

Committee on Natural Resources

Rob Bishop Chairman
Mark-Up Memorandum

April 24, 2017

To: All Natural Resources Committee Members

From: Majority Committee Staff Marc Alberts, Chris Fluhr
Subcommittee on Indian, Insular and Alaska Affairs (x-6-9725)

Mark-Up: **H.R. 2085 (Rep. Gregorio Kilili Camacho Sablan)**, To approve an agreement between the United States and the Republic of Palau, and for other purposes.
April 26-27, 2017, 1324 Longworth HOB

Summary of the Bill

H.R. 2085 was introduced by Rep. Gregorio Sablan on April 8, 2017. The bill would approve the agreement and appendices signed by the United States and the Republic of Palau on September 3, 2010. In addition to the bill being referred to the Committee on Natural Resources, a subsequent referral was given to the House Foreign Affairs Committee.

Cosponsors: Rep. Madeleine Z. Bordallo (D-GU)

Background

Freely Associated States

The Freely Associated States (FAS) which include the Republic of the Marshall Islands (RMI), the Federated States of Micronesia (FSM) and the Republic of Palau share a special relationship with the United States. Following the conclusion of World War II, the United States administered over these islands in a United Nations trusteeship agreement that established the Trust Territory of the Pacific Islands (Trust Territory), which also included the Northern Mariana Islands.

From 1947 until 1951, the United States Navy controlled the area of the Trust Territory before the responsibility was transferred to the Department of the Interior. Beginning in 1986, the Trust Territory began to dissolve as the United States first terminated administration over the Marshall Islands and subsequently over the other areas administered within the Trust Territory with the trusteeship fully dissolving in October of 1994. From the conclusion of the Trust Territory came the formation of three sovereign states in free association with the U.S. (Republic of the Marshall Islands; Federated States of Micronesia; and the Republic of Palau) and one Commonwealth in political union with the U.S. (the Commonwealth of the Northern Mariana Islands, one of five territories of the U.S.).

Located in the Asia-Pacific region, far west of Hawaii and on the border of the Asian continent, the three Freely Associated States are a scattering of tiny islands covering an area in the Pacific Ocean larger than the continental United States. The U.S. entered into compacts with the FSM and the RMI in 1986, with amendments to those compacts occurring in 2003. In 1994, the U.S. entered into a compact with Palau, with a review of the compact mandated after 15 years. Through the Compacts of Free Association, the United States has maintained very close ties with the FAS. In FY16, the Department of the Interior (DOI) administered over \$214 million in assistance to support their local governance and economic advancements.¹

On September 3, 2010, the Obama Administration and the Government of Palau made an agreement to renew the compact for which Congress has yet to provide funding. H.R. 2085 would approve the agreement and provide mandatory funding for it. The review agreement made in 2010 between the U.S. and the Republic of Palau calls for the U.S. to provide \$229 million to Palau through the year 2024. However, since the agreement has not been brought into force, DOI has been making annual payments of approximately \$13.1 million a year since 2010, totaling \$92 million in discretionary funding thus far.

Palau

The Republic of Palau is a small Micronesian nation made up of approximately 250 islands currently in compact of free association with the United States. The population of this small island nation is roughly 18,000 living on just 465 km² of total land mass, with the most populous island being Koror. The nation's capital of Ngerulmud is located on the nearby island of Babeldaob. Palau is located roughly 7,600 km to the west of Hawaii, 1,500 km east of the Philippines, and 1,800 km to the north of Papua New Guinea. Of the three Freely Associated States and the three U.S. territories located in the Pacific region, the Republic of Palau is located the furthest to the west of the U.S. mainland, and thus is the closest to the continent of Asia than any of the other U.S. alignments. Although Palauans are not U.S. citizens, due to the terms of compact, they may migrate freely within the United States and territories. All citizens of the Freely Associated States may exercise this open migration policy throughout the entire United States and territories.

The Compact with Palau is an important component of United States national security interests in the Western Pacific region. As explained in testimony from the Assistant Secretary for Insular Affairs on an identical bill:

The 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 of 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

¹ OIA Budget Justifications FY 2017, page 7. <https://www.doi.gov/sites/doi.gov/files/uploads/2017-OIA-Budget-Master-for-Print.pdf>

includes the U.S. territory of Guam and the Ronald Reagan Ballistic Missile Test Range on Kwajalein Atoll in the Marshall Islands.²

Legislative history

H.R. 2085 was introduced on April 8, 2017, and referred on the same day to the Committee on Natural Resources; the Committee on Foreign Affairs received a secondary referral. No hearing has been held in either committee on the bill. In the 114th Congress, an identical bill, H.R. 4531, was introduced by Mr. Sablan and referred to the Committee on Natural Resources and to the Committee on Foreign Affairs. The Subcommittee on Indian, Insular and Alaska Native Affairs held a hearing on July 6, 2016, on H.R. 4531. No further action occurred on that bill in the 114th Congress. A similar bill in the 114th Congress, S. 2610, was introduced in the Senate by Senator Murkowski of Alaska and referred to the Senate Committee on Energy and Natural Resources, which held a hearing on April 5, 2016. No further action occurred on S. 2610.

Analysis of H.R. 2085

H.R. 2085 would approve the agreement reached on September 3, 2010 between the United States and the Republic of Palau.

H.R. 2085 would amend Public Law 99-658 (To approve the “Compact of Free Association” between the United States and the Government of Palau, and for other purposes; 48 U.S.C. 1931 et seq.) by adding at the end of Title I of that Act new sections, described as follows:

Section 105(a) Results of Compact Review would approve the bilateral agreement between the U.S. and Palau with certain exceptions.

Section 105(b) concerns the withholding of funds from Palau. Specifically, if Palau withdraws more than \$9,000,000 from the trust fund established under section 211(f) of the Compact of Free Association in FY18, 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 in which Palau reimburses the trust fund for the total amount that exceeded the \$9,000,000.

Section 105(c) concerns funding for certain provisions under section 105 of the Compact, stating that not later than 30 days the Secretary of the Treasury shall transfer to the Secretary of the Interior such sums necessary to implement main sections of the Agreement and that sums shall remain available until expended without further appropriation.

Section 105(d) authorizes appropriations for the Secretary of the Interior to subsidize the postal services provided by the US Postal Service to the Republic of Palau, the RMI and FSM for

² 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).

\$1,500,000 each of the fiscal years (FY) 2018 through 2024, and to fund the head of each Federal entity described in section 221(a) of the Compact to carry out their responsibilities. As an offset, Section 3 of the Act of June 30, 1954 (68 Stat. 330, 82 Stat. 1213, chapter 423), is repealed.

H.R. 2085 further amends the Compact, as follows:

Sec. 1. Compact Section 211(f) Fund. The bill provides the total amount of \$30,250,000 that the United State shall contribute to the Fund referred to in section 211 (f) of the Compact, according to the following schedule: 1) \$22,000,000 in FY18; 2) \$3,000,000 in FY19 through FY22; 3) \$250,000 in FY23. Also, the U.S. Government shall provide a grant of \$16,000,000 in FY18 and a grant of \$2,000,000 annually beginning in FY19 through FY24 to create a trust fund to be known as the ‘Infrastructure Maintenance Fund’, to be used for routine and periodic maintenance of major capital improvement projects financed by funds of the U.S. The Government of Palau will contribute matching funds of \$150,000 to the Infrastructure Maintenance Fund on a quarterly basis beginning in FY18 through FY24.

Sec. 3. Fiscal Consolidation Fund. The U.S. shall provide \$10,000,000 in FY18 for deposit interest to be used by Palau. In addition to the economic assistance of \$13,147,000 provided to Palau in FY10 through FY17, the U.S. will also provide Palau with an additional \$27,250,000 distributed as follows: \$7,250,000 in FY18; \$6,000,000 in FY19; \$5,000,000 in FY20; \$4,000,000 in FY21; \$3,000,000 in FY22; \$2,000,000 in FY23.

Sec. 5. Infrastructure Projects. The U.S. will provide Palau with \$40,000,000 in FY18 towards one or more mutually agreed upon infrastructure projects. The bill also makes an extension from 2009 to 2024 for the Continuing Programs and Laws section of the Compact of Free Association Amendments Act of 2003 (48 U.S.C. 1921d(f)(1)(B)(ix)). The Secretary of the Interior is directed to fund amounts necessary to conduct certain audits required by section 6 and Appendix D of the Agreement.

Sec.141. Passport Requirement. The bill contains miscellaneous provisions regarding lawful admittance for an individual in Palau to engage in occupations and establish residence as a nonimmigrant of the United States and its territories and possessions without regard to applicable sections of the Immigration and Nationality Act.

Cost

A CBO score for this bill is not yet available.

Administration Position

On April 5, 2016, Assistant Secretary for Insular Areas, Department of the Interior, Esther P. Kia’aina testified before the U.S. Senate Committee on Energy and Natural Resources on S. 2610 (Sen. Murkowski, R-AK), a similar bill to H.R. 4531.³ In her testimony, the Assistant

³ <https://www.energy.senate.gov/public/index.cfm/hearings-and-business-meetings?ID=739E8065-D1F7-4DAF-A513-C62E8A0400C6>

Secretary reiterated the importance of affirming the agreement for the benefits it would provide to Palau in the form of economic assistance while also establishing solid ground for continued long term relations between the U.S. and Palau amidst growing outside influence in the region from China and Russia. Assistant Secretary Kia'aina also highlighted the other aspects contained in the 2010 agreement which would help invoke necessary economic, legislative, financial and management reforms within the Government of Palau with the goals of increasing fiscal accountability and efficiency firmly in mind.

On June 23, 2016 the Deputy Assistant Secretary of State for the Bureau of East Asian and Pacific Affairs with the U.S. Department of State, Mr. Matthew Matthews, testified before the House Foreign Affairs Committee, Subcommittee on Asia and Pacific.⁴ In his testimony, the Deputy Assistant Secretary outlined the importance of the compacts that the U.S. maintains with the Freely Associated States, especially with regards to security and defense matters within the Pacific region. On Palau, Mr. Matthews expressed the State Department's support for bringing the bilateral agreement into force to demonstrate to Palau and all partners across the Pacific region that the U.S. is committed to maintaining strong ties of support.

Although there was general support for funding the Compact from the State Department, the Department of the Interior and the Department of Defense, the previous Administration's efforts to help Congress find the necessary offsets fell short. The newly elected Trump Administration has not formally expressed a position on the 2010 Agreement and it is not yet known how the new leadership from within the State Department and the Department of the Interior will engage Congress in working towards a resolution on funding the Agreement. Many consider funding the Palau Compact a priority for national defense in the Asia-Pacific region and important for maintaining strong relationships with our regional allies.

Effect on Current Law (Ramseyer):

Showing Current Law as Amended by H.R. 2085

[new text highlighted in yellow; text to be deleted bracketed and highlighted in blue]

Title I of Public Law 99-658 (48 U.S.C. 1931 et Seq.)

Section 101. Approval of Compact of Free Association (48 U.S.C. §1931)

(a) Approval

The Compact of Free Association set forth in title II of this joint resolution between the United States and the Government of Palau is hereby approved, and Congress hereby consents to the agreements as set forth on pages 154 through 405 of House Document 99-193 of April 9, 1986 (hereafter in this joint resolution referred to as subsidiary or related agreements), as they relate to such Government. Subject to the provisions of this joint resolution, the President is authorized to

⁴ <http://docs.house.gov/meetings/FA/FA05/20160623/105115/HHRG-114-FA05-Transcript-20160623.pdf>

agree, in accordance with section 411 of the Compact, to an effective date for and thereafter to implement such Compact, having taken into account any procedures with respect to the United Nations for termination of the Trusteeship Agreement.

(b) Reference to Compact

Any reference in this joint resolution to the "Compact" shall be treated as a reference to the Compact of Free Association set forth in title II of this joint resolution.

(c) Amendment, change, or termination of Compact and certain agreements

(1) Mutual agreement by the Government of the United States as provided in the Compact which results in amendment, change, or termination of all or any part thereof shall be affected only by Act of Congress and no unilateral action by the Government of the United States provided for in the Compact, and having such result, may be effected other than by Act of Congress.

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

(A) to all actions of the Government of the United States under the Compact including, but not limited to, actions taken pursuant to sections 431, 432, 441, or 442;

(B) to any amendment, change, or termination in any agreement that may be concluded at any time between the Government of the United States and the Government of Palau regarding friendship, cooperation and mutual security concluded pursuant to sections 321 and 323 of the Compact referred to in section 462(h);

(C) to any amendment, change, or termination of the agreements concluded pursuant to Compact sections 175 and 221(a)(4), the terms of which are incorporated by reference into the Compact; and

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

(i) Article II of the agreement referred to in section 462(a) of the Compact;

(ii) Article II of the agreement referred to in section 462(b) of the Compact;

(iii) Article II and Section 7 of Article X of the agreement referred to in section 462(f) of the Compact;

(iv) the agreement referred to in section 462(g) of the Compact;

(v) Articles II, III, IV, V, VI, and VII of the agreement referred to in section 462(h) of the Compact; and

(vi) Articles VI, XV, and XVII of the agreement referred to in section 462(i) of the Compact.

(d) Effective date

(1) The authority of the President to agree to an effective date for the Compact of Free Association between the United States and Palau concurrently with termination of the Trusteeship shall be carried out in accordance with this section, and the Compact shall not take effect until after—

(A) The President has certified to the Congress that the Compact has been approved in accordance with Section 411(a) and (b) of the Compact, and that there exists no legal impediment to the ability of the United States to carry out fully its responsibilities and to exercise its rights under Title Three of the Compact, as set forth in this Act, and

(B) enactment of a joint resolution which has been reported by the Committee on Energy and Natural Resources of the Senate and the Committees on Interior and Insular Affairs and

Foreign Affairs and other appropriate Committees of the House of Representatives authorizing entry into force of the Compact, and

(C) agreements have been concluded with Palau which satisfy the requirements of section 1902 of this title. For the purpose of this subsection the word "Palau" shall be substituted for "Federated States of Micronesia" whenever it appears in section 1902 of this title.

(2) Any agreement concluded with Palau pursuant to subparagraph (C) of paragraph (1) and any agreement which would amend, change, or terminate any subsidiary agreement or related agreement, or portion thereof, as set forth in paragraph (4) of this subsection shall be submitted to the Congress. No such agreement shall take effect until after the expiration of 30 days after the date such agreement is so submitted (excluding days on which either House of Congress is not in session).

(3) No agreement described in paragraph (2) shall take effect if a joint resolution of disapproval is enacted during the period specified in paragraph (2). For the purpose of expediting the consideration of such a joint resolution, a motion to proceed to the consideration of any such joint resolution after it has been reported by an appropriate committee shall be treated as highly privileged in the House of Representatives. Any such joint resolution shall be considered in the Senate in accordance with the provisions of section 601(b) of Public Law 94-329.

(4) The subsidiary agreement of ¹/₂ portions thereof referred to in paragraph (2) are as follows:

(A) Articles III and IV of the agreement referred to in section 462(b) of the Compact.

(B) Articles III, IV, V, VI, VII, VIII, IX, and X (except for section 7 thereof) of the agreement referred to in section 462(f) of the Compact.

(C) Articles IV, V, X, XIV, XVI, and XVIII of the agreement referred to in section 462(i) of the Compact.

(D) Articles II, V, VI, VII, and VIII of the agreement referred to in section 462(h) of the Compact.

(E) The agreement referred to in section 462(j) of the Compact.

(5) No agreement between the United States and the Government of Palau which would amend, change, or terminate any subsidiary or related agreement, or portion thereof, other than those set forth in subsection (d) ²/₂ of this section or paragraph (4) of this subsection, shall take effect until the President has transmitted such an 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.

(Pub. L. 99-658, title I, §101, Nov. 14, 1986, 100 Stat. 3673.)

Sec. 102. Extension of Compact of Free Association to Palau (48 U.S.C §1932)

(a) The interpretation of and United States Policy Regarding the Compact of Free Association set forth in section 1904 of this title shall apply to the Compact of Free Association with Palau.

(b) The provisions of section 1905 of this title, except for subsection (i), section 1906 of this title, section 1910 of this title, and section 1911(a) and (d) of this title shall apply to Palau in the same manner and to the same extent as such sections apply to the Marshall Islands.

(Pub. L. 99-658, title I, §102, Nov. 14, 1986, 100 Stat. 3675.)

Sec. 103 REPEALED

Sec. 104. Supplemental Provisions (48 U.S.C §1933)

(a) Civic Action Teams

(1) In recognition of the special development needs of Palau and the Marshall Islands, the United States shall make available United States military Civic Action Teams for use in Palau or the Marshall Islands under terms and conditions mutually agreed upon by the Government of the United States and the Governments of Palau or the Marshall Islands, as appropriate. The Government of Palau may use the amount of \$250,000 annually from current account funds provided pursuant to section 211 of the Compact to defray expenditures attendant to the operation of the Civic Action Teams made available pursuant to this subsection. The Government of the Marshall Islands may use the amount of \$250,000 annually from current account funds provided under section 211 of Title Two of the Compact of Free Association with the Marshall Islands to defray expenditures attendant to the operation of the Civic Action Teams made available pursuant to this subsection.

(2) For expenditures that the Department of Defense makes pursuant to paragraph (1), the Secretary of Defense may accept up to the amount of \$250,000 in annual funds from the Government of Palau as specified in paragraph (1). Funds accepted by the Secretary from the Government of Palau under this paragraph shall be credited to and merged with appropriations available to the Department of Defense and shall be used to defray expenditures attendant to the operation of the United States military Civic Action Team in Palau. Funds so credited and merged shall be available for the same time period as the appropriations to which the funds are credited and merged.

(b) Inventory and study of natural, historic, and other resources

The Secretary of the Interior shall conduct, upon request of Palau, the Federated States of Micronesia or the Marshall Islands, and through the Director of the National Park Service, a comprehensive inventory and study of the most unique and significant natural, historical, cultural, and recreational resources of Palau, the Federated States of Micronesia or the Marshall Islands. Areas or sites exhibiting such qualities shall be described and evaluated with the objective of the preservation of their values and their careful use and appreciation by the public, along with a determination of their potential for attracting tourism. Alternative methodologies for such preservation and use shall be developed for each area or site (including continued assistance from the National Park Service); current or impending damage or threats to the resources of such areas or sites shall be identified and evaluated; and authorities needed to properly protect and allow for public use and appreciation shall be identified and discussed. Such inventory and study shall be conducted in full cooperation and consultation with affected governmental officials and the interested public. A full report on such inventory and study shall be transmitted to Palau or the Federated States of Micronesia or the Marshall Islands, the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate no later than two complete calendar years after November 14, 1986. The inventory and study shall also identify areas or sites which, if they were located in the United States, would qualify to be listed on the Registry of Natural Landmarks and the National Register of Historic Places.

(c) Omitted

(d) Peleliu and Angaur

Not later than one year after November 14, 1986, the Secretary of Agriculture, after appropriate studies conducted in consultation with the Government of Palau, shall report to the President and the Congress concerning the feasibility and cost of rehabilitating and restoring the fertility of the topsoil of the islands of Peleliu and Angaur. Upon the request of the Government of Palau, the President shall make the report of the Secretary of Agriculture available to the Government of Palau. Technical assistance to accomplish such rehabilitation and restoration, if feasible, may be provided to the Government of Palau on a nonreimbursable basis, subject to the availability of appropriated funds.

(e) Power generation

Neither the Secretary of the Treasury nor any other officer or agent of the United States shall pay or transfer any portion of the sum and amounts payable to the Government of Palau pursuant to this joint resolution to any party other than the Government of Palau, except under the procedures established by the Compact and its related agreements. No funds appropriated pursuant to the Compact, this Act, or any other Act for grants or other assistance to Palau may be used to satisfy any obligation or expense incurred by Palau prior to November 14, 1986, with respect to any contract or debt related to any electrical generating plant or related facilities entered into or incurred by Palau which has not been specifically authorized by Congress in advance, except that the Government of Palau may use any portion of the annual grant under section 211(b)¹ not required to be devoted to the energy needs of those parts of Palau not served by its central power generating facilities and any portion of the funds under section 212(b) of the Compact for such purpose.

(f) Reduction of appropriations

Amounts appropriated to be paid pursuant to section 177 of Article I of Title One or Articles I and III of Title Two of the Compact of Free Association with the Federated States of Micronesia and the Marshall Islands, as set forth in Title II of the Compact of Free Association Act of 1985, or pursuant to section 103(h), 103(k), or 105(m) of such Act [48 U.S.C. 1903(h), (k), 1905(m)] (Public Law 99–239), or pursuant to Article I of Title Two of the Compact with Palau, as set forth in Title II of this joint resolution, or section 104(l)² of this joint resolution shall not be reduced, notwithstanding Public Law 99–177, Public Law 99–366, and other law enacted to implement Public Law 99–177, or any other provision of law.

(g) Understandings, interpretations, and policy statements

The Congress reaffirms all of the understandings, interpretations, and policy statements contained in Public Law 99–239 (99 Stat. 1770) [48 U.S.C. 1901 et seq., 2001 et seq.], Congressional Resolution 4–60 adopted by the 4th Congress of the Federated States of Micronesia on March 26, 1986 and Resolution No. 62 adopted by the Nitijela of the Marshall Islands on February 18, 1986 do not exclude, limit or modify any provision of the Compact of Free Association as approved by the United States. To the extent that any understandings, interpretations, and policy statements contained in such Resolutions are inconsistent with the provisions of Public Law 99–239, the United States does not concur therein. The President shall take such steps, including but not limited to, communicating with the Governments of the Federated States of Micronesia and the Republic of the Marshall Islands, as may be necessary to preserve all rights of the United States in connection with interpretation and implementation of such Public Law.

(h) Additional provisions relating to Title Three of Compact

(1) The Government of the United States recognizes and respects the scarcity and special importance of land in Palau. In making any designation of land pursuant to section 322 of the Compact, the Government of the United States shall follow the policy of requesting the minimum area necessary to accomplish the required security and defense purpose, of requesting only the minimum interest in real property necessary to support such purpose, and of requesting first to satisfy the requirement through public real property, where available, rather than through private real property.

(2) The Armed Forces of other nations invited to use military areas and facilities in Palau pursuant to section 312 of the Compact shall be permitted only as it is incident to the authority and under the control of the United States. The activities of such third country forces shall be subject to the same limitations and restrictions applicable to the authority of the United States under the terms of the Compact.

(3) The Government of the United States considers "Exclusive use" areas established for the United States pursuant to Title Three of the Compact to be "within the jurisdiction of Palau," as that term is used in section 324 of the Compact.

(i) Availability of appropriations

Notwithstanding any other provision of law, funds appropriated for the Compact of Free Association, Public Law 99–239 [48 U.S.C. 1901 et seq., 2001 et seq.], or this joint resolution, in the act of making supplemental appropriations for fiscal year 1986, shall remain available until expended.

(j) Authority to contract or make payments

(1), (2) Omitted

(3) No authority under this subsection to enter into contracts or to make payments shall be effective except to the extent and in such amounts as provided in advance in appropriations Acts. Any provision of this subsection which authorizes the enactment of new budget authority shall be effective only for fiscal years beginning after September 30, 1985.

(k) Annual report

The Departments of Energy and Interior are directed to provide the Committees on Appropriations of the House and Senate with a report by December 1 of each fiscal year detailing how funds were spent during the previous fiscal year for the special medical care and logistical support program for Rongelap and Utrik and for the agriculture and food programs for Eniwetok and Bikini as referenced in Section 103(h) of Public Law 99–239 [48 U.S.C. 1903(h)]. The report shall also specify the anticipated needs during the current and following fiscal years in order to meet the radiological health care and logistical support program for Rongelap and Utrik and the planting, agricultural maintenance, and food programs for Eniwetok and Bikini. It is the sense of the Congress that the special medical care and logistical support program for Rongelap and Utrik and for the agriculture and food programs for Eniwetok and Bikini described in section 103(h) of Public Law 99–239 represent special and continuing moral commitments of the United States which will be annually funded to the extent of the need of the populations of such atolls for such assistance.

(Pub. L. 99–658, title I, §104, Nov. 14, 1986, 100 Stat. 3675; Pub. L. 101–219, title I, §105, Dec. 12, 1989, 103 Stat. 1871; Pub. L. 110–181, div. A, title XII, §1253, Jan. 28, 2008, 122 Stat. 402.)

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 the 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 State 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 buy 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.

68 Stat. 330. Continuance of civil government for Trust Territory of the Pacific Islands; assistance programs; maximum fiscal year costs; reimbursement (48 U.S.C. 1681)

Sec. 1. Until Congress shall further provide for the government of the Trust Territory of the Pacific Islands, all executive, legislative, and judicial authority necessary for the civil administration of the Trust Territory shall continue to be vested in such person or persons and shall be exercised in such manner and through such agency or agencies as the President of the United States may direct or authorize.

Sec. 2. The head of any department, corporation, or other agency of the executive branch of the Government may, upon the request of the Secretary of the Interior, extend to the Trust Territory of the Pacific Islands, with or without reimbursement, scientific, technical, and other assistance under any program administered by such agency, or extend to the Trust Territory any Federal program administered by such agency, if the assistance or program will promote the welfare of the Trust Territory, notwithstanding any provision of law under which the Trust Territory may otherwise be ineligible for the assistance or program: *Provided*, That the Secretary of the Interior shall not request assistance pursuant to this subsection that involves, in the aggregate, an estimated nonreimbursable cost in any one fiscal year in excess of \$150,000: *Provided further*, That the cost of any program extended to the Trust Territory under this subsection shall be reimbursable out of appropriations authorized and made for the government of the Trust Territory pursuant to section 2 of this Act, as amended. The provisions of this subsection shall not apply to financial assistance under a grant-in-aid program.

[SEC. 3. There are hereby authorized to be appropriated such sums as the Secretary of the Interior may find necessary, but not to exceed \$10,000,000 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 section 2 of the Act of September 30, 1950 (64 Stat. 1109), as amended (42 U.S.C. 1855a).

Section 105(f)(1)(B)(ix) of the Compact of Free Association Amendments Act of 2003 (48 U.S.C. 1921d(f)(1)(B)(ix))

(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 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

(II) 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, 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 [29 U.S.C. 3111 et

seq.] (other than subtitle C [29 U.S.C. 3191 et seq.]) and II [29 U.S.C. 3271 et seq.] 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.),¹ 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 December 17, 2003, 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.

Pub. L. 99-658, title II, §201, Nov. 14, 1986, 100 Stat. 3678, Compact of Free Association (48 USC 1931).

TITLE TWO

ECONOMIC RELATIONS

"ARTICLE I

GRANT ASSISTANCE

SECTION 211

In order to assist the Government of Palau in its efforts to advance the well-being of the people of Palau and in recognition of the special relationship that exists between the United States and Palau, the Government of the United States shall provide to the Government of Palau on a grant basis the following amounts:

(a) \$12 million annually for ten years commencing on the effective date of this Compact, and \$11 million annually for five years commencing on the tenth anniversary of the effective date of this Compact, for current account operations and maintenance purposes, which amounts commencing on the fourth anniversary of the effective date of this Compact shall include a minimum annual distribution of \$5 million from the fund specified in Section 211(f).

(b) \$2 million annually for fourteen years commencing on the first anniversary of the effective date of this Compact as a contribution to efforts aimed at achieving increased self-sufficiency in energy production, of which annual amounts not less than \$500,000 shall be devoted to the energy needs of those parts of Palau not served by its central power-generating facility.

(c) \$150,000 annually for fifteen years commencing on the effective date of this Compact as a contribution to current account operations and maintenance of communications systems, and the sum of \$1.5 million, to be made available concurrently with the grant assistance provided during the first year after the effective date of this Compact, for the purpose of acquiring such communications hardware as may be located within Palau or for such other current or capital account activity as the Government of Palau may select.

(d) \$631,000 annually on a current account basis for fifteen years commencing on the effective date of this Compact for the purposes set forth below:

(1) for the surveillance and enforcement by Government of Palau of its maritime zone;

(2) for health and medical programs, including referrals to hospital and treatment centers; and

(3) for a scholarship fund to support the post-secondary education of citizens of Palau attending United States accredited, post-secondary institutions in Palau, the United States, its territories and possessions, and states in free association with the United States. The curricular criteria for the award of scholarships shall be designed to advance the purposes of the plan referred to in Section 231.

(e) The sum of \$666,800 as a contribution to the commencement of activities pursuant to Section 211(d)(1).

(f) The sum of \$66 million on the effective date of this Compact, and the sum of \$4 million concurrently with the grant assistance to be made available during the third year after the effective date of this Compact, to create a fund to be invested by the Government of Palau in issues of bonds, notes or other redeemable instruments of the Government of the United States or other qualified instruments which may be identified by mutual agreement of the Government of the United States and the Government of Palau. Investment of the fund in qualified instruments of United States nationality, and the distribution of sums derived from such investment to the Government of Palau, shall not be subject to any form of taxation by the United States or its political subdivisions. The Government of the United States and the Government of Palau shall set forth in a separate agreement, which shall come into effect simultaneously with this Compact, provisions for the investment, management and review of the fund so as to allow for an agreed minimum annual distribution from its accrued principal and interest commencing upon the effective date of this Compact for fifty years. The objective of this sum is to produce an average annual distribution of \$15 million commencing on the fifteenth anniversary of this Compact for thirty-five years. Any excess or variance from the agreed minimum annual distributions which may be produced from these sums shall accrue to or be absorbed by the Government of Palau

unless otherwise mutually agreed in accordance with the provisions of the separate agreement referred to in this paragraph. The annual distributions produced from these sums are not subject to Sections 215 and 236.

SECTION 212

In order to assist the Government of Palau in its efforts to advance the economic development and self-sufficiency of the people of Palau and in recognition of the special relationship that exists between the United States and Palau, the Government of the United States shall provide:

(a) To the people of Palau, a road system in accordance with mutually agreed specifications, the construction of which shall be completed prior to the sixth anniversary of the effective date of this Compact; and

(b) To the Government of Palau, the sum of \$36 million, during the first year after the effective date of this Compact, for capital account purposes.

SECTION 213

The Government of the United States shall provide on a grant basis to the Government of Palau the sum of \$5.5 million in conjunction with Article II of Title Three. This sum shall be made available concurrently with the grant assistance provided pursuant to this Article during the first year after the effective date of this Compact. The Government of Palau, in its use of such funds, shall take into account the impact of the activities of the Government of the United States in Palau.

SECTION 214

All funds previously appropriated to the Trust Territory of the Pacific Islands for the Government of Palau which are unobligated by the Government of the Trust Territory as of the effective date of this Compact shall accrue to the Government of Palau for the purposes for which such funds were originally appropriated as determined by the Government of the United States.

SECTION 215

Except as otherwise provided, the amounts stated in Sections 211(a), 211(b), 211(c) and 212(b) shall be adjusted for each fiscal year by the percent which equals two-thirds of the percentage change in the United States Gross National Product Implicit Price Deflator, or seven percent, whichever is less in any one year, using the beginning of Fiscal Year ~~1981~~ 2010 as the base.