

STANDING COMMITTEE REPORT NO. 15-126

RE: C.B. NO. 15-118/W&M

SUBJECT: EXEMPTION FOR HEALTH, EDUCATION AND WELFARE

May 29, 2008

The Honorable Isaac Figir
Speaker, Fifteenth Congress
Federated States of Micronesia
Fourth Regular Session, 2008

Dear Mr. Speaker:

Your Committee on Ways and Means ("W&M"), to which was jointly referred C.B. NO. 15-118, entitled:

"A BILL FOR AN ACT TO FURTHER AMEND TITLE 54 OF THE CODE OF THE FEDERATED STATES OF MICRONESIA, AS AMENDED, BY FURTHER AMENDING SECTION 222, AS AMENDED BY PUBLIC LAWS NOS. 10-10, 10-136, 10-149, 11-43, 11-70 AND 11-82, TO ADD A SUBPARAGRAPH (9) TO CREATE A NEW EXEMPTION FOR HEALTH, EDUCATION AND WELFARE RELATED GOODS DONATED FOR HUMANITARIAN USE, AND FOR OTHER PURPOSES.",

begs leave to report as follows:

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

This bill creates a special exemption for health and education donations. The need for the bill arises from the recent change in policy and legal interpretation from the Department of Finance and the AG's Office. It was the practice up to a few months ago, that the Secretary of Finance would exercise his discretion to release without imposing import tax donated goods for health and education purposes. The tax law has an exemption for goods donated in furtherance of a foreign aid project "the terms of which require that such imports shall not be subject to taxation by the FSM." 54 FSMC Section 222 (6). In the case of health and education donations, by regulation, the Secretary could presume the existence of such terms, and therefore not impose import tax. This has been the practice for a long time, but recently, the AG has opined that that regulation was illegal because there is no authority in the statute for such a presumption, the effect of which was to create a special tax exemption for health and education donations.

Your committee is reluctant to create any new exemption to the tax law. However, your committee feels that the status quo should be preserved, so that health and education charitable donations would still be allowed in without import tax. There is, therefore, a need for a new narrow exemption for donated goods. Your committee feels that this bill, with the new exemption for " health, education and welfare related goods donated for humanitarian use," is narrowly

STANDING COMMITTEE REPORT NO. 15-126

RE: C.B. NO. 15-118/W&M

SUBJECT: EXEMPTION FOR HEALTH, EDUCATION AND WELFARE

May 29, 2008

drafted in order to preserve the historical practice of the FSM with respect to import tax.

Your committee on Ways and Means is in accord with the intent and purpose of C.B. No. 15-118 and recommends its passage on First Reading, and that it be placed on the Calendar for Second and Final Reading in the form attached hereto as C.B. No. 15-118, subject to the approval of the Health, Education and Social Affairs Committee.

Respectfully submitted,

/s/ Dohsis Halbert

Dohsis Halbert, chairman

Setiro Paul, member

/s/ Moses A. Nelson

Moses A. Nelson, member

Claude H. Phillip, member

/s/ Fredrico O. Primo

Fredrico O. Primo, member

/s/ Peter Sitan

Peter Sitan, member

Joseph J. Urusemal, member