national government and certain of the affected Kwajalein Atoll landowners have objected to its terms. Consequently, a new land use agreement has not been signed between the Kwajalein landowners and the Government of the RMI.

This legislation is needed to approve the new agreements, extend the expiring provisions of the Compact, appropriate funding for the next term of financial assistance, and update other provisions which govern the relationship between the U.S. and the FSM and RMI, respectively.

LEGISLATIVE HISTORY

S.J. Res. 16 was introduced by Senator Domenici (for himself and Senators Bingaman, Akaka, and Craig), by request, on July 14, 2003. The full Committee on Energy and Natural Resources held a hearing on S.J. Res 16 on July 15, 2003. At the business meeting on September 17, 2003, the Committee on Energy and Natural Resources ordered S.J. Res. 16, as amended, favorably reported.

H.J. Res. 63, the companion measure to S.J. Res. 16, was introduced by Representative Leach, by request, on July 8, 2003. The House International Relations Committee reported the measure on July 23, 2003. The House Resources Committee held a hearing on H.J. Res. 63 on July 10, 2003 and reported the bill on September 4, 2003. The House Judiciary Committee reported the bill on September 10, 2003.

COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on September 17, 2003, by a unanimous vote of a quorum present, recommends that the Senate pass S.J. Res. 16, if amended as described herein.

COMMITTEE AMENDMENTS

The Committee adopted ten amendments. The first substitutes a new preamble for the original one. The new substitute recites the purposes of the original Compact and the amended Compacts, and states that the U.S. has fulfilled its obligations under the United Nations Trusteeship Agreement. The second amendment substitutes a new Title I for the original one. The principal changes in Title I include:

- Section 103(f), regarding the planting and agricultural maintenance program at Enewetak Atoll, a site of U.S. nuclear weapons testing, is amended to provide funding of $1,300,000 annually for fiscal years 2004 through 2023.
- Section 103(g), regarding the resettlement of Rongelap Island, one of the downwind communities affected by the nuclear weapons testing program, is amended to provide $5,300,000 as the final contribution to the Rongelap Resettlement Trust Fund.
- A new section 103(1) is added that provides for the disposition of increased payments by the U.S. for land use at Kwajalein Atoll pending the conclusion of a new land use agreement, and for necessary reports and notifications.
- Section 104(e), regarding the impact of the Compacts on Hawaii, Guam, the CNMI, and American Samoa is amended to increase the level of annual compensation to these areas from $15 million to $30 million, to authorize reimbursement to health care institutions in the affected areas, and to establish a procedure under which the Governors of Guam and the CNMI may request a reduction of debts owed to U.S. Government agencies as a means to further reimbursed impact expenses.
- A new, section 104(i) is added that limits the authority of the United States to change, by regulation, the immigration

privileges granted to FSM and RMI citizens under the Compacts.

- A new section 104(l) is added which provides that the inflation adjustment for annual grants under the Compacts would be increased from two-thirds of inflation to full inflation if the inflation rate from 2009 to 2014 is higher than the inflation rate from 2004 to 2008.
- Section 105(f) is amended to provide for the continuation of FEMA (FEMA) programs; the continuation of the Pell Grant program and the programs of the Individuals with Disabilities Education Act; and to phase-out all other formula-grant programs administered by the Secretary of Education, and the Head Start program, and replace them with supplemental financial assistance.
- New text for section 105(i) provides $300,000 annually for the training of judges. Section 108(a) is amended to require that the programs made available section 111 of Public Law 99–239, "shall" continue to be made available under this resolution, instead of "are authorized" to be available, as proposed in the resolution as introduced.

The changes made by this second amendment are explained in detail in the section-by-section analysis.

Amendments 3 through 10 make technical amendments in Title II.

SECTION-BY-SECTION ANALYSIS

The preamble notes that the United States, in accordance with the Trusteeship Agreement for the Trust Territory of the Pacific Islands, fulfilled its obligations to promote the development of the people of the Trust Territory and entered into the Compact of Free Association with the FSM and RMI to create and maintain close and mutually beneficial relationships. The preamble further notes that the United States has negotiated agreements amending the terms of the Compact of Free Association that govern relations between the United States and the Federated States of Micronesia and the Republic of the Marshall Islands.

Section 1 gives the short title of the Joint Resolution and sets forth the table of contents.

TITLE I

Section 101 approves separate, amended compacts between the U.S. and FSM and between the U.S. and RMI.

Subsection (a) approves the amended Compact between the United States and the Federated States of Micronesia (the "U.S.-FSM Compact") and the accompanying subsidiary agreements. It further authorizes the President to agree to an effective date and to implement such Compact.

Subsection (b) approves the amended Compact between the United States and the Republic of the Marshall Islands (the "U.S.-RMI Compact") and the accompanying subsidiary agreements. It further authorizes the President to agree to an effective date and to implement such Compact.

Subsection (c) defines and updates terms of reference to reflect the existence of the two separate Compacts and provides defini-

tions for the terms "subsidiary agreement" and "separate agreements."

Subsection (d) provides that Congress must approve, by legislation, any amendments or changes to the U.S.-FSM Compact, the U.S.-RMI Compact, or to the accompanying subsidiary agreements or portions thereof.

Subsection (e) provides that the one trilateral subsidiary agreement that is not being amended, relating to the transfer of title of U.S. Government property situated in the former Trust Territory of the Pacific Islands, shall be deemed bilateral. This change reflects the newly separate Compacts with the FSM and the RMI, respectively.

Subsection (f) provides that, with the exception for those agreements identified in section 101(d), which require congressional action prior to modification, no changes to any subsidiary agreement accompanying the respective Compacts may be made absent prior notification and explanation to both the Senate and the House of Representatives.

Section 102 authorizes certain actions pursuant to the U.S.-FSM Compact.

Subsection (a) provides for non-reimbursable U.S. law enforcement technical and training assistance to the FSM.

Subsection (b) provides the Comptroller General with authority to audit any assistance provided by the United States to the FSM under the amended Compacts and to review any audit conducted by or on behalf of the U.S. It further requires the FSM to provide access to all relevant information and to cooperate with the Comptroller General in conducting such audits. All relevant audit documentation must be preserved for at least five years after the date the grant or assistance was provided. Subsection (b) further provides that the Comptroller General, and his authorized representatives, in performing their official functions, shall be immune from civil and criminal liability.

Section 103 authorizes certain actions pursuant to the U.S.-RMI Compact.

Subsection (a) provides for non-reimbursable U.S. law enforcement technical and training assistance to the RMI.

Subsection (b) repeats the language from the Compact of Free Association Act of 1985 (Public Law 99–239) regarding assurances that Bikini residents will have access to lands on Ejit Island or acceptable alternative lands until Bikini, the former site of U.S. nuclear tests, is restored and habitable. The Committee notes that the U.S. and the RMI entered into an agreement in furtherance of paragraphs (1) through (3) of this section on July 21, 1986. For this subsection, and all that follow through subsection (j), the Committee concurs in the understanding and policy of the administration that nothing in these subsections creates any rights or obligations beyond those provided for in the original enacted version of Public Law 99–239.

Subsection (c) repeats the language from Public Law 99–239 regarding U.S. payment of nuclear claims compensation. The Committee notes that the United States has made the payment called for under paragraph (1) of this section. The Committee further notes that the RMI currently has a "changed circumstance" petition pending with the United States.

Subsection (d) repeats the language from Public Law 99–239 regarding compensation to Bikini, Enewetak, Rongelap, and Utrik for nuclear test effects.

Subsection (e) sets forth congressional intent that section 177 of the original Compact, and the separate agreement entered into thereunder, constitute a full and final settlement of all nuclear compensation claims as described in articles X and XI of that separate agreement. The Committee notes that the U.S. has paid the specified compensation amounts, and that such payment constitutes a full and final settlement of all claims described in articles X and XI of the section 177 Agreement. Except as provided in the section 177 Agreement, any such claims pursuant to section 177 of the original Compact are terminated and barred.

Subsection (f) repeats and updates the language from Public Law 99–239 regarding health care and agricultural programs for certain populations affected by U.S. nuclear tests. The administration has informed the Committee that, as of April 30, 2003, there were 118 remaining members of the population of Rongelap and Utrik who were exposed to radiation resulting from the 1954 United States thermo-nuclear "Bravo" test. This subsection also provides mandatory funding pursuant to the U.S.-RMI Compact of no less than $1.3 million per year, as adjusted for inflation in accordance with the amended Compact, for the Enewetak planting and agricultural maintenance program. The Committee notes that Congress has typically provided this amount annually in discretionary funding in the past.

Subsection (g) repeats the language from Public Law 99–239 regarding restoring the habitability of Rongelap. It provides $5,300,000 in mandatory funding, to be appropriated in fiscal year 2005, as the final contribution of the United States to the Rongelap Resettlement Trust Fund as established pursuant to Public Law 102–154 (105 Stat. 1009). The purpose of this final contribution is to establish a food importation program as a part of the overall resettlement program of Rongelap Island. The Committee notes that these funds are to be sequestered by the Fund Managers and the proceeds are to be used for food imports.

Subsection (h) repeats the language from Public Law 99–239 regarding the Four Atoll Health Care Program and the administration of certain health care funds for the people of Bikini, Enewetak, Rongelap, and Utrik and their descendants.

Subsection (i) repeats the language from Public Law 99–239 regarding the creation and administration of the Enjebi Community Trust Fund. The Committee notes that the ex gratia payment to the Fund provided for in this subsection has been made.

Subsection (j) repeats the language from Public Law 99–239 regarding the cleanup of Bikini Atoll. The Committee notes that the ex gratia payment provided for in this subsection has been made.

Subsection (k) provides the Comptroller General with authority to audit any assistance provided by the United States to the RMI under the amended Compacts and to review any audit conducted by or on behalf of the U.S. It further requires the RMI to provide access to all relevant information and to cooperate with the Comptroller General in conducting such audits. All relevant audit documentation must be preserved for at least five years after the date the grant or assistance was provided. Subsection (k) further pro-

vides that the Comptroller General, and his authorized representatives, in performing pursuant to their official functions, shall be immune from civil and criminal liability.

Subsection (l) repeats the language from Public Law 99–239 regarding the payment of funds by the United States to the Government of the Marshall Islands which are then to be paid to the landowners of Kwajalein Atoll pursuant to the land use agreement dated October 19, 1982. The Committee notes that the current land use agreement is set to expire in 2016 and that the Kwajalein landowners have not yet signed a revised land use agreement. Until such time as a new land use agreement is concluded, any amounts paid by the United States in excess of the amounts required to be paid pursuant to the October 19, 1982 land use agreement shall be paid into, and held in, an interest bearing escrow account in a U.S. financial institution by the Government of the Marshall Islands. The Government of the Marshall Islands is to notify the U.S. when a new land use agreement is concluded. If a revised land use agreement is not concluded between the Government of the Marshall Islands and the Kwajalein landowners within five years from the date of enactment of this Joint Resolution, then, unless mutually agreed, such funds shall be returned to the U.S. Treasury, and the President shall report to Congress on the administration's intentions regarding the use of the Kwajalein Atoll after 2016, on plans to relocate any activities from Kwajalein, and on the future use of the funds and interest held in escrow. Finally, this subsection authorizes the President to make loans and grants to the RMI to address the special needs of the community at Ebeye, Kwajalein Atoll, and other communities within Kwajalein Atoll. Projects such as the causeway project, that would reduce over-crowding on Ebeye, should be given full consideration for such loans and grants.

Section 104 states U.S. policies regarding the amended Compacts.

Subsection (a) notes and affirms the commitment of the U.S., the FSM, and the RMI, to democratic government, respect for human rights and fundamental freedoms for all. The subsection further requires the Secretary of State to report on the status of human rights in the FSM and RMI as a part of the annual report to Congress under the Foreign Assistance Act of 1961.

Subsection (b)(1) limits the admission of certain naturalized citizens of the FSM and the RMI into the United States under the Compact.

Subsection (b)(2) states the sense of Congress that up to $250,000 of the Compact grant funds be used for the development of machine-readable and secure FSM and RMI passports.

Subsection (b)(3) states the sense of Congress that the FSM and the RMI shall develop, prior to October 1, 2004, the capability to share information the United States Government deems necessary to enforce the criminal and security-related provisions of the Immigration and Nationality Act, as amended.

Subsection (b)(4) clarifies the appropriate implementation of sections 141(a)(3) and (4) of the amended Compacts regarding the grandfathering of certain naturalized citizens into the special immigration status granted to FSM and RMI citizens.

Subsection (c) generally repeats the language from Public Law 99–239 regarding the FSM and RMI restrictions on the permanent sale of land to non-citizens of those countries.

Subsection (d) generally repeats the language from Public Law 99–239 regarding the FSM and RMI prohibitions on certain forms of nuclear and toxic waste disposal in those countries.

Subsection (e) deals with adverse impacts of migration of qualified nonimmigrants from the RMI, FSM, and Palau on the "affected jurisdictions" of the State of Hawaii, Guam, the CNMI, and America Samoa. Paragraph (1) incorporates the statement of congressional intent regarding the impact of the Compact as set forth in section 104(e)(1) of Public Law 99–239. Paragraph (2) increases the level of annual compensation to these areas from $15 million to $30 million, and it provides definitions and procedures for the enumeration of migrants from the FSM and RMI to the affected areas and the allocation of the compensation among the affected areas. Paragraph (6) authorizes reimbursement to health care institutions in the affected areas and it incorporates modified language from Public Law 99–239 regarding the use of DOD medical facilities by patients referred from the FSM, RMI and the affected areas on a space available and reimbursable basis. Paragraph (8) provides for annual reports from the Governor of an affected jurisdiction on any adverse consequences resulting from the Compacts' implementation.

Paragraph (9) authorizes the Governor of Guam or the Governor of the Commonwealth of the Northern Mariana Islands to seek a waiver, in whole or in part, from the President of the United States of any amounts owed by Guam, the Northern Mariana Islands (or either government's autonomous agencies or instrumentalities) to the United States as a result of unreimbursed impact expenses. The Committee is aware that any funding made available pursuant to this paragraph could aid in efforts to privatize the Guam Telephone Authority, the last government-owned telephone authority in the nation. The Committee also recognizes that Guam has requested assistance in regard to the Super Typhoon Chat'an in June 2002; the Super Typhoon Pongsona in December 2002; and Typhoon Paka in December 1997.

Subsection (f) repeats the language from Public Law 99–239, reaffirming that the U.S. is not responsible for foreign debt contracted by the FSM or the RMI.

Subsection (g) states the sense of the Congress that at least 30 percent of the U.S. grant assistance provided pursuant to section 211 of the amended Compacts shall be provided for infrastructure improvement and maintenance.

Subsection (h)(1) directs the President to report annually to Congress and sets forth several topics to be included in the report including the general social, political, and economic conditions in the FSM and RMI, the use of U.S. assistance, and recommendations on ways to increase the effectiveness of U.S. assistance.

Subsection (h)(2) directs the Governments of the United States, the FSM and the RMI to formally review the overall political, economic and security aspects of their relationship and the topics covered in the President's annual report to Congress. The governments may agree to commit themselves to take specific actions in response to their findings. These formal reviews are to be con-

ducted during the fifth, tenth, and fifteenth anniversaries of the date of enactment of legislation approving the amended Compacts. The President shall include the findings, and any recommendations for action, in the next annual report to Congress.

Subsection (h)(3) directs the U.S. Comptroller General to report to Congress on the issues set forth in sections 104(h)(1)(A)–(E), and on the effectiveness of the U.S. administrative oversight. The reports are to be transmitted on the third anniversary of the date of enactment of legislation approving the amended Compacts and every five years thereafter.

Subsection (i) provides for 90-day consideration by the relevant, congressional committees of any regulation proposed by the administration that would have a significant effect on the admission, stay, or employment privileges provided under section 141 prior to such regulation going into effect.

Subsection (j) makes a conforming amendment to the Annual Grants table set forth in section 211 of the U.S.-FSM Compact.

Subsection (k) makes a conforming amendment to the Annual Grants table set forth in section 211 of the U.S.-RMI Compact.

Subsection (l) provides for an increase from two-thirds inflation adjustment to full inflation adjustment, beginning in fiscal year 2015, if the U.S. Gross Domestic Product Implicit Price Deflator average for fiscal years 2009 through 2014 is greater than the average for fiscal years 2004 through 2008.

Subsection (m) directs the Governments of the United States, the FSM, and the RMI to cooperate in the development of telecommunication infrastructure and assigns the U.S. Department of the Army to serve as the Executive Agent for the Defense Department in such efforts.

Subsection (n) authorizes the Department of Defense to extend the Armed Services Vocational Aptitude Battery (ASVAB) Student Testing Program (STP) and the ASVAB Career Exploration Program to certain secondary schools in the FSM and RMI. The Committee notes that these programs assist the U.S. Armed Services' recruiting efforts in the FSM and RMI.

Section 105 sets forth supplemental provisions to the Compacts.

Subsection (a) generally repeats the language from Public Law 99–239 that all U.S. Federal programs and services extended to the FSM and RMI are to remain subject to the same criteria, standards, audits, and rules as in the United States.

Subsection (b)(1) specifies that appropriations made pursuant to article I of title two, including the major financial sector grants, and section 221(a)(2) of the amended Compacts, are to be made to the Secretary of the Interior.

Subsection (b)(2) specifies that certain appropriations made for services and programs provided to the FSM and RMI by the U.S. Weather Service; Federal Aviation Administration; Department of Transportation; and the Department of Homeland Security, FEMA shall be made directly to those agencies.

Subsection (b)(3) specifies that appropriations made for certain other Federal services and programs, including the Legal Services Corporation, Public Health Service, and Rural Housing Service, shall be made to the relevant agencies in accordance with the terms of any appropriations for such services and programs.

Subsection (b)(4) requires all Federal agencies providing program and service assistance to the FSM or the RMI to coordinate with the Secretaries of State and the Interior regarding the provision of any such assistance. It further requires the Secretaries of the Interior and State to consult with officials of the Asian Development Bank regarding overall economic conditions in the FSM and the RMI, and the activities of other donors of assistance to the FSM and RMI.

Subsection (b)(5) specifies that U.S. Government employees in either the FSM or the RMI are subject to the authority of the United States Chief of Mission.

Subsection (b)(6) authorizes the appointment of an Interagency Group on Freely Associated States' Affairs to provide policy guidance to the U.S. Government. Further provides a sense of Congress that the Secretaries of State and Interior shall be represented on the Interagency Group.

Subsection (b)(7) specifies that the three U.S. appointees to the Joint Economic Management Committees provided for in each of the amended Compacts and Fiscal Procedures Agreements shall be U.S. Government officers or employees. Provides a sense of Congress that the Secretaries of State and Interior shall be represented on the Joint Economic Management Committees and that officials of the Asian Development Bank should be consulted in order to properly coordinate assistance. The paragraph further notes that the implementation of economic policy reforms to encourage investment and to achieve self-sufficient tax rates shall be considered by the Joint Economic Management Committees.

Subsection (b)(8) states the sense of Congress that the Secretaries of State and Interior are to ensure the appropriate number and location of personnel to provide effective oversight and coordination with regard to economic assistance. The Committee notes that the, administration has informed the Committee that the Department of the Interior intends to have nine personnel on their Compact implementation team including one in Washington, D.C., six in Hawaii, and one each in the RMI and FSM. It is necessary, and the Committee expects, that the State Department will have at least three personnel assigned to Compact implementation and oversight, one each in Washington, D.C., the FSM and the RMI.

Subsection (b)(9) specifies that the U.S. voting members of the Trust Fund Committees appointed by the U.S. Government shall be U.S. Government officers or employees. It further provides a sense of Congress that the Secretaries of State, the Interior, and Treasury shall be represented on the Trust Fund Committees.

Subsection (b)(10) specifies that the Trust Fund Committees provided for in the amended Compacts and accompanying Trust Fund Agreements shall be established as non-profit corporations incorporated under the laws of the District of Columbia.

Subsection (c) repeats the language from Public Law 99–239 regarding any continuing authorizations from the Trust Territory period.

Subsection (d) provides for the survivability of certain provisions of the joint resolution passed by Congress implementing the amended Compacts, such as those regarding audits, notwithstanding the termination of the amended Compacts.

Subsection (e) states that actions by the FSM or RMI that are incompatible with U.S. authorities and responsibilities in security and defense matters toward the FSM and RMI will constitute a material breach of the respective Compact.

Subsection (f) makes available to the FSM and the RMI, pursuant to section 222 of the amended Compacts, certain programs and services, including—

Paragraph (1)(A) The programs and services of the Department of Homeland Security, FEMA, and provides $400,000 in mandatory annual funding to FEMA to facilitate the Agency's activities in the islands.

Paragraph (1)(B), clause (i) continues for eligible individuals, the services available pursuant to the Individuals with Disabilities Education Act; and grants, for eligible students and institutions, pursuant to subpart 1 of part A of title IV of the Higher Education Act of 1965, commonly known as the "Pell Grants" program. Clause (ii) eliminates eligibility for the FSM and the RMI for the remaining Education Department formula-grant programs, as well as grants made pursuant to the Head Start Act. As a replacement for these formula-grant programs, the FSM and RMI Governments shall each receive a supplemental amount to their annual education sectoral grant as provided pursuant to section 211 of the amended Compacts. Clause (iii) provides for a two year (FY2004 and FY2005) transition period from the termination of the formula grant programs to local programs designed to meet local needs. Clause (iv) provides that the U.S. may provide technical assistance to the RMI and FSM in implementing education programs, the terms of which, including reimbursement, shall be incorporated in the Federal Programs and Services Agreement. Clause (v) continues the eligibility of the RMI and FSM for competitive federal education grants.

Subparagraphs (C), (D), and (E) state that the programs and services of the Legal Services Corporation, the Public Health Service, and Rural Housing Service shall be made available to the FSM and the RMI, pursuant to section 222 of the amended Compacts.

Subsection (f)(2) applies the tort claims provisions of the amended Compacts to U.S. Government employees and contractors.

Subsection (f)(3) continues eligibility for the FSM and the RMI for EPA programs for PCB cleanup and directs the Secretaries of the Interior and Defense to cooperate and assist in any cleanup activities.

The Committee notes that the relevant terms and conditions of the Federal Programs and Services Agreements must be updated in accordance with subsection (f) and that the new agreements must be submitted to Congress for approval.

Subsection (g) provides that the College of Micronesia shall retain its status as a land-grant institution until otherwise provided by Congress or until termination of the amended Compact.

Subsection (h) absolves the Governments of the FSM and the RMI from payment of certain debts of the former Trust Territory Government to U.S. Federal agencies.

Subsection (i) directs the Secretary of the Interior to provide $300,000 annually to train members of the judiciary in the FSM

and the RMI. Such training shall be done in cooperation with the Pacific Islands Committee of the Ninth Circuit Judicial Council. The Committee notes that the Federal Programs and Services Agreements must be negotiated and updated in accordance with this subsection and that the new agreements must be transmitted to Congress.

Subsection (j) continues the authorization for certain U.S. Federal agencies to provide technical assistance at the request of the FSM and RMI. The Committee notes that such technical assistance shall be provided on a nonreimbursable basis.

Subsection (k) continues the authorization for payments to persons, with pre-1968 service for the U.S. Navy or Trust Territory Government, who were eligible to receive payment under the Prior Service Benefits Program established during the Trust Territory period.

Subsection (l) repeats the language from Public Law 99–239 regarding the authorization of sums necessary to complete repayment by the United States of debts owed for use of various lands in the FSM and the RMI prior to January 1, 1985.

Subsection (m) continues the authorization for grants for the purposes of dealing with communicable diseases in the FSM and RMI and expands the authorization to the governments of the affected jurisdictions of Hawaii, Guam, the CNMI and American Samoa. Subsection (m) also directs the Secretary of the Interior to assist the Governments of the FSM and the RMI to design and implement programs aimed at dealing with communicable diseases.

Subsection (n) continues the requirement for the payment of standard user fees for services provided by the United States to persons in the FSM and the RMI.

Subsection (o) provides that no judgment of an FSM, RMI, or Palau court against the United States or its instrumentalities shall be honored by the U.S., unless the judgment is consistent with the U.S. interpretation of international agreements relevant to the judgment. In making such a determination, due regard as to the proper interpretation of any such international agreement shall be given to assurances made by the Executive Branch to the Congress.

Subsection (p) provides a method for establishing the new trust funds pursuant to the amended Compacts. It further provides that the U.S. Government may assist the governments of the FSM and the RMI in establishing and operating a trust fund or similar legal entity.

Section 106 authorizes assistance to U.S. firms who may be awarded construction contracts within the FSM or RMI to help them employ and train citizens of the FSM and RMI to the maximum extent possible. Such assistance to eligible U.S. firms shall be limited to 20 percent of the contract amount.

Section 107 states that the portions of the U.S. Code dealing with criminal bribery and conflict of interest apply to U.S. employees closely involved in the Compact negotiations.

Section 108(a) directs that the following Federal programs and services be made available to the FSM and the RMI: the Small Business Administration; Economic Development Administration; Rural Utilities Services; Department of Labor's Workforce Investment Act; and the Department of Commerce's tourism and marine resource programs.

Subsection (b) authorizes the payment, upon an adequate showing, of certain sums to the FSM and the RMI as compensation for any effects, during the term of the original Compact, of certain Congressional clarifications regarding trade and taxation enacted by the Congress in Public Law 99–239. The countries must submit any such funding request by September 30, 2009.

Section 109 authorizes and appropriates the sums required for grant, trust fund, and Kwajalein payments pursuant to the amended Compacts.

Section 110 exempts citizens of the FSM, RMI, Palau, and the Philippines from the general rule of section 605 of Public Law 107–67 that U.S. Government employees posted within the continental U.S. should be U.S., citizens or someone who either owes allegiance to the U.S. or falls within other defined groups.

TITLE TWO

Section 201(a) sets forth the text of the Compact of Free Association, as amended, between the Government of the United States of America and the Government of the Federated States of Micronesia.

The Preamble affirms that: the relationship between the U.S. and FSM is founded upon respect for human rights; the people of the FSM have a right to enjoy self-government; the common interests of the U.S. and the FSM are in creating and maintaining their close and mutually beneficial relationship; and the interest of the U.S. in promoting the economic advancement and budgetary self-reliance of the FSM. The Preamble also recognizes that: the U.S.-FSM Compact relationship entered into force in 1986; it was based on the United Nations Charter; the people of the FSM have progressively developed their institutions of self-government and have exercised that right of self-government to adopt a Constitution and to establish a government-to-government relationship based on the freely expressed wishes of the people. The Preamble further recognizes that: the people of the FSM retain their sovereignty and their right to self-determination and the right to amend their Constitution; approval of the Compact constituted an exercise of their right to self-determination and the common desire of the U.S. and FSM to maintain their close government-to-government relationship. Finally, under the Preamble, the U.S. and the FSM agree to continue and strengthen their relationship of free association and that the respective rights and responsibilities of the U.S. and FSM derive from and are set forth in this Compact, as amended.

TITLE ONE—GOVERNMENTAL RELATIONS

Article I—Self Government

Section 111 states that the people of the FSM are self-governing.

Article II—Foreign Affairs

Section 121 affirms the capacity of the Government of the FSM to conduct foreign affairs in its own name and right, except as otherwise provided in this Compact.

Section 122 states that the U.S. will support FSM membership in international organizations.

Section 123 states that the U.S. and FSM will consult with each other regarding foreign affairs.

Section 124 states that the U.S. may assist the FSM with foreign affairs when requested and mutually agreed, but the U.S. shall not be responsible to third parties for the actions of the FSM undertaken with assistance from the U.S.

Section 125 states that the U.S. will not be responsible for actions taken by the FSM in the area of foreign affairs, except as expressly agreed to.

Section 126 makes available U.S. consular services to FSM citizens traveling outside the FSM.

Section 127 recognizes that, except as agreed in the amended Compact and its related agreements, the rights and obligations of the U.S. as Administering Authority of the Trust Territory of the Pacific Islands ended on November 2, 1986.

Article III—Communications

Section 131 states that the FSM has full authority and responsibility to regulate its communications and notes that the FSM elected in 1993 to assume telecommunications functions previously performed by the U.S.

Section 132 grants the U.S. rights to operate telecommunications services within the FSM to the extent necessary to fulfill its obligations under this amended Compact.

Article IV—Immigration

Section 141 governs the admission of FSM citizens into the U.S.

Subsection (a) provides that otherwise admissible FSM citizens will be eligible for: visa-free admission to the U.S. (including its territories and possessions); to establish residence as nonimmigrants; and to lawfully engage in occupations without a labor certification. However, the Compact, as amended, now requires that such FSM citizens possess a valid passport. Paragraphs (3) and (4) restrict the class of naturalized FSM citizens eligible for this special status in order to address concerns about potential abuse of this special Compact status by non-FSM natives. Paragraph (5) extends this status to bona fide immediate relatives of FSM citizens serving on active duty with the U.S. Armed Forces.

Subsection (b) provides that FSM children traveling to the U.S. for the purpose of being adopted are not eligible for visa-free admission under the Compact. This new language is intended to prevent attempted use of Compact privileges to circumvent U.S. immigration requirements that help ensure the legitimacy of international adoptions, protect the children involved, and provide the adoptees with lawful permanent immigration status.

Subsection (c) declares that no person who has purchased FSM citizenship or an FSM passport shall be eligible for admission to the U.S. under the amended Compact. This is intended to remove incentives for passport sales or other abuse of these migration privileges.

Subsection (d) confirms the existing privilege to work in the U.S. and expands the types of documents that FSM citizens can use to demonstrate identity and employment authorization under U.S. im-

migration law. This subsection further provides that the U.S. and the FSM will take steps to publicize this provision.

Subsection (e) defines certain immigration terms used in the Compact.

Subsection (f) provides that, except as specified in section 141(a), that the U.S. Immigration and Nationality Act (INA) applies fully to any person admitted to the U.S., or is seeking admission to the U.S., under the Compact; and that, except as provided by section 104(i), the U.S. has full authority under the INA to regulate the terms and conditions of persons seeking admission under the Compact.

Subsection (g) provides that the governments of U.S. territories or possessions not subject to the INA, such as American Samoa and the CNMI, have the same authorities as the U.S. enjoys under the INA to exercise immigration authority under the amended Compact and to the extent authorized by the laws of the U.S.

Subsection (h) notes that this section does not confer on a FSM citizen the right to establish residence necessary for U.S. naturalization under the INA, or give FSM admittees to the U.S. the right to petition for benefits for alien relatives under the INA. However, this subsection also notes that subsection (a) does not prevent a FSM citizen from otherwise acquiring such rights or lawful permanent resident alien status in the U.S.

Section 142 governs the rights of U.S. citizens in the FSM.

Subsection (a) recognizes the right of U.S. citizens to enter and work in the FSM, subject to the FSM's reasonable authority to deport and deny entry, and the right of U.S. citizen spouses of FSM citizens to reside in the FSM, even after the death of the FSM citizen spouse.

Subsection (b) requires that the FSM accord U.S. citizens and nationals immigration status no less favorable than that accorded to citizens of other countries.

Subsection (c) provides that the FSM will adopt immigration procedures towards U.S. citizens and nationals seeking employment or investment in the FSM that are no less favorable than those adopted by the U.S. toward FSM citizens.

Section 143 states that FSM citizens and U.S. citizens or nationals who lose their citizenship or nationality shall be ineligible to receive immigration privileges under the Compact.

Article V—Representation

Section 151 provides that relations between the U.S. and the FSM shall be conducted in accordance with the Vienna Convention on Diplomatic Relations, and that the governments may establish offices and representatives as mutually agreed.

Section 152 provides that U.S. citizens and nationals who act as agents of FSM without authority of the U.S. are subject to the Foreign Agents Registration Act, except for U.S. citizen/national employees of the FSM whom the FSM certifies are not principally engaged in activities specified in that Act.

Article VI—Environmental Protection

Section 161(a) declares the policy of the parties to prevent damage to the environment, and commits the U.S. to conducting its ac-

tivities in accord with certain environmental standards similar to those in effect in the U.S.

Section 161(b) commits the FSM to continuing to develop, implement, and enforce environmental standards similar to those required of the U.S. in the previous subsection.

Section 161(c) states that the parties may modify the environmental obligations of the previous two subsections by mutual agreement.

Section 161(d) states that the obligations of section 161(a) will continue to require Environmental Impact Statements until the parties mutually agree otherwise.

Section 161(e) states that the President of the U.S. may exempt any United States Government (USG) activities from the environmental standards of section 161(a)(3)–(4) if it is in the "paramount interest" of the USG to do so, after considering the views of the FSM and reporting the reasons for the exemption, to the extent practicable.

Section 161(f) states that the laws of the U.S. referred to in section 161(a)(3) apply to U.S. activities under the Compact only to the extent provided in section 161.

Section 162 states that the FSM may bring an action for judicial review of USG environmental activities pursuant to section 161(a) only in the U.S. District Court for Hawaii or the U.S. District Court for the District of Columbia, and subject to certain conditions.

Section 163 states that the U.S. and the FSM shall have access to each other's facilities to the extent necessary to gather information to carry out article VI, so long as it does not unreasonably interfere with the other's exercise of its authorities and responsibilities.

Article VII—General Legal Provisions

Section 171 recognizes that, except as provided in the amended Compact or related agreements, the application of the laws of the U.S. to the Trust Territory of the Pacific Islands ceased on November 3, 1986.

Section 172 declares that FSM citizens who are not U.S. residents shall have the same rights and remedies under U.S. law enjoyed by any non-resident alien. Subsection (b) affirms that the government and citizens of the FSM are "persons" for purposes of making Freedom of Information Act (FOIA) requests and seeking judicial review of FOIA determinations, but states that only the FSM government, and not its citizens, have standing to seek judicial review relating to U.S. Government environmental activities governed by sections 161 and 162.

Section 173 states that the U.S. and the FSM agree to adopt and enforce measures necessary to protect U.S. assets maintained in the FSM pursuant to the Compact and related agreements.

Section 174 states that, except as otherwise provided in the Compact and related agreements: (a) the FSM and U.S. Governments, agencies, and officials shall be immune from the jurisdiction of the other's courts; (b) the U.S. shall pay unpaid judgments and claim settlements of the Trust Territory of the Pacific Islands; (c) claims against the Trust Territory or U.S. Government arising before the original Compact may be pursued against the U.S. Government ac-

cording to certain conditions and procedures; and (d) the FSM and U.S. Governments shall not be immune from the jurisdiction of the other's courts in civil cases that fall within exceptions to foreign state immunity in the Foreign Sovereign Immunities Act.

Section 175(a) declares that a separate, simultaneously effective agreement between the parties shall govern mutual law enforcement assistance and cooperation, including pursuit and extradition of fugitives and prisoner transfers.

Section 175(b) declares that a separate, simultaneously effective agreement between the parties shall govern labor recruitment practices for employment in the U.S. and enforcement for violations. This new section has been added to protect FSM citizens from abusive labor recruitment practices that have been recently alleged.

Section 176 confirms that final judgments in civil cases by courts of the Trust Territory of the Pacific Islands shall continue in full force and effect, subject to the power of FSM courts to grant relief in appropriate cases.

Section 177 quotes the language of section 177 of the original Compact which constituted a full and final settlement of all claims related to the U.S. nuclear testing program in the region, and notes that the amended Compacts make no changes to, and have no effect upon, that settlement.

Section 178 authorizes U.S. Federal agencies that provide services in the FSM to settle and pay tort claims arising in the FSM. Claims that cannot be settled administratively shall be disposed of exclusively according to the arbitration procedure outlined in article II of title IV of the Compact. The U.S. and FSM shall provide for, in a separate agreement under section 231, the administrative settlement of claims. Except as explicitly provided in U.S. law, neither the U.S. nor any federal agency may be named as a party in any action arising out of U.S. grant assistance activities.

Section 179 states that the courts of the FSM shall not exercise criminal jurisdiction over the U.S. Government, agencies, or employees acting on behalf of the U.S. in providing assistance to the FSM.

TITLE TWO—ECONOMIC RELATIONS

Article I—Grant Assistance

Section 211(a) states that the U.S. shall provide 20 years of annual sectoral grant assistance to the FSM in the priority sectors of education and health care, as well as in private sector development, the environment, public sector capacity building, public infrastructure, and other sectors as mutually agreed. The sector grants will be made available in accordance with mutually agreed sector development plans, and will be subject to monitoring according to the Fiscal Procedures Agreement between the parties. Section 211(a) of the Compact must be read in light of section 104(g) of S.J. Res. 16, which states the sense of Congress that not less than 30 percent of the annual U.S. grant assistance provided under section 211, and not less than 30 percent of the total amount of section 211 funds allocated to each of the four states of the FSM, shall be invested in infrastructure improvements and maintenance in accordance with section 211(a)(6).

Subsection (b) makes available a "Humanitarian Assistance—FSM" (HAFSM) program at the request of the FSM, designed to extend targeted health, education, and infrastructure assistance. HAFSM costs will be deducted from the annual grant provided under section 211(a), and the terms of the program will be governed by the separate Agreement Regarding the Military Use and Operating Rights of the U.S.

Subsection (c) requires the FSM to prepare, maintain, and update a strategic development plan on a multi-year rolling basis that specifically addresses the sectors identified in Section 211 (a) and requires the concurrence of the U.S. insofar as U.S. grant funds are involved.

Subsection (d) requires funds to be made available for disaster assistance in accordance with section 105(f)(1)(A)(ii), the language of this subsection is effectively deleted and is now construed to provide that $200,000 per year shall be made available to FEMA by the Secretary of the Interior to facilitate its activities in the FSM. This change is made because continuation of FEMA, as in prior years, is essential to achieving the Compact's overall economic development objectives. However, because of the FSM's relative lack of institutional development and capacity in disaster preparedness and response, it is recognized that operating there presents special challenges for FEMA. In order to respond to these challenges, $200,000 per year shall be provided to FEMA to supplement their capacity to operate in the FSM. These funds may be used for providing technical assistance in disaster planning, preparedness, and response; for retaining and training personnel in the region or stateside; and for other purposes. Further conditions regarding these funds are to be negotiated between FEMA and the FSM for inclusion in the Federal Program and Services Agreement referred to in Section 231.

Section 212 states that, as reflected in the Fiscal Procedures Agreement, sector grants and U.S. programs and services shall be subject to regulations and policies normally applicable to U.S. assistance to State and local governments. The U.S. may condition such assistance on performance indicators, and may seek remedies for noncompliance, including withholding assistance. Section 212(b) states that the U.S., as part of its grant assistance, grant the FSM either one half of the cost of the annual audit, or $500,000, whichever is less.

Section 213 requires the U.S. and FSM to establish a Joint Economic Management Committee (JEMCO), composed of a U.S. chairman, two U.S. members, and two FSM members, which shall review audits and reports, evaluate progress toward the objectives of the Development Plan under section 211(c), and identify problems encountered and recommend ways to increase the effectiveness of U.S. assistance under this Title. The duties and operation of the JEMCO are set forth further as described in the Fiscal Procedures Agreement.

The composition and scope of the JEMCO is further specified by section 105(b)(7) of S.J. Res. 16 which states the sense of Congress that two of the three U.S. members should be designated from the Department of State and the Department of the Interior, and that U.S. officials of the Asian Development Bank (ADB) shall be consulted in order to properly coordinate U.S. and ADB financial, pro-

gram, and technical assistance. Section 105(b)(7) further provides that the scope of the JEMCO's evaluation of development shall be expanded to include an evaluation of the implementation of economic policy reforms that are needed to encourage investment, and an evaluation of local progress toward self-sufficient tax rates. This scope is added to ensure that the JEMCO does not focus entirely on U.S. assistance and its effectiveness, but also on promoting local economic policies which are also necessary conditions for economic growth. Examples of other policy reforms which the JEMCO should examine include land reform and reform of business regulations.

Section 214 requires the FSM to report annually to the U.S. on its use of U.S. grant assistance and progress toward economic goals. The report shall also include an evaluation of progress on economic policy reforms necessary for economic development including progress toward self-sufficient tax rates. The JEMCO shall review and comment on these reports and make appropriate recommendations that are expected to be reflected in the President's annual report to Congress pursuant to, section 104(h).

Section 215 states that the U.S. shall provide annual contributions to a trust fund for 20 years in amounts set forth in section 216. The proceeds of the fund are to be used at the end of those 20 years for the purposes described in section 211, or as mutually agreed. The U.S. contribution is conditioned on the FSM contributing at least $30 million to the fund prior to September 30, 2004. The terms regarding investment and management of the fund, use of the income, and other requirements of the fund are set forth in a separate Trust Fund Agreement.

Section 216 sets forth the amounts of U.S. sector grants and trust fund contributions for each of the 20 years of assistance. The combined amount for each year is $92.7 million.

Section 217 states that the grant and trust fund contributions for each fiscal year shall be adjusted by two-thirds the amount of the U.S. GDP Implicit Price Deflator or five percent, whichever is less. However, this section is effectively deleted and replaced by section 104(l) which provides for a possible increase in the inflation adjustment from two-thirds to full inflation after the tenth year of the Compact based on certain conditions.

Section 218 states that unobligated balances from any year shall remain available to the FSM in future years.

Article II—Services and Program Assistance

Section 221(a) states that the U.S. shall make available to the FSM, in accordance with and to the extent provided in the Federal Programs and Services Agreement, the services and related programs of: (1) U.S. Weather Service; (2) U.S. Postal Service; (3) Federal Aviation Administration; (4) U.S. Department of Transportation; (5) Federal Deposit Insurance Corporation; and (6) FEMA and U.S. Agency for International Development/Office of Foreign Disaster Assistance (USAID/OFDA). However, section 105(f)(1)(A) of S.J. Res. 16 modifies this section by effectively deleting OFDA and by requiring the continuation of FEMA to the same extent as its services and programs were available to the FSM in 2003. Section 105(f)(1)(A) also modifies section 211(d) of the Compact to provide $200,000 annually to FEMA to facilitate operations in the FSM.

Section 221(b) states that, with the exception of those services and programs covered by section 221(a) and unless Congress provides otherwise, the U.S. shall make available to the FSM the services and programs that were available to the FSM on the effective date of the amended Compact to the extent that such services are available to U.S. State and local governments. The subsection notes that the Fiscal Procedures Agreement provides that funds provided under section 211 will be considered local revenues of the FSM when used as the local matching share for obtaining Federal programs and services. Finally, the subsection states that, unless other wise provided, these programs and services shall be extended in accordance with the terms of the Federal Programs and Services Agreement. However, section 105(f)(1)(B) of S.J. Res. 16 modifies section 221(b) of the Compact by extending the services of the Individuals with Disabilities Education Act and grants under subpart 1 of Part A of title IV of the Higher Education Act of 1965. Section 105(f)(1)(B) also provides for a supplemental education grant, a transition period for the phase-out of other formula grant programs administered by the Secretary of Education, as well as the Head Start program, an authorization for continued technical assistance, and continued eligibility for competitive grants administered by the Secretary of Education.

Section 221(c) states that the U.S. has the authority to monitor and administer all service and program assistance to the FSM and that the Federal Programs and Services Agreement shall also set forth the extent to which services and programs shall be provided to the FSM. Because of the changes effectively made to this section, the Federal Programs and Services Agreement will need to be renegotiated accordingly, and resubmitted to Congress for approval.

Section 221(d) states that, except as otherwise provided, federal programs and services extended to the FSM shall be subject to the same standards and rules applicable to such programs in the U.S.

Section 221(e) states that the U.S. shall make available to the FSM, to the extent provided in U.S. law, alternate energy development projects and conservation measures.

Section 222 states that the U.S. and the FSM may agree from time to time to extend additional U.S. grant assistance to the FSM, which shall be governed by the Federal Programs and Services Agreement.

Section 223 requires the FSM to make available to the U.S., at no cost, such land as may be necessary for the operations of the services and programs provided pursuant to article II, and whatever facilities are currently provided at no cost to the U.S., or may be mutually agreed to in the future.

Section 224 states that the FSM may from time to time request technical assistance from U.S. Federal agencies that, if provided, would give priority consideration to the FSM over other non-U.S. recipients.

Article III—Administrative Provisions

Section 231 notes that the extent of U.S. program assistance, the status of U.S. agencies and employees, and other program and service-related arrangements are set forth in a separate Federal Programs and Services Agreement.

Section 232 states that the U.S. shall determine and implement procedures for audits of all grant and program assistance in accordance with the Fiscal Procedures Agreement described in section 211(a), and authorizes the U.S. Comptroller General to conduct audits in the FSM.

Section 233 pledges the U.S. to provide the grant assistance specified in section 211 for the 20 year term specified, subject to the terms and conditions of, title II and related subsidiary agreements.

Section 234 pledges the FSM to cooperate in U.S. investigations of misuse of Compact funds and that it will not unreasonably withhold U.S.-requested subpoena assistance in the FSM. The FSM acknowledges that its receipt of Compact funding is conditioned on its fulfillment of these obligations and the U.S. agrees to pay any reasonable costs of the FSM in carrying out this section.

Article IV—Trade

Section 241 states that the FSM is not within the customs territory of the U.S.

Section 242 directs the President to proclaim tariff treatment for articles imported from the FSM. Subsection (a) states that, unless otherwise excluded, articles imported from the FSM shall be exempt from duty.

Subsection (b) states that imports of "tuna in airtight containers" from the FSM shall be exempt from duty, in an amount not to exceed, when aggregated with the amount imported from the RMI, 10 percent of the previous year's U.S. consumption of "tuna in airtight containers."

Subsection (c) states that duty-free treatment shall not be extended to certain classes of watches, clocks, buttons, textiles, apparel, footwear, luggage.

Subsection (d) provides that the value of U.S. inputs into products imported from the FSM, up to 15 percent of the article's total appraised value, may be applied for duty assessment purposes toward determining the percentage referred to in section 503(a)(2) of title V of the Trade Act of 1974.

Section 243 states that articles imported from the FSM and not exempt from duty under section 242 are subject to the duty rates in column 1-general of the Harmonized Tariff Schedule of the U.S.

Section 244 ensures that all U.S. products imported into the FSM receive customs treatment no less favorable than that accorded like products of any foreign country, except for advantages accorded by the FSM to other governments listed in Article 26 of the Pacific Island Countries Trade Agreement (PICTA). The FSM commits to consult with the U.S. before concluding a free trade agreement with any government not listed in PICTA.

Article V—Finance and Taxation

Section 251 notes that U.S. currency is the legal tender of the FSM, and states that the FSM will agree on a transitional period with the U.S. before switching to any other currency.

Section 252 allows the FSM to tax U.S. persons on income earned and property located within the FSM.

Section 253 exempts FSM citizens domiciled in the FSM from U.S. estate, gift, and generation-skipping transfer taxes, provided that they are neither citizens nor residents of the U.S.

Section 254 states that the FSM shall have authority to tax FSM residents for income earned outside the FSM to the same extent that it taxes income earned in the FSM. If the FSM imposes such taxes, any FSM resident who is subject to U.S. taxes on the same income shall be relieved of such tax liability to the U.S. in the form of a foreign tax credit or exclusion under section 911 of the Internal Revenue Code.

Section 255 grants U.S. tax benefits for conventions held in the FSM.

TITLE THREE—SECURITY AND DEFENSE RELATIONS

Article I—Authority and Responsibility

Section 311 grants the U.S. full authority and responsibility for defense matters in or relating to the FSM, including: the obligation to defend the FSM as the U.S. is defended; strategic denial; and the option to establish and use military facilities in the FSM. Subsection (c) confirms that the U.S. will act in accordance with the Charter of the United Nations in the exercise of this authority and responsibility.

Section 312 permits the U.S. to conduct necessary military operations in FSM lands, waters, and airspace, subject to the terms of agreements negotiated in accordance with sections 321 and 323.

Section 313 requires the FSM to refrain from actions that the U.S., after consultation, deems incompatible with U.S. defense authorities and responsibilities, known as the "defense veto." Such consultations shall be conducted expeditiously at senior levels and the FSM shall be afforded an opportunity to raise its concerns with the U.S. Secretary of State and Secretary of Defense personally regarding any determination made in accordance with this section.

Section 314 prohibits the U.S. from testing, disposing of, or storing any nuclear, chemical, or biological weapon in the FSM, unless otherwise agreed, other than for transit or during times of national emergency or state of war or impending attack. Such materials shall not be stored except in a manner which would not be hazardous to public health and safety, and such materials not intended for weapons shall not be affected by this section.

Section 315 allows the U.S. to invite other countries' armed forces, under the control of U.S. forces, to use military facilities in the FSM. Such use is subject to consultation with, and in the case of major units, approval of the FSM.

Section 316 prohibits the U.S. from transferring or assigning its authority or responsibility under Title II of the Compact.

Article II—Defense Facilities and Operating Rights

Section 321 notes that specific arrangements for establishment of U.S. military facilities in the FSM are set forth in a separate agreement. The U.S. may request to lease additional areas within FSM for such purposes and the FSM will consider such requests sympathetically. In making such requests, the U.S. will respect the scarcity and special importance of land in the FSM and will request only the minimum necessary.

Section 322 notes that the U.S. will provide and maintain fixed and floating navigational aids in the FSM at least to the extent

necessary for the exercise of its authority and responsibility under this Title.

Section 323 notes that the U.S. military operating rights and the status of U.S. forces in the FSM are set forth in separate agreements.

Article III—Defense Treaties and International Security Agreements

Section 331 states that the U.S. has assumed and enjoys all rights and obligations of pre-Compact treaties and international security agreements applied by the U.S. as Administering Authority of the Trust Territory of the Pacific Islands, and any treaty or international security agreement to which the U.S. is a party and deems applicable in the FSM.

Article IV—Service in Armed Forces of the United States

Section 341 states that persons entitled to the Compact migration benefits pursuant to section 141 are eligible to volunteer for service in the U.S. Armed Forces.

Section 342 states that the U.S. will have at any given time at least one qualified FSM student enrolled in its Coast Guard Academy and Merchant Marine Academy.

Article V—General Provisions

Section 351 states that the U.S. and the FSM will continue to maintain a Joint Committee of senior officials to consider disputes arising under this title of the Compact, which will meet annually or upon request of either country. Unresolved issued of the Joint Committee shall be referred to the governments for resolution and the FSM shall be afforded an opportunity to raise its concerns with the U.S. Secretary of Defense personally regarding any unresolved issue that threatens its continued association with the U.S.

Section 352 states that in exercising its authority under title three, the U.S. shall accord due respect to the authority and responsibility of the FSM to assure the well-being of its people.

Section 353 states that the U.S. will not name the FSM as a party to a declaration of war without the FSM's consent. Without such consent, the Compact will not prejudice any FSM petitions for redress from the U.S. or claims against third countries arising out of armed conflict.

Section 354(a) states that the security provisions of title three shall remain binding for the duration of the Compact, and thereafter as mutually agreed. If either the U.S. or the FSM unilaterally terminates this Title, it will be considered a termination of the entire Compact and in which case the provisions of either sections 442 and 452, or sections 443 and 453, as appropriate, shall apply.

Subsection (b) states that even if title three should terminate, any attack on the FSM during the period in which the separate Military Use and Operating Rights agreement is in effect will result in the U.S. taking action to meet the danger to the U.S. and the FSM.

Subsection (c) states that even if title three should terminate, the FSM shall refrain from acts which the U.S. determines to be incompatible with its authority and responsibility for security and defense matters relating to the FSM and RMI. This provides for continuation of the defense veto.

TITLE FOUR—GENERAL PROVISIONS

Article I—Approval and Effective Date

Section 411 provides that the amended Compact shall come into effect upon mutual agreement between the U.S. and the FSM after approval by their respective governments.

Article II—Conference and Dispute Resolution

Section 421 states that both governments shall confer promptly upon the request of the other on Compact-related matters.

Section 422 states that if, after conferring, one government determines that there is a dispute and notifies the other in writing, both governments shall make a good faith effort to resolve it between themselves.

Section 423 states that if the governments cannot resolve a dispute within 90 days of the written notice, either party may refer it to arbitration according to section 424.

Section 424 states that disputes will be referred to a binding Arbitration Board comprised of one Chairman (jointly selected by the parties) and two other members (one each selected by the U.S. and FSM). Unless otherwise provided, the decision of the Board shall be binding, and the Board shall have jurisdiction over disputes arising exclusively under the Compact and related agreements. The Board shall conduct its proceedings as it deems appropriate and reach its decision by majority vote, preferably within 30 days after the conclusion of arguments. Except as otherwise decided by the Board, the U.S. and the FSM shall split the costs of the arbitration.

ARTICLE III—AMENDMENT

Section 431 provides that the amended Compact may be further amended by mutual agreement of the parties, according to their respective constitutional processes.

ARTICLE IV—TERMINATION

Section 441 provides that the amended Compact may be terminated by mutual agreement of the parties, in which case section 451 will apply.

Section 442 provides that the amended Compact may be terminated by the U.S., in which case section 452 will apply. Such termination shall be effective not earlier than six months following delivery of the notice of termination.

Section 443 provides that the amended Compact may be terminated by the FSM if the FSM people vote for termination in a plebiscite, or by some other mutually agreed process, in which case section 453 will apply. The FSM shall notify the U.S. of its intentions and the plebiscite or other process shall take place not earlier than three months after delivery of such notice. If approved, termination shall be effective not earlier than three months following notice to the U.S. of the results of the plebiscite vote for termination.

Article V—Survivability

Section 451(a) provides that if the parties mutually terminate the Compact pursuant to section 441, U.S. economic and other assistance to the FSM shall continue only by mutual agreement.

Subsection (b) provides that if the parties mutually terminate the Compact prior to the 20th anniversary of the amended Compact, the U.S. will continue to make its contributions to the FSM Trust Fund so long as the U.S. continues to enjoy the right of strategic denial and defense veto.

Subsection (c) provides that if the parties mutually terminate the Compact after the 20th anniversary of the amended Compact, the FSM will be entitled to receive proceeds from the Trust Fund as described in section 215 and the Trust Fund Agreement.

Section 452(a) provides that if the U.S. terminates the amended Compact before its 20th anniversary pursuant to section 442, certain provisions shall continue including those regarding: environmental protection, grant audits and fund misuse investigations, security and defense relations, and dispute resolution. Those provisions shall remain in effect until the 20th anniversary, and thereafter as mutually agreed.

Subsection (b) provides that if the U.S. terminates the amended Compact before its 20th anniversary, economic and other assistance will continue only by mutual agreement, except that the U.S. will continue to make its contributions to the FSM Trust Fund so long as the U.S. continues to enjoy the right of strategic denial and defense veto under section 354(c) and the separate mutual security agreement.

Subsection (c) provides that if the U.S. terminates the amended Compact after its 20th anniversary, the FSM shall continue to be eligible to receive proceeds from the Trust Fund as described in section 215 and in the manner described in the Trust Fund Agreement.

Section 453(a) provides that if the FSM terminates the amended Compact before the 20th anniversary pursuant to section 443, certain provisions shall continue including those regarding: environmental protection, grant audits and fund misuse investigations, security and defense relations, and dispute resolution. Those provisions remain in effect until the 20th anniversary, and thereafter as mutually agreed.

Subsection (b) provides that if the FSM terminates the Compact, there shall be prompt consultations between the countries regarding their future relationship to determine the level of future U.S. assistance, if any, other than what is provided in subsections (c) and (d) of this section.

Subsection (c) provides that if the FSM terminates the amended Compact before its 20th anniversary, the U.S. will continue to make its contributions to the FSM Trust Fund in view of the special relationship reflected in subsections (b) and (c) of section 354 and the Trust Fund Agreement.

Subsection (d) provides that if the FSM terminates the amended Compact after its 20th anniversary, the FSM will be eligible to receive proceeds from the Trust Fund as described in section 215 and in a manner described in the Trust Fund Agreement.

Section 454 reaffirms the U.S. interest in promoting the economic advancement and budgetary self-reliance of the FSM, and the separate Military Use and Operating Rights Agreement and Status of Forces Agreement shall remain in effect in accordance with their terms.

Article VI—Definition of Terms

Section 461 sets forth definitions for numerous terms used in the amended Compact.

Section 462(a) lists the separate agreements that will remain in effect under the amended Compact, including: (1) the trilateral agreement concluded pursuant to section 234 on transfer of Trust Territory property; (2) the Friendship, Cooperation, and Mutual Security Agreement; and (3) the Maritime Sovereignty and Jurisdiction Agreement.

Subsection (b) lists the separate agreements that will go into effect under the amended Compact, including: (1) the Federal Programs and Services Agreement; (2) the Extradition, Mutual Assistance in Law Enforcement, and Penal Sanctions Agreement; (3) the Labor Recruitment Agreement implementing section 175(b); (4) the Agreement Concerning Procedures for the Implementation of United States Economic Assistance, the "Fiscal Procedures Agreement"; (5) the Trust Fund Agreement; (6) the Military Use and Operating Rights Agreement; and (7) the Status of Forces Agreement. The Committee notes that certain agreements including the Federal Programs and Services Agreement and the Fiscal Procedures Agreement will need to be modified to reflect changes made during Congressional consideration and enactment of this resolution. Following those modifications, the new agreements will need to be resubmitted for Congressional approval.

Section 463 clarifies that certain references in the amended Compact to various U.S. laws constitutes the incorporation of the applicable language of those laws into the amended Compact.

Article VII—Concluding Provisions

Section 471 requires both the U.S. and the FSM to take all necessary steps to ensure the conformity of their respective laws and regulations with the provisions of the amended Compact.

Section 472 provides that the amended Compact may be accepted by the U.S. and the FSM by signature or otherwise.

Section 201(b) sets forth the text of the Compact of Free Association, as amended, between the Government of the United States of America and the Government of the Republic of the Marshall Islands.

The Preamble affirms that: the relationship between the U.S. and RMI is founded upon respect for human rights; the common interests of the U.S. and the RMI are in creating and maintaining their close and mutually beneficial relationship through free and voluntary association; and the interest of the U.S. in promoting the economic advancement and budgetary self-reliance of the RMI. The Preamble also recognizes that: the U.S.-RMI Compact relationship entered into force in 1986; it was based on the United Nations Charter; the people of the RMI have progressively developed their institutions of self-government and have exercised that right of self-government to adopt a Constitution and to establish a government-to-government relationship based on the freely expressed wishes of the people. The Preamble further recognizes that: the people of the RMI retain their sovereignty and their right to self-determination and the right to amend their Constitution; approval of the Compact constituted an exercise of their right to self-deter-

mination and the common desire of the U.S. and RMI to maintain their close government-to-government relationship. Finally, under the Preamble, the U.S. and the RMI agree to continue and strengthen their relationship of free association and that the respective rights and responsibilities of the U.S. and FSM derive from and are set forth in this Compact, as amended.

TITLE ONE—GOVERNMENTAL RELATIONS

Article I—Self Government

Section 111 states that the people of the RMI are self-governing.

Article II—Foreign Affairs

Section 121 affirms the capacity of the Government of the RMI to conduct foreign affairs in its own name and right, except as otherwise provided in this Compact.

Section 122 states that the U.S. will support RMI membership in international organizations.

Section 123 states that the U.S. and RMI will consult with each other regarding foreign affairs.

Section 124 states that the U.S. may assist the RMI with foreign affairs when requested and mutually agreed but the U.S. shall not be responsible to third parties for the actions of the RMI undertaken with assistance from the U.S.

Section 125 states that the U.S. will not be responsible for actions taken by the RMI in the area of foreign affairs, except as expressly agreed to.

Section 126 makes available U.S. consular services to RMI citizens traveling outside the RMI.

Section 127 recognizes that, except as agreed in the amended Compact and related agreements, the rights and obligations of the U.S. as Administering Authority of the Trust Territory of the Pacific Islands ended on October 20, 1986.

Article III—Communications

Section 131 states that the RMI has full authority and responsibility to regulate its communications, and notes that the RMI assumed telecommunications functions previously performed by the U.S., except for those functions set forth in a separate agreement entered into pursuant to this section.

Section 132 grants the U.S. rights to operate telecommunications services within the RMI to the extent necessary to fulfill its obligations under this amended Compact and in accordance with the terms of separate agreements entered into pursuant to this section.

Aricle IV—Immigration

Section 141(a) governs the admission of RMI citizens into the U.S. Subsection (a) provides that otherwise admissible RMI citizens will continue to be eligible for visa-free admission to the U.S. (including territories and possessions) to lawfully engage in occupations and establish residence as nonimmigrants, but now requires that they possess valid passports. Paragraphs (3) and (4) restrict the class of naturalized RMI citizens eligible for this special status to address concerns about potential abuse of the special status by

non-RMI natives. Paragraph (5) extends this status to bona fide immediate relatives of RMI citizens serving on active duty with the U.S. Armed Forces.

Subsection (b) provides that RMI children traveling to the U.S. for the purpose of being adopted are not eligible for visa-free admission under the Compact. This new language is intended to prevent attempted use of Compact privileges to circumvent U.S. immigration requirements that help ensure the legitimacy of international adoptions, protect the children involved, and provide the adoptees with lawful permanent immigration status.

Subsection (c) declares that no person who has purchased RMI citizenship or an RMI passport shall be eligible for admission to the U.S. under the amended Compact, is intended to remove incentives for passport sales or other abuse of these migration privileges.

Subsection (d) confirms the existing privilege to work in the U.S. and expands the types of documents that RMI citizens can use to demonstrate identity and employment authorization under U.S. immigration law. This subsection further provides that the U.S. and the FSM will take steps to publicize this provision.

Subsection (e) defines certain terms used in this immigration title.

Subsection (f) provides, except as specified in section 141(a), that the U.S. INA applies fully to any person admitted to the U.S., or seeking admission to the U.S. under the Compact; and that, except as provided in section 104(i), the U.S. has full authority under the INA to regulate the terms and conditions of persons seeking admission under the Compact.

Subsection (g) provides that the governments of U.S. territories or possessions not subject to the INA, such as American Samoa and the CNMI, have the same authorities as the U.S. enjoys under the INA to exercise immigration authority under the amended Compact and to the extent authorized by the laws of the U.S.

Subsection (h) notes that this section does not confer on a RMI citizen the right to establish residence necessary for U.S. naturalization under the INA, or give RMI admittees to the U.S. the right to petition for benefits for alien relatives under the INA. However, this subsection also notes that subsection (a) does not prevent a RMI citizen from otherwise acquiring such rights or lawful permanent resident alien status in the U.S.

Subsection 142 governs the rights of U.S. citizens in the FSM. Subsection (a) recognizes the right of U.S. citizens to enter and work in the RMI, subject to the RMI's reasonable authority to deport and deny entry, and the right of U.S. citizen spouses of RMI citizens to reside in the RMI, even after the death of the RMI citizen spouse.

Subsection (b) requires that the RMI accords U.S. citizens and nationals immigration status no less favorable than that accorded to citizens of other countries.

Subsection (c) provides that the RMI will adopt immigration procedures towards U.S. citizens and nationals seeking employment or investment in the RMI that are no less favorable than those adopted by the U.S. toward RMI citizens.

Section 143 states that RMI citizens and U.S. citizens or nationals who lose their citizenship or nationality shall be ineligible to receive immigration privileges under the Compact.

Article V—Representation

Section 151 provides that relations between the U.S. and the RMI shall be conducted in accordance with the Vienna Convention on Diplomatic Relations, and that the governments may establish offices and representatives as mutually agreed.

Section 152 provides that U.S. citizens and nationals who act as agents of RMI without authority of the U.S. are subject to the Foreign Agents Registration Act, except for U.S. citizen/national employees of the RMI whom the RMI certifies are not principally engaged in activities specified in that Act.

Article VI—Environmental Protection

Subsection 161(a) declares the policy of the parties to prevent damage to the environment, and commits the U.S. to conducting its activities in accord with certain environmental standards similar to those in effect in the U.S.

Subsection (b) commits the RMI to continuing to develop, implement, and enforce environmental standards similar to those required of the U.S. in the previous subsection.

Subsection (c) states that the parties may modify the environmental obligations of the previous two subsections by mutual agreement.

Subsection (d) states that the obligations of section 161(a) will continue to require Environmental Impact Statements until the parties mutually agree otherwise.

Subsection (e) states that the President of the U.S. may exempt any USG activities from the environmental standards of section 161(a)(3)–(4) if it is in the "paramount interest" of the USG to do so, after considering the views of the RMI and explaining the reasons for the exemption, to the extent practicable.

Subsection (f) states that the laws of the U.S. referred to in section 161(a)(3) apply to U.S. activities under the Compact only to the extent provided in section 161.

Section 162 states that the RMI may bring an action for judicial review of USG environmental activities pursuant to section 161(a) only in the U.S. District Court for Hawaii or the U.S. District Court for the District of Columbia, and subject to certain conditions.

Section 163 states that the U.S. and the RMI shall have access to each other's facilities to the extent necessary to gather information to carry out article VI, so long as it does not unreasonably interfere with the other's exercise of its authorities and responsibilities.

Article VII—General Legal Provisions

Section 171 recognizes that, except as provided in the amended Compact or related agreements, the application of the laws of the U.S. to the Trust Territory of the Pacific Islands ceased on November 3, 1986.

Section 172 declares that RMI citizens who are not U.S. residents shall have the same rights and remedies under U.S. law enjoyed by any non-resident alien. Subsection (b) affirms that the government and citizens of the RMI are "persons" for purposes of making FOIA requests and seeking judicial review of FOIA determinations, but states that only the RMI government, and not its

citizens, have standing to seek judicial review relating to U.S. environmental activities governed by sections 161 and 162.

Section 173 states that the U.S. and the RMI agree to adopt and enforce measures necessary to protect U.S. assets maintained in the RMI pursuant to the Compact and related agreements.

Section 174 states that, except as otherwise provided in the Compact and related agreements: (a) the RMI and U.S. governments, agencies, and officials shall be immune from the jurisdiction of the other's courts; (b) the U.S. shall pay unpaid judgments and claim settlements of the Trust Territory of the Pacific Islands; (c) claims against the Trust Territory or U.S. Governments arising before the original Compact may be pursued against the U.S. Government according to certain conditions and procedures; and (d) the RMI and U.S. Governments shall not be immune from the jurisdiction of the other's courts in civil cases that fall within exceptions to foreign state immunity in the Foreign Sovereign Immunities Act.

Section 175(a) declares that a separate, simultaneously effective agreement between the parties shall govern mutual law enforcement assistance and cooperation, including pursuit and extradition of fugitives and prisoner transfers.

Subsection (b)—Declares that a separate, simultaneously effective agreement between the parties shall govern labor recruitment practices for employment in the U.S. and enforcement for violations. This new section has been added to protect RMI citizens from abusive labor recruitment practices that have been recently alleged.

Section 176 confirms that final judgments in civil cases by courts of the Trust Territory of the Pacific Islands shall continue in full force and effect subject to the power of FSM courts to grant relief in appropriate cases.

Section 177 quotes the language of section 177 of the original Compact which constituted a full and final settlement of all claims related to the U.S. nuclear testing program in the region, and notes that the amended Compacts make no changes to, and have no effect upon, that settlement.

Section 178 authorizes U.S. Federal agencies that provide services in the RMI to settle and pay tort claims arising in the RMI. Claims that cannot be settled administratively, shall be disposed of exclusively according to the arbitration procedure outlined in article II of title IV of the Compact. The U.S. and RMI shall provide for, in a separate agreement under section 231, the administrative settlement of claims. Except as explicitly provided in U.S. law, neither the U.S. nor any Federal agency may be named as a party in any action arising out of U.S. grant assistance activities.

Section 179 states that the courts of the RMI shall not exercise criminal jurisdiction over the U.S. Government, agencies, or employees acting on behalf of the U.S. in providing assistance to the RMI.

TITLE TWO—ECONOMIC RELATIONS

Article I—Grant Assistance

Section 211(a) states that the U.S. shall provide 20 years of annual grant assistance to the RMI in the priority sectors of education and health care, as well as in private sector development,

the environment, public sector capacity building, public infrastructure, and other sectors as mutually agreed. The sector grants shall be used consistent with the budget and investment framework described in subsection (f), and will be subject to mutual agreement and monitoring through the Joint Economic Management and Financial Accountabilty Committee. The U.S. shall disburse and monitor such grant assistance in accordance with the Fiscal Procedures Agreement between the parties.

Section 211(b)(1) provides that of the total grant assistance made available to the RMI, a specified amount shall be allocated to advance the objectives and specific priorities set forth in subsections (a) and (d) of this section and the Fiscal Procedures Agreement to address the special needs of the community at Ebeye and other Marshallese communities within Kwajalein Atoll. Such assistance shall be made available in accordance with the budget and investment framework described in subsection (f) to support and improve the infrastructure and delivery of services. This annual amount shall be $3.1 million (with an inflation adjustment) through FY2013, and shall be increased by an additional $2 million (with an inflation adjustment) for FY2014 through FY2023, and thereafter in accordance with the Military Use and Operating Rights Agreement.

Paragraph (2) provides that in addition to the 211(a) funding earmarked for Kwajalein in the paragraph above, the U.S. will provide $1.9 million annually (with an inflation adjustment and subject to the Fiscal Procedures Agreement) to further address those special needs, from FY2004 through FY2023 and thereafter in accordance with the Military Use and Operating Rights Agreement.

Paragraph (3) provides that of the total 211(a) annual grant assistance, $200,000 (with an inflation adjustment) shall be allocated for increasing the RMI's participation in and ability to analyze the annual U.S. Army Kwajalein Atoll Environmental Standards Survey.

Subsection (c) makes available a "Humanitarian Assistance—RMI" (HARMI) program at the request of the RMI, designed to extend targeted health, education, and infrastructure assistance. HARMI costs will be deducted from the annual grant provided under section 211(a), and the terms of the program will be governed by the separate Military Use and Operating Rights agreement.

Subsection (d) provides that unless otherwise agreed, between 30 and 50 percent of U.S. annual grant assistance shall be made available for infrastructure improvement and maintenance. Consistent with this subsection, section 104(g) states that it is the sense of Congress that not less than 30 percent of the annual U.S. grant assistance provided under section 211 shall be invested in infrastructure improvements and maintenance. Five percent of the total amount shall be set aside, with an equal RMI contribution, for an infrastructure maintenance fund.

Subsection (e) requires funds to be made available for disaster assistance in accordance with section 105(t)(1)(A)(ii), the language of this subsection is effectively deleted and is now construed to provide that $200,000 per year shall be made available to FEMA by the Secretary of the Interior to facilitate its activities in the RMI. This change is made because continuation of FEMA, as in prior

years, is essential to achieving the Compact's overall economic development objectives. However, because of the RMI's relative lack of institutional development and capacity in disaster preparedness and response, it is recognized that operating there presents special challenges for FEMA. In order to respond to these challenges, $200,000 per year shall be provided to FEMA to supplement their capacity to operate in the RMI. These funds may be used for providing technical assistance in disaster planning, preparedness, and response; for retaining and training personnel in the region or stateside, and for other purposes. Further conditions regarding these funds are to be negotiated between FEMA and the RMI for inclusion in the Federal Program and Services Agreement referred to in section 231.

Subsection (f) requires the RMI to prepare, maintain, and update a strategic, medium-term budget and investment framework that specifically addresses the sectors identified in section 211(a), is strategic in nature, shall be continuously reviewed and updated, makes projections on a multi-year basis, and requires the concurrence of the U.S. insofar as U.S. grant funds are involved.

Section 212 provides that in conjunction with section 321 (a) and military use of Kwajalein Atoll, the U.S. shall provide to the RMI an annual payment of $15 million (with an inflation adjustment) from FY2004 through FY2013. From FY2014 through FY2023 the annual payment will be either the FY2013 amount or $18 million, whichever is greater (also with an annual inflation adjustment).

Section 213 states that, as reflected in the Fiscal Procedures Agreement, sector grants and U.S. programs and services shall be subject to regulations and policies normally applicable to U.S. assistance to State and local governments. The U.S. may condition such assistance on performance indicators, and may seek remedies for noncompliance, including withholding assistance. Section 212(b) states that the U.S., as part of its grant assistance, will grant the RMI either one half of the cost of the annual audit, or $500,000, whichever is less.

Section 214 requires the U.S. and the RMI to establish a Joint Economic Management and Financial Accountability Committee, composed of a U.S. chairman, two U.S. members, and two RMI members, which shall review audits and reports, evaluate progress toward objectives identified in the Budget and Investment Framework under section 211(f), identify problems encountered and recommend ways to increase the effectiveness of U.S. assistance under this, title. The establishment and operations of the Committee shall be governed by the Fiscal Procedures Agreement.

The composition and scope of the Committee is further specified by section 105(b)(7) of S.J. Res. 16 which states the sense of Congress that two of the three U.S. members should be designated from the Department of State and the Department of the Interior, and that U.S. officials of the Asian Development Bank (ADB) shall be consulted in order to properly coordinate U.S. and ADB financial, program, and technical assistance. Section 105(b)(7) further provides that the scope of the Committee's evaluation of development shall be expanded to include an evaluation of the implementation of economic policy reforms that are needed to encourage investment, and an evaluation of local progress toward self-sufficient tax rates. This scope is added to ensure that the Committee does

not focus entirely on U.S. assistance and its effectiveness, but also on promoting local economic policies which are also necessary conditions for economic growth. Examples of other policy reforms which the Committee should examine include land reform and reform of business regulations.

Section 215 requires the RMI to report annually to the U.S. on its use of U.S. grant assistance and progress toward economic goals. The report shall also include an evaluation of progress on economic policy reforms necessary for economic development including progress toward self-sufficient tax rates. The Committee established under section 214 shall review and comment on these reports and make appropriate recommendations which are expected to be reflected in the President's annual report to Congress pursuant to section 104(h).

Section 216 states that the U.S. shall provide annual contributions to a trust fund for 20 years in amounts set forth in section 217. The proceeds of the fund are to be used at the end of those 20 years for the purposes set forth in section 211, or as mutually agreed. The U.S. contribution is conditioned on the RMI contributing at least $30 million to the fund prior to October 1, 2005. The terms regarding investment and management of the fund, use of the income, and other requirements of the fund are set forth in a separate Trust Fund Agreement.

Section 217 sets forth the amounts of U.S. sector grants and trust fund contributions for each of the 20 years of assistance. The combined amount for each year until 2013 is $57.7 million, and from 2014 to 2023, $62.7 million.

Section 218 states that the grant and trust fund contributions for each fiscal year shall be adjusted by two-thirds the amount of the U.S. GDP Implicit Price Deflator, or five percent, whichever is less. However, this section is effectively deleted and replaced by Section 104(1) which provides for a possible increase in the inflation adjustment from two-thirds to full inflation after the tenth year of the Compact based on certain conditions.

Section 219 states that unobligated balances from any year shall remain available to the RMI in future years.

Article II—Services and Program Assistance

Section 221(a) states that the U.S. shall make available to the RMI, in accordance with and to the extent provided in the Federal Programs and Services Agreement, the services and related programs of (1) U.S. Weather Service; (2) U.S. Postal Service; (3) Federal Aviation Administration; (4) U.S. Department of Transportation; and (5) the Department of Homeland Security, FEMA and USAID/OFDA. However, section 105(f)(1)(A) of S.J. Res. 16 modifies this section by effectively deleting OFDA and by requiring the continuation of FEMA to the same extent as its services and programs were available to the RMI in 2003. Section 105(f)(1)(A) also modifies section 211(e) of the Compact to provide $200,000 annually to FEMA to facilitate operations in the RMI.

Subsection (b) states that, with the exception of those services and programs covered by section 221(a) and unless Congress provides otherwise, the U.S. shall make available to the RMI the services and programs that were available to the RMI on the effective date of the amended Compact to the extent that such services are

available to U.S. State and local governments. The subsection notes that the Fiscal Procedures Agreement provides that funds provided under section 211 will be considered local revenues of the RMI when used as the local matching share for obtaining Federal programs and services. Finally, the subsection states that, unless otherwise provided, these programs and services shall be extended in accordance with the terms of the Federal Programs and Services Agreement. However, section 105(f)(1)(B) of S.J. Res. 16 modifies section 221(b) of the Compact by extending the services of the Individual with Disabilities Education Act and grants under subpart 1 of Part A of title IV of the Higher Education Act of 1965. Section 105(f)(1)(B) also provides for a supplemental education grant, a transition period for the phase-out of other formula grant programs administered by the Secretary of Education, as well as the Head Start program, an authorization for continued technical assistance, and continued eligibility for competitive grants administered by the Secretary of Education.

Subsection (c) states that the U.S. has the authority to monitor and administer all service and program assistance to the RMI and that the Federal Programs and Services Agreement shall also set forth the extent to which services and programs shall be provided to the RMI. Because of the changes effectively made to this section, the Federal Programs and Services Agreement will need to be renegotiated accordingly, and resubmitted to Congress for approval.

Subsection (d) states that, except as otherwise provided, Federal programs and services extended to the RMI shall be subject to the same standards and rules applicable to such programs in the U.S.

Subsection (e) states that the U.S. shall make available to the RMI, to the extent provided in U.S. law, alternate energy development projects and conservation measures.

Section 222 states that the U.S. and the RMI may agree from time to time to extend additional U.S. grant assistance to the RMI, which shall be governed by the Federal Programs and Services Agreement.

Section 223 requires the RMI to make available, at no cost, such land as may be necessary for the operations of the services and programs provided pursuant to this article II of the Compact, and whatever facilities are currently provided at no cost to the U.S., or may be mutually agreed to in the future.

Section 224 states that the RMI may from time to time request technical assistance from U.S. Federal agencies that, if provided, would give priority consideration to the RMI over other non-U.S. recipients.

Article III—Administrative Provisions

Section 231 notes that the extent of U.S. program assistance, the status of U.S. agencies and employees, and other program and service-related arrangements are set forth in a separate Federal Programs and Services Agreement.

Section 232 states that the U.S. shall determine and implement procedures for audits of all grant and program assistance in accordance with the Fiscal Procedures Agreement described in. section 211(a), and authorizes the U.S. Comptroller General to conduct audits in the RMI.

Section 233 pledges the U.S. to provide the grant assistance specified in section 211 for the 20-year term specified, subject to the terms and conditions of title II and related subsidiary agreements.

Section 234 pledges the RMI to cooperate in U.S. investigations of misuse of Compact funds and that it will not unreasonably withhold U.S.-requested subpoena assistance in the RMI. The RMI acknowledges that its receipt of Compact funding is conditioned on its fulfillment of these obligations and the U.S. agrees to pay any reasonable costs of the FSM in carrying out this section.

Article IV—Trade

Section 241 states that the RMI is not within the customs territory of the U.S.

Section 242 directs the President to proclaim tariff treatment for articles imported from the RMI. Subsection (a) states that unless otherwise excluded, articles imported from the RMI shall be exempt from duty.

Subsection (b) states that imports of "tuna in airtight containers" from the RMI shall be exempt from duty, in an amount not to exceed, when aggregated with the amount imported from the FSM, 10 percent of the previous year's U.S. consumption of "tuna in airtight containers."

Subsection (c) states that duty-free treatment shall not be extended to certain classes of watches, clocks, buttons, textiles, apparel, footwear, luggage.

Subsection (d) provides that the value of U.S. inputs into products imported from the RMI (up to 15 percent of the article's total appraised value) may be applied for duty assessment purposes toward determining the percentage referred to in section 503(a)(2) of title V of the Trade Act of 1974.

Section 243 states that articles imported from the RMI and not exempt from duty under section 242 are subject to the duty rates in column 1—general of the Harmonized Tariff Schedule of the U.S.

Section 244 ensures that all U.S. products imported into the RMI receive customs treatment no less favorable than that accorded like products of any foreign country, except for advantages accorded by the RMI to other governments listed in article 26 of the Pacific Island Countries Trade Agreement (PICTA). The RMI commits to consult with the U.S. before concluding a free trade agreement with any government not listed in PICTA.

Article V—Finance and Taxation

Section 251 notes that U.S. currency is the legal tender of the RMI, and states that the RMI will agree on a transitional period with the U.S. before switching to any other currency.

Section 252 allows the RMI to tax U.S. persons on income earned and property located within the RMI.

Section 253 exempts RMI citizens domiciled in the RMI from U.S. estate, gift, and generation-skipping transfer taxes, provided that they are neither citizens nor residents of the U.S.

Section 254 states that the RMI shall have authority to tax RMI residents for income earned outside the RMI to the same extent that it taxes income earned in the RMI. If the RMI imposes such taxes, any RMI resident who is subject to U.S. taxes on the same

income shall be relieved of such tax liability to the U.S. in the form of a foreign tax credit or exclusion under section 911 of the Internal Revenue Code.

Section 255 grants U.S. tax benefits for conventions held in the RMI.

TITLE THREE—SECURITY AND DEFENSE RELATIONS

Article I—Authority and Responsibility

Section 311 grants the U.S. full authority and responsibility for defense matters in or relating to the RMI, including: the obligation to defend the RMI as the U.S. is defended; strategic denial; and the option to establish and use military facilities in the FSM. Subsection (c) confirms that the U.S. will act in accordance with the Charter of the United Nations in exercise of this authority and responsibility.

Section 312 permits the U.S. to conduct necessary military operations in RMI lands, waters, and airspace, subject to the terms of agreements negotiated in accordance with sections 321 and 323.

Section 313 requires the RMI to refrain from actions that the U.S., after consultation, deems incompatible with U.S. defense authorities and responsibilities, the "defense veto." Such consultations shall be conducted expeditiously at senior levels and the RMI shall be afforded an opportunity to raise its concerns with the U.S. Secretary of State and Secretary of Defense personally regarding any determination made in accordance with this section.

Section 314 prohibits the U.S. from testing, disposing of, or storing any nuclear, chemical, or biological weapon in the RMI, unless otherwise agreed, other than for transit or during times of national emergency or state of war or impending attack. Such materials shall not be stored except in a manner which would not be hazardous to public health and safety, and such materials not intended for weapons shall not be affected by this section.

Section 315 allows the U.S. to invite other countries' armed forces, under the control of U.S. forces, to use military facilities in the RMI. Such use is subject to consultation with, and in the case of major units, approval of the RMI.

Section 316 prohibits the U.S. from transferring or assigning its authority or responsibility under title 11 of the Compact.

Article II—Defense Facilities and Operating Rights

Section 321 notes that specific arrangements for establishment of U.S. military facilities in the RMI are set forth in a separate agreement. The U.S. may request to lease additional areas within RMI for such purposes and the RMI will consider such requests sympathetically. In making such requests, the U.S. will respect the scarcity and special importance of land in the RMI and will request only the minimum necessary.

Section 322 notes that the U.S. will provide and maintain certain fixed and floating navigational aids in the RMI at least to the extent necessary for the exercise of its authority and responsibility under this title.

Section 323 notes that U.S. military operating rights and the status of U.S. forces in the RMI are set forth in separate agreements.

Article III—Defense Treaties and International Security Agreements

Section 331 states that the U.S. has assumed and enjoys all rights and obligations of pre-Compact treaties and international security agreements applied by the U.S. as Administering Authority of the Trust Territory of the Pacific Islands, and any treaty or international security agreement to which the U.S. is a party and deems applicable in the RMI.

Article IV—Service in Armed Forces of the United States

Section 341 states that persons entitled to the Compact immigration benefits pursuant to section 141 are eligible to volunteer for service in the U.S. Armed Forces.

Section 342 states that the U.S. will have at any given time at least one qualified RMI student enrolled in its Coast Guard Academy and Merchant Marine Academy.

Article V—General Provisions

Section 351 states that the U.S. and the RMI will continue to maintain a Joint Committee of senior officials to consider disputes arising under the Security title of the Compact, which will meet annually or upon request of either country. Unresolved issues of the Joint Committee shall be referred to the governments for resolution and the RMI shall be afforded an opportunity to raise its concerns with the U.S. Secretary of Defense personally regarding any unresolved issue that threatens its continued association with the U.S.

Section 352 states that in exercising its authority under title three, the U.S. shall accord due respect to the authority and responsibility of the RMI to assure the well-being of its people.

Section 353 states that the U.S. will not name the RMI as a party to a declaration of war without the RMI's consent. Without such consent, the Compact will not prejudice any RMI petitions for redress from the U.S. or claims against third countries arising out of armed conflict.

Section 354(a) states that the security provisions of title three shall remain binding for the duration of the Compact, and thereafter as mutually agreed. If either the U.S. or the RMI unilaterally terminates this title, it will be considered a termination of the entire Compact and in which case the provisions of either sections 442 and 452, or sections 443 and 453, as appropriate, shall apply.

Subsection (b) states that even if title three should terminate, any attack on the RMI during the period in which the separate Military Use and Operating Rights agreement is in effect will result in the U.S. taking action to meet the danger to the U.S. and the RMI.

Subsection (c) states that even if title three should terminate, the RMI shall refrain from acts which the U.S. determines to be incompatible with its authority and responsibility for security and defense matters relating to the RMI and FSM. This provides for continuation of the defense veto.

TITLE FOUR—GENERAL PROVISIONS

Article I—Approval and Effective Date

Section 411 provides that the amended Compact shall come into effect upon mutual agreement between the U.S. and the RMI after approval by their respective governments.

Article II—Conference and Dispute Resolution

Section 421 states that both governments shall confer promptly upon the request of the other on Compact-related matters.

Section 422 states that if, after conferring, one government determines that there is a dispute and notifies the other in writing, both governments shall make a good faith effort to resolve it between themselves.

Section 423 states that if the governments cannot resolve a dispute within 90 days of the written notice, either party may refer it to arbitration according to section 424.

Section 424 states that disputes will be referred to a binding Arbitration Board comprised of one Chairman (jointly selected by the parties) and two other members (one each selected by the U.S. and RMI). Unless otherwise provided, the decision of the Board shall be binding, and the Board shall have jurisdiction over disputes arising exclusively under the Compact and related agreements. The Board shall conduct its proceedings as it deems appropriate and reach its decision by majority vote, preferably within 30 days after the conclusion of arguments. Except as otherwise decided by the board, the U.S. and the RMI shall split the costs of the arbitration.

Article III—Amendment

Section 431 provides that the amended Compact may be further amended by mutual agreement of the parties, according to their respective constitutional processes.

Article IV—Termination

Section 441 provides that the amended Compact may be terminated by mutual agreement of the parties, in which case section 451 will apply.

Section 442 provides that the amended Compact may be terminated by the U.S., in which case section 452 will apply. Such termination shall be effective not earlier than six months following delivery of the notice of termination.

Section 443 provides that the amended Compact may be terminated by the RMI if the RMI people vote for termination in a plebiscite, or by some other mutually agreed process, in which case section 453 will apply. The RMI shall notify the U.S. of its intentions and the plebiscite or other process shall take place not earlier than three months after delivery of such notice. If approved, termination shall be effective not earlier than three months following notice to the U.S. of the results of the plebiscite vote for termination.

Article V—Survivability

Section 451(a) provides that if the parties mutually terminate the Compact pursuant to section 441, U.S. economic and other assistance to the RMI shall continue only by mutual agreement.

Subsection (b) provides that if the parties mutually terminate the Compact prior to the 20th anniversary of the amended Compact, the U.S. will continue to make its contributions to the RMI Trust Fund so long as the U.S. continues to enjoy the right of strategic denial and the defense veto.

Subsection (c) provides that if the parties mutually terminate the Compact after the 20' anniversary of the amended Compact, the RMI will be entitled to receive proceeds from the Trust Fund as described in section 215 and the Trust Fund Agreement.

Section 452(a) provides that if the U.S. terminates the amended Compact before its 20th anniversary pursuant to section 442, certain provisions shall continue including those regarding: environmental protection, grant audits and fund misuse investigations, security and defense relations, and dispute resolution. Those provisions shall remain in effect until the 20th anniversary, and thereafter as mutually agreed.

Subsection (b) provides that if the U.S. terminates the amended Compact before its 20th anniversary, economic and other assistance will continue only by mutual agreement, except that the U.S. will continue to make its contributions to the RMI Trust Fund so long as the U.S. continues to enjoy the right of strategic denial and defense veto under section 354(c) and the separate mutual security agreement.

Subsection (c) provides that if the U.S. terminates the amended Compact after its 20th anniversary, the RMI shall continue to be eligible to receive proceeds from the Trust Fund as described in section 215 and in the manner described in the Trust Fund Agreement.

Section 453(a) provides that if the RMI terminates the amended Compact before the 20th anniversary pursuant to section 443, certain provisions shall continue including those regarding: environmental protection, grant audits and fund misuse investigations, security and defense relations, and dispute resolution. Those provisions remain in effect until the 20th anniversary, and thereafter as mutually agreed.

Subsection (b) provides that if the RMI terminates the Compact, there shall be prompt consultations between the countries regarding their future relationship to determine the level of future U.S. assistance, if any, other than what is provided in subsections (c) and (d) of this section.

Subsection (c) provides that if the RMI terminates the amended Compact before its 20th anniversary, the U.S. will continue to make its contributions to the RMI Trust Fund in view of the special relationship reflected in subsections (b) and (c) of section 354 and the Trust Fund Agreement.

Subsection (d) provides that if the RMI terminates the amended Compact after its 20th anniversary, the RMI will be eligible to receive proceeds from the Trust Fund as described in section 215 and in a manner described in the Trust Fund Agreement.

Section 454 reaffirms the U.S. interest in promoting the economic advancement of the RMI, and the separate Military Use and Operating Rights Agreement and Status of Forces Agreement shall remain in effect in accordance with their terms.

Article VI—Definition of Terms

Section 461 sets forth definitions for numerous terms used in the amended Compact.

Section 462(a) lists the separate agreements that will remain in effect under the amended Compact, including: (1) the Agreement for the Implementation of section 177; (2) the Agreement on Persons Displaced as a Result of the U.S. Nuclear Testing Program; (3) the Agreement on the Settlement of Enjebi Island: (4) the Agreement on section 234; and (5) the Agreement Regarding Mutual Security Agreement.

Subsection (b) lists the separate agreements that will go into effect under the amended Compact, including: (1) the Federal Programs and Services Agreement; (2) the Extradition, Mutual Assistance in Law Enforcement, and Penal Sanctions Agreement; (3) the Labor Recruitment Agreement implementing section 175(b); (4) the Agreement Concerning Procedures for the Implementation of United States Economic Assistance, the "Fiscal Procedures Agreement"; (5) the Trust Fund Agreement; (6) the Military Use and Operating Rights Agreement; and (7) the Status of Forces Agreement. The Committee notes that certain agreements including the Federal Programs and Services Agreement and the Fiscal Procedures Agreement will need to be modified to reflect changes made during Congressional consideration and enactment of this resolution. Following those modifications, the new agreements will need to be resubmitted for Congressional approval.

Section 463 clarifies that certain references in the amended Compact to various U.S. laws constitutes the incorporation of the applicable language of those laws into the amended Compact.

Article VII—Concluding Provisions

Section 471 requires both the U.S. and the RMI to take all necessary steps to ensure the conformity of their respective laws and regulations with the provisions of the amended Compact.

Section 472 provides that the amended Compact may be accepted by the U.S. and the RMI by signature or otherwise.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of the cost of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 25, 2003.

Hon. PETE V. DOMENICI,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget office has prepared the enclosed estimate for S.J. Res. 16, the Compact of Free Association Amendments Act of 2003.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford.

Sincerely,

DOUGLAS HOLTZ-EAKIN,
Director.

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

S.J. Res. 16—Compact of Free Association Amendments Act of 2003

Summary: S.J. Res. 16 would amend the Compact of Free Association Act of 1988 and subsidiary agreements between the United States and the Republic of the Marshall Islands (RMI) and the Federated States of Micronesia (FSM). The compacts with RMI and FSM, together with the subsidiary agreements, govern the political, economic, and military relationship between the United States and these two freely associated states. Although the compact does not expire, certain provisions that authorized federal funding for RMI and FSM expired in 2001. The compact provides that expired provisions be extended until 2003 if negotiations to renew the compact had not concluded by 2001.

S.J. Res. 16 would provide financial assistance for RMI and FSM for the next 20 years. The legislation would make several changes to the compact to increase monitoring of financial assistance, create a joint oversight committee, and establish trust funds to provide funds to RMI and FSM beyond 2023. S.J. Res. 16 also would provide $30 million a year for costs related to the migration of RMI and FSM nationals to other jurisdictions and about $25 million annually for additional education grants for RMI and FSM.

Consistent with the baseline construction rules in the Balanced Budget and Emergency Deficit Control Act, CBO's baseline assumes that direct spending for grants to RMI and FSM will continue over the 2004–2013 period-beyond—the scheduled expiration date—at an average annual cost of $157 million a year. We estimate that enacting this legislation would increase direct spending by $622 million above the amounts assumed in our baseline projections over the 2004–2013 period.

In addition, the legislation would extend the authority to appropriate funds for certain federal services for RMI and FSM for the next 20 years. The legislation also would authorize appropriations for grants to reimburse certain healthcare institutions for costs related to the migration of RMI and FSM nationals to other jurisdictions. Assuming appropriation of the necessary amounts, CBO estimates that implementing those provisions of S.J. Res. 16 would cost $631 million over the 2004–2013 period.

S.J. Res 16 contains an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA). CBO estimates that this mandate would impose no cost on state and local governments; thus, it would not exceed the threshold established in UMRA ($59 million in 2003, adjusted for inflation). The resolution contains no private-sector mandates as defined in UMRA.

Estimated cost to the Federal Government: The estimated budgetary impact of S.J. Res. 16 is shown in the following table. The costs of this legislation fall within budget function 800 (general government).

	By fiscal year, in millions of dollars—									
	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
DIRECT SPENDING										
Baseline Spending for Compact of Free Association Under Current Law:										
Estimated Budget Authority	156	156	156	156	156	156	158	158	158	158
Estimated Outlays	156	156	156	156	156	156	158	158	158	158
Proposed Changes:										
Estimated Budget Authority	51	58	56	58	61	64	64	67	70	73
Estimated Outlays	51	58	56	58	61	64	64	67	70	73
Spending for Compact of Free Association Under S.J. Res. 16:										
Estimated Budget Authority	207	214	212	214	217	220	222	225	228	231
Estimated Outlays	207	214	212	214	217	220	222	225	228	231
CHANGES IN SPENDING SUBJECT TO APPROPRIATION										
Federal Program Services for RMI and FSM:										
Estimated Authorization Level	60	61	62	64	65	66	68	69	70	72
Estimated Outlays	45	61	62	63	65	66	67	69	70	71
Head Start and Education programs:										
Estimated Authorization Level	0	0	−21	−21	−22	−22	−23	−23	−24	−24
Estimated Outlays	0	0	−5	−17	−21	−22	−22	−23	−23	−24
Health Care Reimbursement:										
Estimated Authorization Level	29	12	12	13	13	13	14	14	14	14
Estimated Outlays	16	12	12	13	13	13	14	14	14	14
Total Changes:										
Estimated Authorization Level	89	73	54	55	56	57	58	60	61	62
Estimated Outlays	74	73	70	59	57	57	58	60	61	62

Basis of estimate

For this estimate, CBO assumes that the legislation will be enacted near the start of fiscal year 2004, that the necessary amounts will be appropriated for each fiscal year, and that outlays will occur at the historical rate for grants to RMI and FSM and other programs.

Direct spending

S.J. Res. 16 would authorize and appropriate federal funds for economic assistance to RMI and FSM over the 2004–2023 period. Grant assistance would be aimed at needs for education, health, infrastructure, private-sector development, and the environment. In addition, the resolution would establish trust funds for RMI and FSM involving annual contributions for 20 years by RMI, FSM, and the federal government. Those trust funds are aimed at providing funds to RMI and FSM after federal grant assistance expires under the bill in 2023.

CBO estimates that direct spending authorized by this legislation would total $2.2 billion over the 2004–2013 period. However, consistent with the Balanced Budget and Emergency Deficit Control Act, which specifies that certain expiring provisions should be assumed to continue for budget projection purposes, CBO's baseline includes budget authority and outlays for payments to RMI and FSM totaling $1.6 billion over the 2004–2013 period. Thus, we esti-

mate that S.J. Res. 16 would provide an increase in direct spending of $622 million above the baseline over the 10-year period. The following paragraphs discuss the financial assistance that would be provided by this legislation.

Republic of the Marshall Islands. Over the 2004–2013 period, S.J. Res. 16 would provide RMI with grants of $356 million, $99 million in trust fund contributions, $160 million for U.S. defense operations on the Kwajalein Atoll, $20 million to compensate the Kwajalein landholders and RMI for the use of its territory by the U.S. military, and $14 million for agricultural programs. In addition, the legislation would provide for $5.3 million in fiscal year 2005 as the final contribution of the United States to the Rongelap Resettlement Trust Fund for a food importation program.

Federated States of Micronesia. Over the 2004–2013 period, S.J. Res. 16 would provide FSM with grants of $793 million and $195 million in trust fund contributions.

General Assistance. The legislation would provide $30 million a year for health, education, social, public safety, and infrastructure costs associated with the migration of RMI and FSM nationals to Hawaii, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands (CNMI). This general assistance would cost $300 million over the 2004–2013 period.

Head Start and Education Programs. Beginning in fiscal year 2006, S.J. Res. 16 would make RMI and FSM ineligible to receive grants appropriated under the Head Start Act or any formula grant programs administered by the Secretary of Education. In place of those grants, the legislation would appropriate $23 million a year over the 2004–2023 period, and would adjust that amount annually for inflation. We estimate this provision would cost a total of $247 million over the 2004–2013 period.

Debt Forgiveness. Section 104 would allow the President—at the request of the Governors of Guam and the CNMI-to reduce, waive, or release all or part of any amounts owed by the respective governments to the United States. This authority would expire in February 2005. Based on information from the Office of Insular Affairs, Guam, and the CNMI, CBO estimates that the amount of outstanding debt owed to the United States by Guam and the CNMI is approximately $160 million. This amount consists of debts owed by Guam for telephone infrastructure improvements, disaster assistance, water consumption, and the construction of student housing. Based on information from the Office of Insular Affairs and the Office of Management and Budget, CBO has no expectation that this debt forgiveness authority would be exercised. If any changes were made to a federal loan using this authority, such as the $105 million loan to the Guam Telephone Authority from the Department of Agriculture for telephone infrastructure improvements, the cost would be recorded in the year that the change was effective, pursuant to the Federal Credit Reform Act, and could exceed $100 million. No costs for debt forgiveness are included in this cost estimate.

Other Programs and Services. S.J. Res. 16 also would continue to make available services currently provided by the U.S. Postal Service (USPS) and Federal Deposit Insurance Corporation (FDIC). Spending by these agencies is generally not subject to the annual appropriations process. Based on information from the Office of In-

sular Affairs, CBO expects that mail service to RMI and FSM costs USPS approximately $1 million annually; this cost is reimbursed by the Department of the Interior, subject to the availability of appropriations. In addition, CBO expects costs to the FDIC for continuing to insure deposits in the Bank of the Federated States of Micronesia would be offset by fees assessed on the industry, resulting in no net cost to the federal government.

Spending subject to appropriation

Federal Programs and Services for RMI and FSM. S.J. Res. 16 would specifically extend the authority to continue services to RMI and FSM provided by the National Weather Service, the Federal Aviation Administration, the Departments of Transportation and Homeland Security, and the Agency for International Development. Based on information from the Departments of State and the Interior, and the General Accounting Office (GAO), CBO estimates that continuing those programs for RMI and FSM would cost approximately $10 million annually, assuming appropriation of the necessary amounts.

Other federal agencies currently providing programs and services to RMI and FSM include the Departments of Labor, Education, Agriculture, and Health and Human Services. Most of this assistance is provided through those agencies' annual appropriations. Based on information from GAO and the Departments of State, the Interior, and Education, CBO estimates that these other programs and services for RMI and FSM currently cost about $50 million a year. Section 109 authorizes appropriations to continue federal services and programs to RMI and FSM, so these costs are included in this estimate.

Head Start and Education Programs. Beginning in fiscal year 2006, S.J. Res. 16 would make RMI and FSM ineligible to receive grants appropriated under the Head Start Act or any formula grant programs administered by the Secretary of Education. Based on information from the Departments of Education and Health and Human Services, CBO estimates that RMI and FSM received about $13 million through discretionary formula grant programs for education and about $8 million under the Head Start Act in 2003. Assuming future appropriation acts would be consistent with S.J. Res. 16 and end such funding for RMI and FSM, this provision could reduce discretionary costs by an estimated $157 million over the next 10 years, including adjustments for anticipated inflation.

Health Care Reimbursement. Some RMI, FSM, and Republic of Palau (Palau) nationals receive medical care in other affected jurisdictions, particularly Hawaii, Guam, American Samoa, and CNMI. In Some cases, individuals may be referred to those jurisdictions because they cannot be treated at their local hospitals. In other cases, incentives to migrate result in RMI, FSM, and Palau nationals seeking medical treatment while residing outside of their home jurisdictions.

FMS and RMI nationals are sometimes diagnosed with health conditions that cannot be treated at their local hospitals. In such cases, patients may be referred to hospitals in Hawaii, Guam, CNMI, or American Samoa for treatment. The cost of treatment at health care institutions in other jurisdictions can exceed the insurance payment from RMI and FSM nationals. S.J. Res. 16 would au-

thorize the appropriation of such sums as are necessary to compensate health care institutions outside RMI and FSM for the cost of services provided to referred RMI and FSM nationals that have not been reimbursed prior to October 1, 2003. Based on information from the embassies of RMI and FSM, CBO estimates that implementing this provision would cost $4 million in fiscal year 2004, subject to the appropriation of the necessary amounts.

Because of incentives for migration, FMS, RMI, and Palau nationals are sometimes treated at hospitals in Hawaii, Guam, American Samoa, and CNMI. S.J. Res. 16 would authorize the appropriation on such sums as are necessary to compensate health care institutions outside RMI, FSM, and Palau for the cost of services provided to RMI, FSM, and Palau nationals that have not been reimbursed prior to October 1, 2003. Based on information from Hawaii, CBO estimates that reimbursing Hawaiian institutions for unpaid expenses resulting from the migration of RMI, FSM, and Palau nationals would cost $13 million in fiscal year 2004, subject to the appropriation of the necessary amounts.

In addition, S.J. Res. 16 would authorize the appropriation of necessary sums for grants to Hawaii, Guam, American Samoa, and CNMI to help defray the anticipated future cost of responding to increased demands for health care services for RMI, FSM, and Palau nationals who migrate to those areas. Based on information from GAO, Hawaii, Guam, American Samoa, and CNMI, CBO estimates that the increased demands on health, education, social, and infrastructure services associated with the migration of RMI, FSM, and Palau nationals cost these areas approximately $30 million annually above the $30 million in annual general assistance payments provided by S.J. Res. 16. Based on information from GAO and CNMI, CBO estimates that of the $30 million, approximately 40 percent of the increased demand for services is related to health care. Hence, CBO estimates that implementing this provision would cost an average of $13 million annually, or $131 million over the 2004–2013 period, assuming appropriation of the necessary amounts.

Estimated impact on state, local, and tribal governments: S.J. Res. 16 contains an intergovernmental mandate as defined in UMRA because it would explicitly prohibit states from taxing revenue generated by the trust funds established in the bill and from treating the fund as anything other than a nonprofit corporation, incorporated under the laws of the District of Columbia. Since the trust funds do not currently exist, this provision would not affect state budgets relative to current law and the threshold established in UMRA ($59 million in 2003, adjusted for inflation) would not be exceeded.

If S.J. Res. 16 were enacted, affected jurisdictions, including Hawaii, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, would continue to incur costs for services to migrants; however, such costs would not be the result of enforceable duties imposed by the federal government. The joint resolution would appropriate $30 million per year for each year over the 2004–2023 period to offset the impacts of migrants to affected jurisdictions plus such sums as may be necessary to reimburse health care institutions in the affected jurisdictions for costs incurred for treating migrants.

Estimated impact on the private sector: S.J. Res. 16 contains no private-sector mandates as defined in UMRA.

Previous CBO estimates: On September 15, 2003, CBO transmitted a revised cost estimate for H.J. Res. 63, the Compact of Free Association Amendments Act of 2003, as reported by the House Committee on International Relations on September 4, 2003; an estimate for H.J. Res. 63 as ordered reported by the House Committee on the Judiciary on September 10, 2003; and an estimate for H.J. Res. 63 as ordered reported by the House Committee on Resources on September 4, 2003. H.J. Res. 63 also would amend the Compact of Free Association in a manner similar to S.J. Res. 16. Different versions of the legislation provide different levels of funding, and our estimates reflect those differences.

Estimate prepared by: Federal costs: Matthew Pickford and Donna Wong impact on state, local, and tribal governments: Sarah Puro; impact on the private sector: Paige Piper/Bach.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S.J. Res. 16.

It is the Committee's expressed opinion that the bill is not a regulatory measure in the sense of imposing Government-established standards of significant responsibilities on private individuals or businesses.

S.J. Res. 16 includes several provisions that are designed to enhance accountability with respect to the assistance to be made available under the Compacts. These provisions include new reporting requirements under sections 104(e) and 104(h), and new planning requirements under sections 211(c), 212, 213, and 214 of the U.S.-FSM Compact, and sections 211(f), 213, 214, and 215 of the U.S.-RMI Compact. While these new requirements will result in additional paperwork, it is the Committee's opinion that these enhanced accountability mechanisms are needed to increase accountability and the effectiveness of U.S. assistance under the Compacts.

EXECUTIVE COMMUNICATIONS

Following is a copy of the letter transmitting the text of legislation that was introduced as S.J. Res 16, and a copy of the testimony presented by the Administration's lead witness at the Committee's hearing on S.J. Res 16. The Administration also transmitted copies of the subsidiary agreements which are retained in the Committee files.

THE SECRETARY OF STATE,
Washington, DC, June 27, 2003.

Hon. RICHARD B. CHENEY,
President of the Senate.

DEAR MR. PRESIDENT: The Secretary of the Interior joins me in transmitting the enclosed draft bill to approve the "Compact of

Free Association, as amended between the Government of the United States of America and the Government of the Federated States of Micronesia," and the "Compact of Free Association," as amended between the Government of the United States of America and the Government of the Republic of the Marshall Islands," and otherwise to amend PL 99–239, and to appropriate for the purposes of the amended PL 99–239 for fiscal years ending on or before September 30, 2023, and for other purposes.

We strongly urge that the draft bill be introduced, referred appropriately and enacted. The draft bill could be referred to as the "Compact of Free Association Amendments Act of 2003."

Section 231 of the current Compact of Free Association required that the Governments of the United States, the Republic of the Marshall Islands (RMI) and the Federated States of Micronesia (FSM) commence negotiations in 1999, regarding the expiring provisions of the compact. The negotiations regarding those and other provisions were concluded with the signing of the compact of Free Association; as amended between the United States and the RMI on April 30, 2003, and as amended between the United States and the FSM on May 14, 2003.

In addition to the revisions to the financial assistance provisions discussed in the next paragraph, revisions to Title One of the Compact address issues that arose during the first 16 years of the Compact relationship. Thus, the amendments would improve the provisions regarding non-immigrant migration to the United States under the Compact, including by requiring a passport. Amendments to Title Three of the Compact and subsidiary agreements would extend the defense relationship with the FSM and RMI indefinitely, and secure United States access to the important Ronald Reagan Ballistic Missile Defense Test Site at Kwajalein Atoll, a key component of our space and ballistic missile defense programs, potentially through 2086. In addition to approving the amendments to the Compact, the draft bill would provide compensation for the impact on several United States jurisdictions that have welcomed migrants from the freely associated states.

For fiscal years 2004 through 2023, the newly negotiated compact amendments would provide $92.7 million a year for the FSM in sector grants and contributions to a trust fund, plus partial adjustment for inflation, and from $57.7 to $62.7 million a year for the RMI in sector grants, payments related to U.S use of Kwajalein, and contributions to a trust fund, plus partial adjustment for inflation. The income from the trust funds would be used for sector grants in the same sectors after 2023 when U.S. annual financial assistance is terminated. The draft bill funds grants in the six areas of greatest need, with priority given to the education and health sectors. Funding for the financial assistance provided by the negotiated agreements is in the President's fiscal year 2004 budget for the Department of the Interior. The Compact, as amended, features accountability provisions that are substantially strengthened over those of the existing Compact. In sum, approval of the amended Compact and of the rest of the draft bill would protect United States interests and promote the continued mutual well-being of our three countries.

Current Compact financial assistance is scheduled to sunset after September 30, 2003. To ensure continuity of financial assistance for

the two freely associated states, we are eager to provide the Congress whatever information and assistance is necessary to secure early passage of the Compact of Free Association Amendments Act of 2003.

The Office of Management and Budget has advised that enactment of the draft bill would be in accord with the program of the President.

Sincerely,

COLIN L. POWELL.

STATEMENT OF ALBERT V. SHORT, NEGOTIATOR FOR THE COMPACT OF FREE ASSOCIATION

Mr. Chairmen and Members of the Committees,

Thank you for this opportunity to testify on the Administration's recently submitted act to amend the Compact of Free Association with the Federated States of Micronesia (FSM) and the Republic of the Marshall Islands (RMI).

THE ORIGINAL COMPACT

Original Compact funding authorization for the FSM and RMI ended in Fiscal Year 2001, with an extension for up to two years authorized through September 30, 2003, as the Compact negotiations progressed. The original Compact successfully met its main goal of providing for a stable transition from United Nations Trusteeship to sovereign self-government for the FSM and RMI. At the same time, the Compact protected U.S. security, maritime, and commercial interests in the Pacific by assuming defense responsibilities for the vast sea and air space of the Freely Associated States (FAS) including Palau—and by ensuring access to important defense sites operated by the Department of Defense on Kwajalein Atoll in the Marshall Islands.

The original Compact was successful in transforming the relationship between these islands and the United States to one of our closest bilateral relationships. We now number the FSM and RMI among our staunchest friends in the United Nations. These achievements are solid and lasting, and the American and FAS peoples can be justly proud of them.

CURRENT COMPACT ASSISTANCE

The U.S. currently provides about $150 million annually in financial assistance to the FSM and RMI, 80 percent from the Compact and 20 percent from other federal agencies such as the Departments of Education and Health and Human Services.

The past seventeen years have witnessed recurring problems stemming from the lack of accountability and the sometimes ineffective use of U.S. economic assistance. Therefore, a principal task of the recently signed agreements to amend the Compact is to improve the effectiveness and accountability of U.S. assistance. Moreover, we have agreed to put an increasing percentage of the annual U.S. assistance into a trust fund that will provide an ongoing source of revenue to the two countries when annual payments by the United States end in 2023.

REASONS TO CONTINUE COMPACT ASSISTANCE

The United States has strong interests in these countries that justify continued economic assistance through FY 2023 and the contributions to the trust fund, provided this assistance is structured and managed as proposed. These interests include:

- Advancing economic self-reliance. (In this regard, the United States will continue its commitment to the economic strategies that the RMI and FSM have developed with the support of the United States, the Asian Development Bank (ADB), the International Monetary Fund, and our partners in the ADB Consultative Group, including Japan and Australia);
- Improving the health, education, and social conditions of the people of the RMI and FSM.
- Sustaining the political stability and close ties which we have developed with these two emerging democracies;
- Assuring that our strategic interests continue to be secured, including access to our important defense sites on the Kwajalein Atoll;
- Putting in place and contributing to a trust fund that will provide an ongoing source of revenue when annual payments by the United States end in 2023.
- Strengthening immigration provisions in the wake of the September 11th attacks and addressing various problems that have arisen since the Compact was first approved by the U.S. Congress; and
- Mitigating the impact of immigration under the Compact on Hawaii, Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa.

ECONOMIC ASSISTANCE

The Administration recognizes that too sharp a reduction in U.S. assistance at this stage of economic development of the RMI and the FSM could result in economic instability and other disruptions, and could encourage an increase in the level of immigration under the Compact to the United States by citizens of those countries. We continue to believe that providing substantial financial and other assistance will help to assure economic stability while the RMI and FSM continue to implement economic development and reform strategies.

The Compact, as amended, continues economic assistance from Fiscal Year 2004 through Fiscal Year 2023. Furthermore, the economic package includes annual contributions to a trust fund that will provide an ongoing source of revenue, to be used for the same purposes as the previous grant assistance when the annual grant assistance ends in Fiscal Year 2023. Federal service and program assistance also continues, unless otherwise provided by Congress.

COMPACT FUNDING

Compact funding will ensure economic and social stability and a smooth transition to Fiscal Year 2024 when annual payments from the U.S. will have terminated and the trust fund becomes a source of revenue.

- The FSM will receive $76.7 million in sectoral grants and $16 million for its trust fund annually beginning in Fiscal Year 2004.
- Beginning in Fiscal Year 2007, the FSM base grant decreases by $800,000 per year through Fiscal Year 2023, with this decrement added to the trust fund.
- The RMI will receive $30.5 million in sectoral grants, $5.2 million for Kwajalein impact, and $7 million for its trust fund annually beginning in Fiscal Year 2004.
- Beginning in Fiscal Year 2005, the RMI base grant decreases by $500,000 per year through Fiscal Year 2023, with this decrement added to the trust fund.
- These amounts are partially adjusted for inflation: two-thirds of the implicit price deflator will be applied as in the original Compact period.
- Under the Compact, as amended, the U.S. contributions to the trust funds are conditioned on the FSM contributing at least $30 million to the FSM trust fund prior to September 30, 2004 and the RMI contributing at least $25 million to the RMI trust fund on the effective date of the Trust Fund Agreement or October 1, 2003, whichever is later, and $2.5 million prior to October 1, 2004 and $2.5 million prior to October 1, 2005.
- Under the Compact, grant assistance will be used for six sectors, with priorities in the education and health sectors and tied to specific outcomes and purposes and monitored by the Department of the Interior.
- Misuse of Compact funds can lead to withholding of funds until the problem is resolved. The FSM and the RMI have agreed to cooperate with the United States on criminal investigations regarding misuse of funds, if necessary.

The Administration is putting in place an effective accountability mechanism with respect to future U.S. economic assistance to the FSM and the RMI. Economic assistance will no longer be made available through transfers that co-mingle U.S. funds with local funds, thereby rendering it difficult to track and monitor their use. Instead, future funds will be provided through targeted, sectoral assistance, each with clearly defined scope and objectives.

In the amended Compacts, the FSM, RMI and U.S. have agreed that future grant assistance shall be used in six sectors: health, education, infrastructure, private sector development, public sector capacity building, and the environment.

Built into each sectoral grant will be regular planning, monitoring, and reporting requirements. The amended Compacts also provide the necessary authority and resources to assure effective oversight and reasonable progress toward the agreed objectives.

TRUST FUND

A major element of the new Compact provisions is the termination of annual mandatory payments to the FSM and the RMI at the end of Fiscal Year 2023—and the establishment of a trust fund to provide an ongoing source of revenue starting in Fiscal Year 2024. In its earlier proposals to the U.S., both the FSM and RMI anticipated the U.S. interest in the termination of mandatory annual financial assistance by proposing that the U.S. capitalize a trust fund over the next term of Compact assistance. Under the

amended Compact, the Administration has agreed annual U.S. financial assistance will be terminated at the end of Fiscal Year 2024, and thereafter the trust fund will provide an ongoing source of revenue. Congress has previously authorized and funded the use of similar trust funds, including one established under the Compact with the Republic of Palau, and several established in the Marshall Islands as compensation for the U.S. nuclear weapons testing program.

FEDERAL SERVICES AND PROGRAM ASSISTANCE

With a few notable exceptions, Federal program coordination and oversight under the existing Compact has been ineffective. We are committed to putting in place a more effective system of coordinating and monitoring such assistance during the amended Compact period.

KWAJALEIN MUORA EXTENSION

As part of the amended Compact, the United States and the Republic of the Marshall Islands have agreed to a long-term extension of the Military Use and Operating Rights Agreement (MUORA) for the Ronald Reagan Ballistic Missile Defense Test Site on Kwajalein Atoll. The Reagan Test Site (RTS) serves a key role in research, development, test and evaluation for the Administration's high-priority missile defense and space programs.

Although the current Military Use and Operating Rights Agreement covering U.S. use of these defense sites runs through 2016, in November 2001, RMI President Note reaffirmed the RMI's willingness to consider a long-term extension of U.S. use of Kwajalein Atoll for our defense needs. Subsequently, the RMI Government proposed that the ongoing negotiations to amend the Compact of Free Association provided a convenient forum to consider amendments extending the Military Use and Operating Rights Agreement. Following consultations with the Department of Defense, the Administration decided to pursue such an extension, if agreement could be concluded on acceptable terms, and negotiations on this issue would not delay our efforts to obtain agreement on amendments to the Compact.

Sections 211 and 212 of Title Two of the Compact, as amended, and the MUORA, as amended, provide for the following:

The parties agree to extend the MUORA for a period of fifty years from 2016 (the current expiration date) to 2066, with a U.S. option to extend it for an additional twenty years to Fiscal Year 2086.

To achieve the flexibility necessary to permit the long-term extension of the agreement, both sides agreed to a schedule of early termination payments in the event the United States needs to leave Kwajalein before the end of the agreement. This outcome could be exercised anytime after 2023, on advance notice of at least seven years.

As Compensation:

These agreements establish a new series of Kwajalein payments beginning in Fiscal Year 2004 (October 1, 2003) at a level of $15 million per year (increased from the current $11.3 million) with a further increase to a new base of $18 million in 2014. The United States Government is obligated in any case to make payments

through Fiscal Year 2023, and thereafter, depending on whether it chooses to continue its use of Kwajalein Atoll. The RMI has assured us that it will endeavor to ensure that payments to landowners are distributed more equitably than they have been in the past in a manner consistent with Marshallese custom and tradition.

The U.S. will continue paying the $1.9 million per year in Kwajalein impact money established in the current agreement. However, beginning in 2004, this payment, which has not previously been adjusted for inflation, will be subject to the provisions of the new Compact Fiscal Procedures Agreement, will be indexed for inflation based on the formula established in the Compact, as amended, and emphasis will be on addressing the special needs of the Kwajalein landowners most impacted by the United States presence on Kwajalein.

Pursuant to the Compact, U.S. Army Kwajalein Atoll (USAKA) has developed, in cooperation with the RMI Environmental Protection Authority, a strong set of environmental standards and a formal process to review these standards annually and report to both governments. To promote a greater RMI capability for independent analysis of the Survey's findings and conclusions, the U.S. will provide an annual grant of $200,000.00 to support increased participation of the GRMI EPA in the Survey.

For some years now overcrowding on the Kwajalein island of Ebeye where most of the Marshallese work force supporting the defense sites lives, has created an unmet series of special infrastructure needs for the Marshallese Communities on Ebeye and some other islands of the Kwajalein Atoll. This agreement will address these needs in the following way:

First, the U.S. and the RMI have agreed that $3.1 million per year of the RMI grant funding will go towards meeting the special infrastructure and development needs of the Marshallese communities on Kwajalein Atoll. In 2014, this funding will increase to $5.1 million per year. These funds are indexed according to the Compact Title Two formula.

Second, considering the $1.9 million impact funding mentioned above, which is specified by the Compact to offset the impact of U.S. defense activities on Kwajalein Atoll, together with the Ebeye special needs funding, $5 million per year (increasing to $7 million in 2014), all of which will be focused on improving the quality of life of the Marshallese communities on Kwajalein, starting 1 October 2004.

In sum, the Administration feels that extending the MUORA, in concert with the provisions of the amended Compact, will promote the economic stability and opportunity of the RMI for the indefinite future.

IMMIGRATION

Based on our mixed experience since the Compact entered into effect, as well as in the wake of the September 11th attack, we have reexamined the immigration provisions of the existing Compact. These sections provide that citizens of the RMI and FSM "may enter into, lawfully engage in occupations, and establish residence as a nonimmigrant in the United States." Our examination concluded the new provisions would be amended to:

- Require FAS citizens to use passports.
- Institute child adoption visa procedures.
- Implement visa entry procedures for naturalized citizens.
- Preclude passport sales and similar "legal" programs that afford persons from countries other than the FSM and the RMI country visa-free admission privileges under the Compact.
- Make explicit the inherent authority of the Government of the United States to regulate the terms and conditions of an FSM or RMI citizens' admission and stay in the United States, including its territories and possessions,
- Make explicit that the Immigration and Nationality Act, as amended, applies in full to persons seeking admission to, or the right to remain in, the United States pursuant to the Compact.

Under the Compact, as amended, the United States will now require passports for FSM and RMI citizens seeking admission as nonimmigrants to the United States. Further, naturalized citizens of the FSM and RMI will now, with certain limited exceptions, be ineligible for visa-free admission to the United States. In addition, the Compact, as amended, provides other safeguards to prevent the admission of inadmissible persons who might seek to exploit the visa-free immigration privileges provided under the Compact. It addresses explicitly the problem of passport sales and other "legal" naturalization schemes designed to provide visa-free admission privileges to persons from countries other than the FSM and the RMI under the Compact. The Compact, as amended, also provides express safeguards for FSM and RMI children who are coming to the United States permanently pursuant to an adoption, or for the purpose of adoption, by requiring that such children to be in possession of an immigrant visa. This codifies existing law and brings the Freely Associated States into harmony with other countries concerning child adoptions and protections available to adopted children.

IMPACT

Section 104(e) of the existing and amended Compact requires the President to report annually to Congress on the impact of the Compact. Past annual reports and a recent GAO study document the substantial impact of FAS migration to the State of Hawaii, Guam, and the Commonwealth of the Northern Mariana Islands (CNMI). The amended Compact and other proposed amendments to the Compact Act address the migratory impact issue in three ways:

- First, we propose to provide $15 million per year of direct compensation to Hawaii, Guam, American Samoa, and the CNMI for the negative impacts of migration.
- Second, our amended Compacts strengthen immigration provisions to improve our ability to regulate RMI and FSM migrants who are eligible for admission.
- Third, our amended Compacts commit a substantial portion of U.S. economic assistance through Fiscal Year 2023 and thereafter of the proceeds of the Trust Fund to improve the health and education of potential migrants from the FSM and RMI, thereby reducing the impact of migration under the Compact.

The annual impact funding of $15 million will be:

- a mandatory appropriation for twenty years.
- allocated based on a pro rata formula reflecting a periodic census of Micronesians living in Hawaii, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

Conclusion

Thank you for this opportunity to present the Administration's views on the Compact Act, including the Compacts we signed with the FSM and RMI. Let me assure you that we welcome any and every opportunity to keep the Committee informed as your deliberations proceed on the Compact Act.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the Resolution S.J. Res. 16, as ordered reported, 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):

PUBLIC LAW 107–67

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SEC. 605. Unless otherwise specified during the current fiscal year, no part of any appropriation contained in this or any other Act shall be used to pay the compensation of any officer or employee of the Government of the United States (including any agency the majority of the stock of which is owned by the Government of the United States) whose post of duty is in the continental United States unless such person: (1) is a citizen of the United States, (2) is a person in the service of the United States on the date of the enactment of this Act who, being eligible for citizenship, has filed a declaration of intention to become a citizen of the United States prior to such date and is actually residing in the United States; (3) is a person who owes allegiance to the United States; (4) is an alien from Cuba, Poland, South Vietnam, the countries of the former Soviet Union, or the Baltic countries lawfully admitted to the United States for permanent residence; (5) is a South Vietnamese, Cambodian, or Laotian refugee paroled in the United States after January 1, 1975; or (6) is a national of the People's Republic of China who qualifies for adjustment of status pursuant to the Chinese Student Protection Act of 1992: Provided, That for the purpose of this section, an affidavit signed by any such person shall be considered prima facie evidence that the requirements of this section with respect to his or her status have been complied with: Provided further, That any person making a false affidavit shall be guilty of a felony, and, upon conviction, shall be fined no more than $4,000 or imprisoned for not more than 1 year, or both: Provided further, That the above penal clause shall be in addition to, and not in substitution for, any other provisions of existing law: Provided further, That any payment made to any officer or employee contrary to the provisions of this section shall be recoverable in action by the Federal Government. This section shall

not apply to citizens of Ireland, Israel, [or the Republic of the Philippines,] the *Republic of the Phippines, Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau,* or to nationals of those countries allied with the United States in a current defense effort, or to international broadcasters employed by the United States Information Agency, or to temporary employment of translators, or to temporary employment in the field service (not to exceed 60 days) as a result of emergencies.

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