

STANDING COMMITTEE REPORT NO. 15-148

RE: C.B. NO. 15-117/W&M

SUBJECT: FY 2009 BUDGET

SEPTEMBER 29, 2008

The Honorable Isaac V. Figir
Speaker, Fifteenth Congress
Federated States of Micronesia
Fifth Regular Session, 2008

Dear Mr. Speaker:

Your Committee on Ways and Means, to which was referred C.B. No. 15-157, entitled:

"A BILL FOR AN ACT TO APPROPRIATE \$41,065,121 FROM THE GENERAL FUND OF THE FEDERATED STATES OF MICRONESIA FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2009, TO PROVIDE FUNDING FOR THE OPERATIONS OF ALL BRANCHES OF THE NATIONAL GOVERNMENT OF THE FEDERATED STATES OF MICRONESIA, ITS AGENCIES, VARIOUS PROGRAMS, GRANTS, SUBSIDIES AND CONTRIBUTIONS, AND FOR OTHER PURPOSES.",

begs leave to report as follows:

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

The proposed FY 2009 Budget

The subject bill is based upon the *National Government Fiscal Year 2009 Proposed Budget* ("Budget Book") as transmitted by President Mori as Presidential Communication 15-170.

Your Standing Committees on External Affairs ("XAFF") in S.C.R No. 15-116; Health Education and Social Affairs ("HESA") in S.C.R No. 15-141; Judiciary and Governmental Operations ("J&GO") in S.C.R No. 15-135; Resources and Development ("R&D") in S.C.R No. 15-127; Transportation and Communication ("T&C") in S.C.R No. 15-130, and Ways and Means ("W&M") in S.C.R No. 15-143 have each recommended funding levels for budget requests within their respective jurisdictions, and Congress has adopted each of these reports.

Your Committee notes that the FY 2009 revenue projections for domestic unrestricted and carryover funds provided by the Department of Finance and Administration, via Departmental Communication 15-61, dated September 23, 2008, of \$30,349,640, when added to the "FY 09 Granted" National Government Compact funds from the "FY 09 JEMCO Approved Budgets" document (provided by the Office of SBOC at the public hearing of September 22, 2008) of \$5,293,072 equals **\$35,642,712**. The President's proposed budget, of \$41,065,121 exceeds this amount by \$5,422,409.

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It has been necessary for Your Committees to make significant cuts in the proposed budget to ensure that the revenue ceiling is not exceeded. In this report, Your Committee recommends approval of a budget for FY 2009 totalling **\$33,512,044**. As explained in more detail below, this amount does not include any appropriation from the supplemental education grant (SEG) or from the amended Compact infrastructure sector and contains only a small amount from the amended Compact capacity building sector.

Comments Regarding the Revenue Projection

Pursuant to the Budget Procedures Act of 1981, as amended, contained in Title 55 of the FSM Code, section 226(2)(b), the Secretary of the Department of Finance and Administration is required to report to the Congress, at least ten days before a Congressional session, the revenue projections.

Your Committee notes with disapproval the absence of any revenue projection even after session had been convened for a number of days. Only after repeated requests to the Secretary of Finance and Administration and to the Director of SBOC did the Congress receive a revenue projection from SBOC, via Miscellaneous Communication 15-118 (received on day five of the session), that was deemed woefully inadequate upon review.

There appears to be much confusion between the two offices regarding responsibility for this task, although the law is perfectly clear. Your Committee appreciates that the two offices attempted to reach agreement on the projection, in order to avoid the confusion of past sessions, in which Congress received numerous conflicting projections.

While the efforts are appreciated, the results again fall severely short of the expectation of the Congress - that expectation is clearly set forth in the law and has been repeatedly communicated to the Executive.

Your Committee believes the continuing confusion can only be resolved by leadership from the top. Your Committee recognizes the hard work of key staff, but without a "referee" to assist them to resolve their differences, even the best efforts will be frustrated. Your Committee does not like to see such dissent and frustration between departments.

It is not properly the responsibility of the Congress to attempt to determine the revenue projections, nor can the Congress appropriate

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funds without the information necessary to prepare a ceiling resolution.

As noted above, it was not until seven days before the new fiscal year begins that Congress was provided this critical information by the Secretary of Finance and Administration. Your Committee firmly believes that the Executive Branch can do better and expects that by the time next year's revenue projections are required, the information will be much more timely in forthcoming and be reasonable and accurate based on historical performance in light of current economic conditions.

Comments Regarding the Compact Funds for FY 09

On May 29, 2008, through Standing Committee Reports 15-124 and 15-125, Your Committees on Ways and Means and on Health Education and Social Affairs (HESA) recommended passage of C.R. No. 15-133, authorizing the President to submit the Compact budget request to the United States. The Resolution authorized submission of the Compact budget as it was presented to Your Committees.

Section 103(5) of title 55 of the FSM Code allows Congress, by resolution; to either recommend changes to the Compact budget request or to authorize the President to submit the Compact budget request to the U.S. without change.

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Section 103(5) of title 51 of the FSM Code provides:

The Recommended National Government Compact Budget **shall be** the National Government Compact Budget for the ensuing fiscal year for the purposes of submittal to the United States under Article V of the Fiscal Procedures Agreement if . . . Congress, by resolution, authorizes the President to submit the Recommended National Government Compact Budget to the United States. (emphasis added)

There is no provision in title 55, or elsewhere, that authorizes the President to submit a Compact budget request to the United States Government *other than* upon recommendation of the Congress.

It is regrettable that your Committee should feel the need to remind the Executive Branch of the fundamentals of the FSM Constitution, but it appears to be necessary. Article IX, section 3 of the FSM Constitution provides that within the National Government, only the Congress shall exercise the power to appropriate public funds.

Your Committees considered the Compact budget request submitted by the President and gave authorization to the President to submit the request it reviewed and approved. Such authorization does not extend to allow the President to submit *another* Compact budget request, but apparently that is what has happened.

To exacerbate the problem, it appears that when the revised Compact budget request was not approved in its entirety, the President failed to inform the Congress of where and how the President's proposed budget, as documented in the Budget Book, needed to be revised to avoid deficiency appropriations, although he was clearly required to do so by 55 FSMC section 105.

Instead, your Committees were left to glean and gather information through oversight hearings, documents obtained at the Micronesian Legislative Conference, and numerous conversations with staff of a number of divisions and departments - frequently information obtained was conflicting. The result is that there is still a lack of full confidence that the Committees have incorporated all necessary changes to the Budget Book.

However, your Committee, being ever mindful of the quickly approaching end of the fiscal year, and the necessity of enacting a balanced budget for the new fiscal year in a timely manner, has done the best we could to piece together what has occurred.

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Your Committee respectfully requests that the Executive Branch bring to the Committee's attention immediately any errors in the assumptions made by Your Committee upon which this report is based.

Your Committee's Assumptions Regarding the Compact Funds for FY09

According to the Budget Book at page xviii, to fund the FY 09 budget request, the President was relying on \$31,464,454 of Domestic Revenue and Compact Sector Grants (including supplemental education grants) totalling \$9,600,667.

The sector grant total was comprised of the following:

Education	\$4,425,175
Health	789,832
Capacity Building	650,955
Infrastructure	2,555,572
SEG	1,179,133

Your Committee believes the following Compact sector grants have been allocated by JEMCO (based upon JEMCO resolution 2008-02, and the attached portion of a memorandum purportedly from the Office of Insular Affairs to SBOC of August 14, 2008 - transmitted to the Congress by Presidential Communication 15-254 on September 23, 2008):

Education	\$4,425,175*
Health	789,832**
Capacity Building	100,000***
Infrastructure	0****
SEG	0*****

* Concerning the education sector grant, Your Committee assumes that the reduction in the amount allocated by JEMCO Resolution 2008-02 from the amounts recommended by OIA in their memorandum of 08/14/08 applies to the States' share and not to the National Government's share of the Education sector grant. OIA recommended \$29,867,609 (including \$603,426 for the National Government and \$3,800,000 for COM-FSM) and JEMCO allocated only \$29,013,338 - a reduction of \$854,271.

No details of this reduction were provided to Your Committee. Your Committee respectfully requests that the Executive Branch immediately inform the Committee if the full amount of the National Government's requests were not funded.

** Concerning the health sector grant, your Committee assumes that the reduction in the amount allocated by JEMCO Resolution 2008-02

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from the amounts recommended by OIA in their memorandum of 08/14/08 applies to States' share and not to the National Government's share of the Health sector grant. It is clear that OIA reviewed the request of each of the five governments and identified additional needs in each of the States and made a recommendation that exceeded the request for each of the States. Because the National Government's request was recommended by the OIA without change, your Committee assumes that JEMCO did not subsequently reduce the request.

The OIA recommended \$21,478,043 for the five governments (including \$789,832 for the National Government). JEMCO allocated only \$20,482,050 - a reduction of \$995,993. No details of this reduction were provided to Your Committee. Your Committee respectfully requests that the Executive Branch inform the Committee immediately if the full amount of the National Government's request was not allocated by JEMCO.

*** Concerning the capacity building grant, your Committee has been informed and therefore assumes that of the \$600,000 allocated by JEMCO Resolution 2008-02, only \$100,000 for "Economic Reporting and Statistics (OIA Administered)" relates to the National Government. This is not something that was requested by the FSM Government, from what your Committee can discern, but instead was identified as a need by the OIA in their memorandum of 08/14/08. If this information is not correct, your Committee again requests that the Executive Branch inform us immediately.

Items funded by the capacity building grant in the Budget Book have been deleted, including \$30,000 from the division of Treasury and \$399,800 from the division of Personnel - both within the Department of Finance. For the other two items funded from the capacity building grant, your Committee has recommended that domestic revenues be used to fund one quarter of the FY 09 approved amounts. These items fall with the Office of SBOC and the Public Auditor's Office (Chuuk Office).

**** Concerning the infrastructure grant, although JEMCO Resolution 2008-02 reflects allocation of \$24,338,784 - no breakdown between the five governments is provided. Although it would be customary for the National Government to receive 10% of the total grant, very few things in the FY 09 budget process relating to the request for Compact funds have been customary. In an abundance of caution, your Committee recommends against appropriating any amount under the infrastructure sector grant until such time as we receive the grant documents and can verify the National Government's share. This

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affects both COM-FSM and the Infrastructure Maintenance Fund (IMF) of the National Government.

***** Concerning the supplemental education grant (SEG) - no allocation by JEMCO has been made at this time. OIA has recommended \$1,179,133 for the National Government's share, but until such time as we receive the grant documents, your Committee recommends against appropriating any amount dependent upon this funding source. This should not impact adversely on the SEG funded items in the Department of Education's budget, as your Committee is recommending the extension of the lapse date for SEG funds appropriated in FY 08. The SEG programs should then be able to continue to use the unexpended funds until such time as JEMCO allocates the FY 09 SEG.

Subsequently Received Information Regarding Compact Funds for FY 09

On September 26, as this report was being finalized for submission to the Congress, Presidential Communication 15-258 was received providing verification that JEMCO had allocated Compact Funds for the following:

Education	\$4,403,204	(\$21,971 less than our assumption)
Health	789,832	
Capacity Building	100,000	
Infrastructure	0	
SEG	0	

Your Committee also notes that PC 15-258 indicates that the T3 program within the Department of Education was not approved for education sector funding.

Your Committee appreciates the transmission of this information, and recommends funding of one-quarter of the annual budget for the T3 program from Domestic Revenues, so that the program can continue to operate while alternative funding sources are sought.

Reductions recommended to the Budget Bill to remove 3/4 of the funding for T3 (within the Department of Education) include (\$155,394) Personnel, (\$18,046) Travel, and (\$16,815) OCE. These amendments are indicated in the attached amended budget bill.

Your Committee notes that this action will mean that the amount of amended Compact education sector grant that was intended to fund the T3 program (\$253,673) will remain unappropriated until such time as the Executive identifies the intended and approved uses, in consultation with the Congress.

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Standing Committee Reports

Your Committee has reviewed each Standing Committee Report No. submitted by each Standing Committee. Each report iade recommendations in relation to the budgets of the departments, agencies, offices and programs within each Committee's respective jurisdictions. Your Committee concurs with all the recommendations made in the committee reports except for those recommendations explicitly revised by this report.

After reviewing each of the committee reports, your Committee wishes to make the following minor corrections and clarifications:

1. In S.C.R No. 15-130 (T&C), within the Department of Transportation, Communications & Infrastructure, Division of Maritime Transportation, your Committee on T&C recommended, at page 9, that budget for POL for the MS Caroline Voyager be increased from \$250,000 to \$400,000. However, when entering the "Committee rec." in the table on page 8, your Committee on T&C inadvertently included \$460,000 additional budget, rather than the needed \$150,000. Therefore, your Committee on Ways and Means recommends reducing the amount in Contracts by (\$310,000). The corrected amount of \$1,087,287 (an increase of \$150,000 from the President's recommended amount of \$937,287) for contracts is reflected in the attached amended budget bill.
2. In S.C.R No. 15-141 (HESA) your Committee on Health Education & Social Affairs discusses the budget of the Department of Education at pages 11-12. Because the SEG has not yet been allocated, your Committee recommends adjusting all line items of the Department's budget to remove those items funded by SEG. These adjustments include (\$145,883) Personnel; (\$80,361) Travel; (\$895,282) Contracts; (\$46,107) OCE; and (\$11,500) Fixed Assets. The corrected amounts for the Department are reflected n the attached amended budget bill.
3. In S.C.R No. 15-135 (J&GO), your Committee on Judiciary and Governmental Operations included the salary increases that it calculated would result from the recently enacted law. Because your Committee is recommending appropriating the funds needed for the salary increase as a lump sum, and is instructing the Executive to reprogram the funds to the necessary budgetary line items, your Committee recommends removing the increases included by your Committee on J&GO. This would include (\$111,930) for the Department of Justice; (\$16,380) for the Office of the Public Defender; (\$18,200) for

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the Judicial Branch; and (\$30,030) FSM Postal Service. In addition, on page 17 of the report, your Committee on J&GO recommended a \$30,000 grant to the Pohnpei Judiciary. Your Committee on J&GO informed your Committee on Ways and Means that the intended amount was \$45,000 and asked for your Committee to make a correction in this consolidation report. These corrections are reflected in the attached amended budget bill.

4. In SCR 15-116 (XAFF), your Committee on External Affairs inadvertently omitted referring to the grant to the Department of Foreign Affairs for \$5,000 for the East-West Center. Your Committee on XAFF asked your Committee on W&M to make the correction in this consolidated report. This correction is reflected in the attached amended budget bill.
5. In S.C.R No. 15-143 (W&M) your Committee on Ways and Means made recommendations on areas within its jurisdiction. Subsequently, your Committee changed some of its recommendations. For two items previously funded by Compact capacity building funds, in its report the Committee recommended funding from Domestic Revenues. Your Committee has now decided to fund only the first quarter of FY 09 for these two items. Your Committee encourages the Executive to continue to seek to have these items funded by the capacity building sector or to seek other sources of funding. The items affected are two positions within the Office of SBOC (remove \$35,099 funding from Personnel) and the Chuuk Office of the National Public Auditor (remove \$130,768 funding from across the line items). It has also come to your Committee's attention that within the funding for Speaker & Members, \$50,000 under OCE should be moved to travel. This line item was identified in the Budget Book as for "Leg/Foreign Visits". Because the use of these funds may be for bringing visitors in or for Members to make foreign visits, your Committee believes the budget item is more appropriately classified as travel. It has also come the attention of Your Committee that the recommended reduction of \$18,506 of travel under the Staff Offices is necessary in order to be able to recruit and repatriate attorneys for the Congress. Therefore, your Committee recommends adding this previously cut amount back to that line item.
5. Your Committee, after consultation with other Members, recommends adding the following amounts:

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\$ 83,136 to fund the FSM Aquaculture Center
100,000 for "Economic Reporting & Stats" funded by amended
Compact capacity building funds - as allocated by JEMCO
75,000 for the Compact Review Committee
200,000 for Disaster Assistance Emergency Matching
546,537 for funding the salary increase
500,000 for FSM Social Security
128,000 for Tax Reform

and reducing the following items:

(\$2,433,878) COM-FSM State Campus Improvement - due to no
allocation of the Compact infrastructure funds
(\$ 121,694) Infrastructure Maintenance Fund - due to no
allocation of the Compact infrastructure funds
(\$1,500,000) for the Multi-purpose Building - consideration
previously omitted

Additional Oversight Comments

National Public Auditor's Office.

Your Committee would note that the Chuuk Office of the National Public Auditor, while carrying out an important function, was not a creation of the National Government and was not intended exist forever. The National Government does not provided financial assistance to the Public Auditor's Offices of the other three States. Congress invites the Executive to provide his plan for the future of this office.

Micronesian Legal Services Corporation.

Your Committee is well aware of the value of the services this Office provides to the citizens of the FSM. The National Government has provided an annual grant of \$150,000 towards operating expenses for many years. This year the grant was reduced to \$100,000. However, your Committee on W&M, along with Your Committee on J&GO would be willing to entertain a supplemental request for the additional funding of \$50,000 should the office find it is needed. Your Committees would be interested to know the entire operating budget of the MLSC and the breakdown of other funding sources that the office has. After consideration of this information, your Committees will likely entertain the additional appropriation.

FSM Social Security.

Your Committee recognizes the importance of funding the FSM Social Security obligations, in order that FSM citizens can receive their entitlements. It is not always possible to find the additional funds

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and the appropriation will not be an annual one, but because it was able to be made this year, your Committee, in consultation with the other Committees has recommended it.

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Tax Reform.

Your Committee requested a breakdown of the \$128,000 request for this project and promptly received a response. Your Committee therefore recommended adding back the funding that it cut in S.C.R No. 15-143. Your Committee, and other Members of Congress, would appreciate an update on the status of the reform project, including a proposed time-line for implementation of the project's recommendations and any obstacles that the project has encountered. Your Committee invites the project team to submit a written update to Congress, with possible oversight hearings to be scheduled during the next session of Congress.

Comment on the Revision to the Executive Branch Employment Ceiling

Your Committee notes that the amended budget bill attached appears to be adjusting the Executive Branch employment ceiling from 471 to 461 employees. This is an inaccuracy in the bill as submitted. In fact the Executive Branch had 457 employees in fiscal year 2008. Your Committee is recommending an additional four employees, rather than the requested 14.

With the foregoing amendments, your Committee on Ways and Means is in accord with the intent and purpose of C.B. No. 15-157 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. 15-157, C.D.1.

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Respectfully submitted,

/s/ Dohsis Halbert
Dohsis Halbert, chairman

/s/ Setiro Paul
Setiro Paul, member

/s/ Moses A. Nelson
Moses A. Nelson, member

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

/s/ Fredrico O. Primo
Fredrico O. Primo, member

/s/ Peter Sitan
Peter Sitan, member

Joseph J. Urusemal, member