

STANDING COMMITTEE REPORT NO. 18-147

RE: C.B. No. 18-162/W&M

SUBJECT: FSM TRUST FUND

MAY 19, 2014

The Honorable Dohsis Halbert
Speaker, Eighteenth Congress
Federated States of Micronesia
Fourth Regular Session, 2014

Dear Mr. Speaker:

Your Committee on Ways & Means, to which was referred C.B. No. 18-162, entitled:

"A BILL FOR AN ACT TO FURTHER AMEND SECTIONS 1202, 1208 AND 1217 OF TITLE 55 OF THE CODE OF THE FEDERATED STATES OF MICRONESIA, AS ENACTED BY PUBLIC LAW NO. 10-150 AND AMENDED BY PUBLIC LAW NO. 12-16, FOR THE PURPOSES OF PLACING ONE MEMBER OF EACH GOVERNMENT ON THE BOARD OF TRUSTEES, ESTABLISHING STATE SUB-ACCOUNTS IN THE FSM TRUST FUND, AND FOR OTHER PURPOSES.",

begs leave to report as follows:

The intent and purpose of this bill is expressed in its title.

C.B. No. 18-162 is a resubmission of C.B. No. 18-56, which was introduced on September 11, 2013. A public hearing was held on November 27, 2013, and your Committee on Ways & Means issued its Standing Committee Report No. 18-105 on the measure on January 15, 2014. C.B. No. 18-56, C.D.2 was passed on second and final reading on January 17, 2014, becoming Congressional Act No. 18-39.

On February 21, 2014, Congress received Presidential Communication No.

STANDING COMMITTEE REPORT NO. 18-147

RE: C.B. No. 18-162/W&M

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MAY 19, 2014

18-229, which vetoed Congressional Act No. 18-39. On March 24, 2014, your Committee met to discuss the grounds for the veto and whether the veto should be overridden. Although your Committee finds that many of the President's objections to C.A. No. 18-39 lack merit, there were some that were well taken. Particularly, that C.A. No. 18-39 failed to: (1) specify a term of office for members of the Board of Trustees, and (2) provide a mechanism for removal of members of the Board of Trustees during their term. Thus, as P.C. No. 18-229 points out, "members may serve for an indefinite term."

Thus, the current bill, C.B. No. 18-162 incorporates the previous changes made in C.D.2 to C.B. No. 18-56, as well as correcting the erroneous omission of terms of office and procedures for removal. Members of the Board of Trustees will serve for a four-year term of office. Further, the President may remove the National Government representative, while their respective Governors may remove representatives from the States.

Your Committee notes that C.B. No. 18-162 would require that the Board of Trustees for the FSM Trust Fund have one member from each of the four States. Currently, nominations to the Board are only required to "take into account the need to have adequate geographical representation," without a strict quota. Thus, each state might not necessarily be represented on the Board of Trustees. C.B. No. 18-162 will ensure that each State has one member on the Board. Your Committee approves of ensuring that each State is represented on the Board of Trustees.

Further, currently the President makes all appointments to the Board of Trustees. C.B. No. 18-162 provides that Governors of the States are able to appoint their respective state representative. Your Committee approves of ensuring not only that each State is represented on the Board of Trustees, but also that each State is able to select its own representative.

Your Committee further notes that C.B. No. 18-162 also requires the Board of Trustees for the FSM Trust Fund to meet at least once per year. Currently, the Board is required to only meet "as necessary." Considering the importance of the FSM Trust Fund for the future of the

STANDING COMMITTEE REPORT NO. 18-147

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MAY 19, 2014

Nation, your Committee approves of this change requiring a minimum of one annual meeting.

Your Committee also notes that C.B. No. 18-162 creates Trust Fund sub-accounts for each of the States. There is no requirement in C.B. No. 18-162 itself that any State, National Government, or other donor make a contribution to the sub-accounts. Yet, the potential would exist for a State to make its own contribution or for a particular donor (e.g., an NGO) to contribute to a specific state sub-account. These investments are managed in an identical way to the main FSM Trust Fund. Costs and profits amongst the accounts and sub-accounts are treated on a pro rata basis.

Your Committee notes that the FSM Trust Fund sub-accounts are designated as follows: "A" sub-accounts are for long-term investments; "B" sub-accounts are for net income gained from the "A" sub-accounts' investments. In other words, "A" is envisioned as the main corpus of the investments, being stocks, bonds, principals, etc., whilst "B" is for the dividends, interest, etc., of those "A" investments after costs. Typically, a State will not be removing money from the "A" sub-accounts, but rather will only access the "B" sub-account. National Government's contributions to the "A" sub-accounts of each State remain the property of the National Government to ensure that no State will access those deposits directly, only the net profits in the "B" sub-account derived therefrom.

The purpose of C.B. No. 18-162 is to provide a mechanism for additional income for the States come 2023. This bill is in accord with the National Government's plan to give more money and financial autonomy to the States. Therefore, your Committee approves of the creation of state sub-accounts as set forth in C.B. No. 18-162.

Your Committee further notes that the language and intent of C.B. No. 18-162 is to limit National Government ownership of contributions to State sub-accounts to those amounts that the National Government itself contributed. Contributions to State sub-accounts made by the States, NGOs, or other donors are the property of the relevant State and may be withdrawn by that State beginning in 2023.

STANDING COMMITTEE REPORT NO. 18-147

RE: C.B. No. 18-162/W&M

SUBJECT: FSM TRUST FUND

MAY 19, 2014

Your Committee is in accord with the intent and purpose of C.B. No. 18-162 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.

Respectfully submitted,

/s/ Isaac V. Figir
Isaac V. Figir, chairman

Peter M. Christian, vice chairman

/s/ Tony H. Otto
Tony H. Otto, member

/s/ Yosiwo P. George
Yosiwo P. George, member

/s/ David W. Panuelo
David W. Panuelo, member

/s/ Wesley W. Simina
Wesley W. Simina, member

/s/ Joseph J. Urusemal
Joseph J. Urusemal, member