

TO APPROVE AN AGREEMENT BETWEEN THE UNITED STATES AND THE REPUBLIC OF PALAU, AND FOR OTHER PURPOSES

NOVEMBER 20, 2018.—Ordered to be printed

Mr. BISHOP of Utah, from the Committee on Natural Resources, submitted the following

R E P O R T

[To accompany H.R. 2085]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 2085) to approve an agreement between the United States and the Republic of Palau, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 2085 is to approve an agreement between the United States and the Republic of Palau.

BACKGROUND AND NEED FOR LEGISLATION

The Republic of Palau is a small nation comprised of 340 islands¹ in the western Pacific Ocean located approximately 4,741 miles west of Hawaii,² 550 miles east of the Philippines, and 400 miles north of Papua New Guinea.³ The population of roughly 22,000⁴ lives on just 189 square miles of land, with the most populous island being Koror.⁵

¹ Of these islands, only 9 are inhabited. <http://www.palagov.pw/executive-branch/ministries/finance/budgetandplanning/physical-features/>.

² <https://www.distancefromto.net/distance-from-palau-to-hawaii>.

³ <https://www.britannica.com/place/Palau>.

⁴ <http://www.worldometers.info/world-population/palau-population/>.

⁵ <http://www.palagov.pw/executive-branch/ministries/finance/budgetandplanning/physical-features/>.

Palau is a Freely Associated State (FAS), along with the Republic of the Marshall Islands and the Federated States of Micronesia.⁶ It was originally part of the Trust Territory of Pacific Islands administered by the United States under a United Nations resolution.⁷ From 1947 until 1951, the United States Navy controlled the Trust Territory until it was transferred to the Department of the Interior.⁸ By 1986, the U.S. dissolved the Trust Territory as the individual island nations determined their own political status. By October 1994, the result was the creation of three sovereign states in free association with the United States, including Palau, as well as a U.S. territory, the Commonwealth of the Northern Mariana Islands.⁹

To establish a political relationship with the new nations, the U.S. signed a compact of free association with each FAS, with varying review and renewal dates.¹⁰ Each compact has been reviewed and enacted into law by Congress.¹¹ These compacts created a unique relationship between the United States and these former trust territories. While the FASs are sovereign nations, and its citizens not U.S. citizens,¹² the FASs are eligible for assistance under many domestic U.S. programs,¹³ and the countries receive funding from the U.S. government in the form of grants and direct funding of trust accounts to provide for economic development and long-term budgetary self-reliance.¹⁴ In addition, FAS citizens have the right to work and live in the U.S. as nonimmigrant residents under the compact terms.¹⁵ The United States is also responsible for the defense of the FASs, but in return receives exclusive military use rights in these countries. According to the Department of Defense, the compacts have “enabled it to maintain critical access in the Asia-Pacific region.”¹⁶

The contribution of Palau to protecting important U.S. national security interests in the Western Pacific region has been echoed by the Assistant Secretary for Insular Areas of the Department of the Interior:

The [Palau] Compact provides U.S. military forces full authority and responsibility for security and defense matters in and relating to Palau. The United States has the extraordinary advantage of being able to deny other nations’ military forces or personnel access to Palau, an important element in our Pacific strategy for defense. The Compact has also helped strengthen democratic principles and economic stability in Palau, and stabilizing the larger Micronesia region which includes the U.S. territory of

⁶ https://www.coris.noaa.gov/activities/coral_research_plan/pdfs/freely_asso_st.pdf.

⁷ https://en.wikipedia.org/wiki/Trust_Territory_of_the_Pacific_Islands.

⁸ https://www.doi.gov/ocl/hearings/112/USandPalauAgreement_113011.

⁹ <https://www.britannica.com/place/Trust-Territory-of-the-Pacific-Islands>.

¹⁰ https://en.wikipedia.org/wiki/Compact_of_Free_Association.

¹¹ Public Law 99–239; Public Law 99–658; Public Law 108–188.

¹² https://www.uscis.gov/sites/default/files/USCIS/Verification/I-9%20Central/FactSheets/FactSheet-Status_of_Citizens_of_Palau.pdf.

¹³ For example, <https://www2.ed.gov/about/offices/list/osers/rsa/wioa/state-plans/pl.pdf>; <https://www.samhsa.gov/capt/about-capt/state-tribe-jurisdiction-contacts/republic-of-palau>; https://oceanservice.noaa.gov/news/pressreleases/nov07/supp_110507.html; and https://www.fpir.noaa.gov/PRD/prd_intl_sea_turtles_palau.html.

¹⁴ <https://www.doi.gov/oia/compact-trust-funds>.

¹⁵ <https://www.doi.gov/oia/islands/palau>.

¹⁶ Testimony of David Gootnick, Director of International Affairs and Trade, Government Accountability Office, before the Committee on Energy and Natural Resources, April 5, 2016, p. 3.

Guam and the Ronald Reagan Ballistic Missile Test Range
on Kwajalein Atoll in the Marshall Islands.¹⁷

In 1994, the U.S. entered into a 50-year compact with Palau, with a review mandated after 15 years.¹⁸ Palau's Compact of Free Association was enacted into law by Congress as Public Law 99-658.¹⁹ This agreement included provisions regarding the sovereignty of Palau, the types and amounts of U.S. financial assistance, security and defense authorities, and the establishment of a compact trust fund.²⁰ From 1999-2009, the U.S. provided Palau approximately \$574 million in compact assistance, including capitalizing a \$70 million trust fund and spending \$149 million for road construction.²¹

In September 2010, the Obama Administration and Palau renewed the 1994 Compact of Free Association.²² The amendments to the Compact included an additional \$229 million in direct economic assistance through 2024, including infrastructure grants, funding an infrastructure trust fund, and making changes to the compact trust fund.²³ H.R. 2085 approves the Compact amendments and amends Public Law 99-658 to execute the agreement. The changes include withholding funds from Palau under certain circumstances; transfers of funds from the Secretary of the Interior to implement the agreement; authorization of appropriations to fund postal services; the creation of an infrastructure maintenance fund and a requirement for matching funds from Palau; and a passport requirement. Because these Compact changes have not been formally adopted, since 2011, Congress has provided \$79 million annually to Palau, but has not contributed to the trust fund established under the original Compact of Free Association.²⁴

Following the Committee's action on H.R. 2085, portions of the bill approving the renewed compact were included in Public Law 115-91, the National Defense Authorization Act for Fiscal Year 2018.

COMMITTEE ACTION

H.R. 2085 was introduced on April 8, 2017, by Congresswoman Gregorio Kilili Camacho Sablan (D-MP). The bill was referred primarily to the Committee on Natural Resources and additionally to the Committee on Foreign Affairs. Within the Natural Resources Committee, the bill was referred to the Subcommittee on Indian, Insular and Alaska Native Affairs. On April 26, 2017, the Natural Resources Committee met to consider the bill. No amendments

¹⁷ Statement of Esther P. Kia'Aina, Assistant Secretary for Insular Areas, Department of the Interior, before the House Subcommittee on Indian, Insular, and Alaska Native Affairs, July 6, 2016 (regarding H.R. 4531, To approve an agreement between the United States and the Republic of Palau), p. 3.

¹⁸ <https://www.doi.gov/oia/islands/palau>; Statement of Mr. Thomas Bussanich, Director of Budget, Office of Insular Affairs, Department of the Interior, before the House Committee on Foreign Affairs Subcommittee on Asia and the Pacific, November 30, 2011, p. 3.

¹⁹ Public Law 99-658; 48 U.S.C. 1931 et seq.

²⁰ Testimony of David Gootnick, Director of International Affairs and Trade, Government Accountability Office, before the Committee on Energy and Natural Resources, April 5, 2016, p. 4.

²¹ *Id.*

²² <https://2009-2017.state.gov/p/eap/rls/rm/2011/11/177965.htm>.

²³ Testimony of David Gootnick, Director of International Affairs and Trade, Government Accountability Office, before the Committee on Energy and Natural Resources, April 5, 2016, p. 4.

²⁴ <https://www.gao.gov/products/GAO-16-550T>.

were offered, and the bill was ordered favorably reported to the House of Representatives by unanimous consent on April 27, 2017.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII AND CONGRESSIONAL BUDGET ACT

1. Cost of Legislation and the Congressional Budget Act. With respect to the requirements of clause 3(c)(2) and (3) of rule XIII of the Rules of the House of Representatives and sections 308(a) and 402 of the Congressional Budget Act of 1974, the Committee has received the following estimate for the bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 13, 2017.

Hon. ROB BISHOP,
*Chairman, Committee on Natural Resources,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2085, a bill to approve an agreement between the United States and the Republic of Palau, and for other purposes.

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

Sincerely,

KEITH HALL,
Director.

Enclosure.

H.R. 2085—A bill to approve an agreement between the United States and the Republic of Palau, and for other purposes

Summary: H.R. 2085 would change and approve the agreement and appendices signed between the United States and the Republic of Palau on September 3, 2010, in connection with the Compact of Free Association between the two nations. The compact, agreements, and appendices that were approved in 1994 govern the political, economic, and military relationships between the United States and Palau.

CBO estimates that enacting the bill would increase direct spending by \$156 million over the 2018–2027 period. Because enacting the bill would affect direct spending, pay-as-you-go procedures apply. Enacting the bill would not affect revenues. CBO also estimates that if appropriated funds are provided, continuing federal services in Palau would cost \$108 million over the 2018–2022 period.

CBO estimates that enacting H.R. 2085 would not increase net direct spending or on-budget deficits by more than \$5 billion in any of the four consecutive 10-year periods beginning in 2028.

H.R. 2085 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary effect of H.R. 2085 is shown in the following table. The costs of this legislation fall within all budget functions that provide services to Palau.

	By fiscal year, in millions of dollars—													2017– 2022	2017– 2027
	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027				
INCREASES IN DIRECT SPENDING															
Estimated Budget Authority	0	105	12	11	10	9	6	3	0	0	0	0	147	156	
Estimated Outlays	0	105	12	11	10	9	6	3	0	0	0	0	147	156	
INCREASES IN SPENDING SUBJECT TO APPROPRIATION															
Estimated Authorization Level	0	20	21	21	23	23	23	23	0	0	0	0	108	154	
Estimated Outlays	0	20	21	21	23	23	23	23	0	0	0	0	108	154	

Basis of Estimate: For this estimate, CBO assumes that H.R. 2085 will be enacted near the end of fiscal year 2017 and that spending will follow historical patterns for federal funds provided to Palau.

Direct spending

H.R. 2085 would modify the 2010 compact to specify and appropriate the amounts that the United States agrees to provide to Palau (\$140 million over the 2018–2024 period) and would specify an inflation factor to adjust those amounts. Those funds would be aimed at assisting the island with major infrastructure improvements and economic development. Accounting for the adjustments for inflation, CBO estimates that enacting H.R. 2085 would increase direct spending by \$156 million for assistance to Palau over the 2018–2024 period.

Spending subject to appropriation

H.R. 2085 also would authorize several federal departments to continue providing services to Palau through 2024, including the Departments of Agriculture, Commerce, Defense, Education, Health and Human Services, Interior, State, and Transportation. In addition, the bill would authorize the appropriation of \$1.5 million a year through 2024 for certain U.S. Postal Service expenses in Palau. Based on an analysis of information about the level of federal spending in the most recent financial audit of the island and accounting for anticipated inflation, CBO estimates that continuing those programs and services would cost \$108 million over the 2018–2022 period and a total of \$154 million through 2024.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays that are subject to these pay-as-you-go procedures are shown in the following table.

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR H.R. 2085, AS ORDERED REPORTED BY THE
HOUSE COMMITTEE ON NATURAL RESOURCES ON APRIL 27, 2017

	By fiscal year, in millions of dollars—														2017– 2022	2017– 2027
	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027					
	NET INCREASE IN THE DEFICIT															
Statutory Pay-As-You-Go Impact	0	105	12	11	10	9	6	3	0	0	0	0	147	156		

Increase in long-term net direct spending and deficits: CBO estimates that enacting H.R. 2085 would not increase net direct spending or on-budget deficits by more than \$5 billion in any of the four consecutive 10-year periods beginning in 2028.

Intergovernmental and private-sector impact: H.R. 2085 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Estimate prepared by: Federal Costs: Matthew Pickford; Impact on State, Local, and Tribal Governments: Zachary Byrum; Impact on the Private Sector: Paige Piper/Bach.

Estimate approved by: H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

2. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to approve an agreement between the United States and the Republic of Palau.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

COMPLIANCE WITH H. RES. 5

Directed Rule Making. This bill does not contain any directed rule makings.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95–220, as amended by Public Law 98–169) as relating to other programs.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

PUBLIC LAW 99-658

* * * * *

TITLE I—APPROVAL OF COMPACT; INTERPRETATION OF, AND UNITED STATES POLICIES REGARDING, COMPACT; SUPPLEMENTAL PROVISIONS

* * * * *

SEC. 105. RESULTS OF COMPACT REVIEW.

(a) *IN GENERAL.*—The Agreement and appendices signed by the United States and the Republic of Palau on September 3, 2010 (referred to in this section as the “Agreement”), in connection with section 432 of the Compact of Free Association between the Government of the United States of America and the Government of Palau (48 U.S.C. 1931 note; Public Law 99-658) (referred to in this section as the “Compact of Free Association”), are approved—

(1) *except for the extension of Article X of the Agreement Regarding Federal Programs and Services, and Concluded Pursuant to Article II of Title II and section 232 of the Compact of Free Association; and*

(2) *subject to the provisions of this section.*

(b) *WITHHOLDING OF FUNDS.*—If the Republic of Palau withdraws more than \$9,000,000 from the trust fund established under section 211(f) of the Compact of Free Association in fiscal year 2018, amounts payable under sections 1, 2(a), 3, and 4(a), of the Agreement shall be withheld from the Republic of Palau until the date on which the Republic of Palau reimburses the trust fund for the total amounts withdrawn that exceeded \$9,000,000 in that fiscal year, except that funds to be provided under section 3 of the Agreement may be released to replenish the 211(f) Fund if an arrangement had been made between the United States and the Republic of Palau to advance funds during such fiscal year from the 211(f) Fund for the purposes allowable under section 3 of the Agreement.

(c) *FUNDING FOR CERTAIN PROVISIONS UNDER SECTION 105 OF COMPACT OF FREE ASSOCIATION.*—Not later than 30 days after the date of the enactment of this section, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary of the Interior such sums as are necessary for the Secretary of the Interior to implement sections 1, 2(a), 3, 4(a), 5, and 6 of the Agreement, which sums shall remain available until expended without any further appropriation.

(d) *AUTHORIZATIONS OF APPROPRIATIONS.*—There are authorized to be appropriated—

(1) to the Secretary of the Interior to subsidize postal services provided by the United States Postal Service to the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia, \$1,500,000 for each of fiscal years 2018 through 2024, to remain available until expended but may be available pursuant to this paragraph to the United States Postal Service only so long as domestic postage may be used for mail to Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands; and

(2) to the head of each Federal entity described in paragraphs (1), (3), and (4) of section 221(a) of the Compact of Free Association (including the successor of each Federal entity) to carry out the responsibilities of the Federal entity under section 221(a) of the Compact of Free Association such sums as are necessary, to remain available until expended.

* * * * *

SECTION 3 OF THE ACT OF JUNE 30, 1954

AN ACT To provide for a continuance of civil government for the Trust Territory of the Pacific Islands.

[SEC. 3 There are hereby authorized to be appropriated such sums as the Secretary of the Interior may find necessary, but not to exceed \$10,000,00 for any one year, to alleviate suffering and damage resulting from major disasters that occur in the Trust Territory of the Pacific Islands. Such sums shall be in addition to those authorized in section 2 of this Act and shall not be subject to the limitations imposed by section 2 of this Act. The Secretary of the Interior shall determine whether or not a major disaster has occurred in accordance with the principles and policies of sections 102(2) and 401 of the Disaster Relief and Emergency Assistance Act.]

COMPACT OF FREE ASSOCIATION AMENDMENTS ACT OF 2003

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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. 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 Funds).

(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 2 of the 3 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 2 of the 3 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) EMERGENCY AND DISASTER ASSISTANCE.—

(i) IN GENERAL.—Subject to clause (ii), section 221(a)(6) of the U.S.-FSM Compact and section 221(a)(5) of the U.S.-RMI Compact shall each be construed and applied in accordance with the two Agreements to Amend Article X of the Federal Programs and Service Agreements signed on June 30, 2004, and on June 18, 2004, respectively, provided that all activities carried out by the United States Agency for International Development and the Federal Emergency Management Agency under Article X of the Federal Programs and Services Agreements may be carried out notwithstanding any other provision of law. In the sections referred to in this clause, the term “United States Agency for International Development, Office of Foreign Disaster Assistance” shall be construed to

mean “the United States Agency for International Development”.

(ii) DEFINITION OF WILL PROVIDE FUNDING.—In the second sentence of paragraph 12 of each of the Agreements described in clause (i), the term “will provide funding” means will provide funding through a transfer of funds using Standard Form 1151 or a similar document or through an interagency, reimbursable agreement.

(B) TREATMENT OF ADDITIONAL PROGRAMS.—

(i) CONSULTATION.—The United States appointees to the committees established pursuant to section 213 of the U.S.-FSM Compact and section 214 of the U.S.-RMI Compact shall consult with the Secretary of Education regarding the objectives, use, and monitoring of United States financial, program, and technical assistance made available for educational purposes.

(ii) CONTINUING PROGRAMS.—The Government of the United States—

(I) shall continue to make available to the Federated States of Micronesia and the government, institutions, and people 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

(II) shall continue to make available to eligible institutions in the Federated States of Micronesia and the government, institutions, and people of the Marshall Islands, and to students enrolled in such institutions, and in institutions in the United States, its territories, and the Republic of Palau, 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.

(iii) SUPPLEMENTAL EDUCATION GRANTS.—In lieu of eligibility for appropriations under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.), titles I (other than subtitle C) and II of the Workforce Innovation and Opportunity Act, title I of the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2321 et seq.), the Head Start Act (42 U.S.C. 9831 et seq.), and subpart 3 of part A, and part C, of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070b et seq., 42 U.S.C. 2751 et seq.), there are authorized to be appropriated to the Secretary of Education to supplement the education grants under section 211(a)(1) of the U.S.-FSM Compact and section 211(a)(1) of the U.S.-RMI Compact, respectively, the following amounts:

(I) \$12,230,000 for the Federated States of Micronesia for fiscal year 2005 and an equivalent amount, as adjusted for inflation under section 217 of the U.S.-FSM Compact, for each of fiscal years 2005 through 2023; and

(II) \$6,100,000 for the Republic of the Marshall Islands for fiscal year 2005 and an equivalent amount, as adjusted for inflation under section 218 of the U.S.-RMI Compact, for each of fiscal years 2005 through 2023,

except that citizens of the Federated States of Micronesia and the Republic of the Marshall Islands who attend an institution of higher education in the United States or its territories, the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau on the date of enactment of this joint resolution may continue to receive assistance under such subpart 3 of part A or part C, for not more than 4 academic years after such date to enable such citizens to complete their program of study.

(iv) FISCAL PROCEDURES.—Appropriations made pursuant to clause (iii) shall be used and monitored in accordance with an agreement between the Secretary of Education, the Secretary of Labor, the Secretary of Health and Human Services, and the Secretary of the Interior, and in accordance with the respective Fiscal Procedures Agreements referred to in section 462(b)(4) of the U.S.-FSM Compact and section 462(b)(4) of the U.S.-RMI Compact. The agreement between the Secretary of Education, the Secretary of Labor, the Secretary of Health and Human Services, and the Secretary of the Interior shall provide for the transfer, not later than 60 days after the appropriations made pursuant to clause (iii) become available to the Secretary of Education, the Secretary of Labor, and the Secretary of Health and Human Services, from the Secretary of Education, the Secretary of Labor, and the Secretary of Health and Human Services, to the Secretary of the Interior for disbursement.

(v) FORMULA EDUCATION GRANTS.—For fiscal years 2005 through 2023, except as provided in clause (ii) and the exception provided under clause (iii), the Governments of the Federated States of Micronesia and the Republic of the Marshall Islands shall not receive any grant under any formula-grant program administered by the Secretary of Education or the Secretary of Labor, nor any grant provided through the Head Start Act (42 U.S.C. 9831 et seq.) administered by the Secretary of Health and Human Services.

(vi) TRANSITION.—For fiscal year 2004, the Governments of the Federated States of Micronesia and the Republic of the Marshall Islands shall continue to be eligible for appropriations and to receive grants under the provisions of law specified in clauses (ii) and (iii).

(vii) TECHNICAL ASSISTANCE.—The Federated States of Micronesia and the Republic of the Marshall Islands may request technical assistance from the Secretary of Education, the Secretary of Health and Human Services, or the Secretary of Labor 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.

(viii) 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, the Secretary of Health and Human Services, and the Secretary of Labor to the extent that such grants continue to be available to State and local governments in the United States.

(ix) APPLICABILITY.—The government, institutions, and people of Palau shall remain eligible for appropriations and to receive grants under the provisions of law specified in clauses (ii) and (iii) until the end of fiscal year ~~2009~~ 2024 , to the extent the government, institutions, and people of Palau were so eligible under such provisions in fiscal year 2003.

(C) The Legal Services Corporation, which shall also continue to be available to the citizens of the Federated States of Micronesia, the Republic of Palau, and the Republic of the Marshall Islands who legally reside in the United States (including territories and possessions).

(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 and the Fiscal Procedure Agreement, as appropriate.

(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, 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 division A of subtitle III of title 54, United States Code, 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, depository, 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.

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