

ISSUES FACING U.S.-AFFILIATED ISLANDS AS REPORTED BY THE U.S. GOVERNMENT ACCOUNTABILITY OFFICE AND CONSIDERATION OF TWO MEASURES RELATED TO U.S.-AFFILIATED ISLANDS: S. 2360, THE OMNIBUS TERRITORIES ACT OF 2015, AND S. 2610, A BILL TO APPROVE AN AGREEMENT BETWEEN THE UNITED STATES AND THE REPUBLIC OF PALAU

HEARING
BEFORE THE
COMMITTEE ON
ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE
ONE HUNDRED FOURTEENTH CONGRESS
SECOND SESSION

APRIL 5, 2016



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BETWEEN THE UNITED STATES AND THE
REPUBLIC OF PALAU**

TUESDAY, APRIL 5, 2016

U.S. SENATE,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC.

The Committee met, pursuant to notice, at 10:04 a.m. in Room SD-366, Dirksen Senate Office Building, Hon. Cory Gardner, presiding.

**OPENING STATEMENT OF HON. CORY GARDNER,
U.S. SENATOR FROM COLORADO**

Senator GARDNER. Good morning and welcome to the Senate Energy and Natural Resources Committee's hearing on issues relating to the U.S. territories and the Freely Associated States.

I call this Committee hearing to order.

Specifically, we will be looking this morning at two bills: S. 2360, the Omnibus Territories Act of 2015, and S. 2610, a bill to approve the 2010 agreement between the United States and Palau.

We will also review reports by the U.S. Government Accountability Office (GAO) relating to the agreement with Palau as well as a review of the compacts of free association with the Marshall Islands and Micronesia and the impact of compact migrants in our states and territories.

Let me begin my remarks first on the legislation to approve the 2010 agreement.

Palau has been one of the United States' most steadfast allies. They vote with the U.S. in the United Nations more than any other nation except for Israel. Out of a total population of around 21,000 approximately 500 of their men and women serve in the United States Armed Forces. We should be mindful of and grateful for their support.

This Committee has held two hearings on this agreement in prior Congresses. To the best of my knowledge I am unaware of any pol-

icy objections to the agreement's plan of continued financial assistance through Fiscal Year 2024. The difficulty has always been finding an acceptable and viable offset to pay for that financial assistance.

I would note that since the 2010 agreement was signed by this Administration, Congress has annually provided over \$13 million in discretionary funding for just over \$90 million total so far, bringing the cost of the agreement to \$150 million over ten years, down from \$240 million.

Unfortunately however, the Administration has not been able to identify a politically viable option to cover the remaining amount. I am hopeful that the Administration's witness today will be able to provide an update on where things stand with finding that offset.

The other piece of legislation that we will consider has three different parts to it relating to the people of Bikini Atoll's ability to resettle in a location outside of the Marshall Islands, the authority to permit a foreign carrier to operate between the American Samoa Islands of Tutuila and Manu'a without the need for an emergency service designation, and an amendment to the REAL ID Act so that the citizens of the Freely Associated States (FAS) would be eligible for driver's licenses or personal identification cards.

The first two issues were introduced at the request of the Administration while the latter issue has previously been reported out of this Committee and passed by the Senate last Congress.

With regard to GAO's report we certainly appreciate the expertise and institutional knowledge and memory that GAO's experts provide on topics like the Territories and Freely Associated States. With fewer and fewer Members of Congress in office who served in the Pacific theater of World War II and experienced how that period in history shaped the United States engagement with the Pacific Islands and particularly our relationship with the U.S.-affiliated islands, retaining that knowledge is very important for us to be able to put some of these legislative proposals into the proper context.

Certainly the topic of compact impact is important to Hawaii and Guam and a growing importance to states like Arkansas, Missouri and Oregon, as citizens of the Freely Associated States migrate further into the United States.

I look forward to hearing from our witnesses this morning on these topics, and I will turn to Senator Cantwell for any comments she may wish to provide.

STATEMENT OF HON. MARIA CANTWELL, U.S. SENATOR FROM WASHINGTON

Senator CANTWELL. Thank you, Chairman Gardner. [Laughter.] For chairing the hearing and for this important subject this morning.

As many of my colleagues know, this Committee was once named the Committee on Interior and Insular Affairs which has jurisdiction over numerous U.S.-affiliated islands including Hawaii and the Philippines. Today the scope of the hearing jurisdiction is narrower but still includes the five territories of Puerto Rico, the U.S. Virgin Islands, American Samoa, Guam, the Northern Mariana Is-

lands and the U.S. assistance to Freely Associated States of Palau, Micronesia and the Marshall Islands.

Each of these island governments has a separate and unique relationship with the United States that requires our oversight and from time to time changes in Federal law. Today the Committee will consider two bills and three GAO reports regarding the insular issues.

But before I get to that, I would like to say a word about another territorial topic that is not on today's agenda, and that is Puerto Rico. For several months, bills have been introduced and hearings have been held on the financial crisis in our largest territory, a financial crisis that is quickly becoming a humanitarian crisis for 3.5 million U.S. citizens. The Senate has just gotten back from a two-week recess, but we have to get serious about passing legislation giving Puerto Rico the tools they need to restructure their debt and begin to rebuild their economy.

Turning back to today's agenda, the first bill, S. 2360, the Omnibus Territories Acts of 2015, would make three changes to Federal law requested by the island governments. First, it would allow the use of the Bikini Resettlement Trust Fund for the people of Bikini to resettle outside the Marshall Islands. Second, it would allow foreign air carriers to provide service to American Samoa between the islands of Tutuila and Manua. Third, it would make a technical correction to the REAL ID bill by replacing the reference to the Trust Territory of the Pacific Islands with the names of three successor states. This would allow citizens who legally reside in the U.S. to get state identity documents.

The second bill would approve the 2010 agreement between the U.S. and the Republic of Palau to update and extend provisions of the compact free association that governs relations between our nations.

This bill is a national security priority because Palau is strategically located in the Western Pacific, a region of growing international tension. In its letter of transmittal of the legislation, the Administration concludes, "Approving this agreement is important to the national security of the United States', stability in the Western Pacific region, our bilateral relationship with Palau and to the United States' broader strategic interest in the Asia-Pacific region."

Palau is arguably among the United States' closest allies, as my colleague was mentioning. Nonetheless, despite this national security imperative and broad bipartisan support, the Committee has been unable to move the bill forward for five years because of a failure to find a viable offset for the mandatory spending cost of \$149 million over eight years. I hope that this is the year that we will do better here.

I am looking forward to hearing about these bills from the Assistant Secretary of Insular Affairs, Esther Kia'aina, and hope that people remember her from her work with Senator Akaka, who is remembered as a champion of these island policies.

I also want to welcome Dr. Gootnick, Director of International Affairs and Trade at the Government Accountability Office. I would like to thank him for his work over these many years in evaluating these Federal programs.

Financial assistance under the three compacts of free association totals nearly \$200 million a year and is vital to providing services to these Free Associated States. In addition, there is \$30 million a year provided to Guam and Hawaii and the Commonwealth of the Northern Mariana Islands to help mitigate the impact of compact migrants on these communities and for services where they have settled.

So as part of the Committee's oversight responsibilities for these GAO programs, we have the GAO presenting their reports which we will hear about this morning.

So again, Mr. Chairman, I so appreciate having this hearing. I look forward to hearing about these issues and from the Administration. This will further assist in making sure we get these legislative issues resolved this year.

Thank you.

Senator GARDNER. Thank you, Senator Cantwell.

We are hearing this morning from two witnesses, David Gootnick from GAO as well as Esther Kia'aina, the Assistant Secretary for Insular Areas at Department of the Interior.

Ms. Kia'aina, we will begin with your testimony.

Thank you.

STATEMENT OF HON. ESTHER KIA'AINA, ASSISTANT SECRETARY FOR INSULAR AREAS, U.S. DEPARTMENT OF THE INTERIOR

Ms. KIA'AINA. Thank you, Mr. Chairman and members of the Committee. I appreciate the opportunity to testify on S. 2360 and 2610. Most of the provisions in both bills were requested by the Administration, and we are appreciative of Chair Murkowski's leadership to introduce the bills which we support.

The Administration supports S. 2360, the Omnibus Territories Act of 2015, with its provisions for broadening Bikini resettlement options, promoting reliable air transportation services within American Samoa and amending the REAL ID Act to improve the availability of drivers licenses and personal identification cards for the citizens of the three Freely Associated States and Micronesia.

The Administration also supports S. 2610 which would approve the 15-year review agreement with the Republic of Palau between the United States which called for a U.S. appropriation of \$229 million through 2024. Instead, because the agreement has not yet been brought into force the United States, through the U.S. Department of the Interior, has made annual payments beginning with Fiscal Year 2010 of approximately \$13.1 million a year for a total of \$92 million in discretionary funds thus far. This bill would fund the remaining amount of \$149 million which includes remaining moneys from the U.S. Postal Service.

As was mentioned by Senator Cantwell, approving the agreement with Palau is important to the national security of the United States, our bilateral relationship with Palau and stability in the Western Pacific region.

Besides the two bills today, I wanted to raise a few issues that are important to the insular areas.

The first is the growing number of migrants under the compacts of free association in U.S. jurisdictions, particularly Guam and Ha-

waii, and its financial impacts on these jurisdictions. The Department believes the concerns of these jurisdictions deserve attention. The Department concurs that the current allocation of mandatory and discretionary funds of \$33 million are insufficient to defray the costs and welcomes revisiting the exclusion of FAS citizens from Federal public benefits with Congress and other Federal departments.

The second issue is the elimination of the Commonwealth of the Northern Mariana Islands (CNMI) only transitional worker visa classification in 2019, the recovery of the CNMI economy and efforts to train the CNMI work force continues to be an issue of utmost importance.

Lastly, last fall the Administration forwarded a road map to the Congress to deal with the economic and fiscal crisis in Puerto Rico. The Department believes the other territories should be considered for inclusion in the health and tax provisions that may be extended to Puerto Rico, namely the Earned Income Tax Credit and the Medicaid provisions. This would equalize treatment among all of the territories and the states as well as take steps to prevent a crisis in the other smaller territories based on unequal treatment from development in these islands.

Again, I appreciate the opportunity to testify and urge expeditious approval of S. 2360 and 2610.

Thank you, Mr. Chairman.

[The prepared statement of Ms. Kia'aina follows:]

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STATEMENT

OF

ESTHER P. KIA'AINA

ASSISTANT SECRETARY FOR INSULAR AREAS

DEPARTMENT OF THE INTERIOR

BEFORE THE

U.S. SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

REGARDING

S. 2360, THE OMNIBUS TERRITORIES ACT OF 2015

AND

S. 2610, APPROVAL OF THE AGREEMENT BETWEEN THE UNITED
STATES AND THE REPUBLIC OF PALAU

APRIL 5, 2016

Chairman Murkowski and Members of the Committee on Energy and Natural Resources, thank you for the opportunity to testify on S. 2360, the Omnibus Territories Act of 2015, and S. 2610, legislation to implement the 2010 agreement between the United States and the Republic of Palau.

S. 2360 – OMNIBUS TERRITORIES BILL

The Administration supports S. 2360 with its provisions for broadening Bikini resettlement options, promoting reliable air transportation services within American Samoa, and amending the Real ID Act to ensure drivers' licenses and personal identification cards remain available for the citizens of the three freely associated states.

Relocation and Resettlement for the people of Bikini

Section 2 of the bill would lift the statutory limitation on the use of resettlement funds for the people of Bikini. Eliminating this restriction would allow the people of Bikini to resettle outside of the Republic of the Marshall Islands, giving them more relocation options and improving their quality of life. There is an immediate need for this option given recent extreme weather events, which have threatened the health and safety of the people of Bikini.

The United States is committed to ensuring adequate resettlement opportunities for the people of Bikini. From June 1946 through August 1958, the United States conducted nuclear weapons testing in the northern islands and atolls of the Marshall Islands. In advance of the testing, the people of Bikini Atoll were forced to relocate several times before finally staying on Ejit Island in Majuro Atoll and Kili Island. In 1982, Congress, provided funds (Public Law 97-257) for a relocation and resettlement trust fund that could be used by the people of Bikini in the Marshall Islands, primarily on Kili and Ejit Islands.

Bikini Atoll has 23 islands and a lagoon of 243 square miles, which provided essential sheltered fishing grounds for the people of Bikini. In contrast, Kili is a single island sheltering 800 people of Bikini on approximately 0.36 square miles. Since Kili is not a part of any atoll or sheltering lagoon, it also does not provide much needed sheltered fishing grounds to sustain its residents. While Ejit Island is part of Majuro Atoll, it too provides less than one square mile of living space for the 300 people who live on Ejit.

The people of Bikini living on both Kili and Ejit Islands have been suffering from recurrent flooding that covers major parts of both islands. More frequent storms and King Tides have resulted in salt water inundation and the destruction of crops. These developments have raised deep concerns about public health and safety. For decades, after having been disconnected from traditional lifestyles on Bikini, the lack of appropriate space, suitable fishing grounds, and limited crops has encouraged dependence on imported supplies.

The Administration supports enactment of section 2 of S. 2360.

Reliable Air Service in American Samoa

Section 3 of the bill would facilitate reliable air service within American Samoa between the islands of Tutuila and Manu'a.

Currently, Hawaiian Airlines is the only U.S. airline to service American Samoa from Hawaii and the U.S. mainland. No U.S. airlines provide service within American Samoa between the main island of Tutuila and the islands of Manu'a. That service currently is being provided by Polynesian Airlines, a company of the neighboring independent country of Samoa. While permitting this service on a temporary basis, U.S. law requires the renewal of the permit every 30 days.

The lack of reliable air service within American Samoa impedes the development of its full economic potential. Tourism, an essential economic driver for island communities, cannot thrive without frequent and regular air service. Social development and quality of life are negatively affected, especially essential educational and health care services for the residents of Manu'a.

Section 3 would allow a foreign air carrier to sustain service between Tutuila and Manu'a. Such a provision is necessary because no U.S. airline provides service between Tutuila and Manu'a. The removal of the requirement for a new application every 30 days will bring certainty to the route and allow reservations to be made far in advance of expected travel, aiding tourism and economic development in American Samoa, especially Manu'a.

The Administration supports the enactment of section 3 of S. 2360.

Drivers' Licenses and Personal Identification Cards

Section 4 of the bill would amend the Real ID Act of 2005 to improve the availability of drivers' licenses and identification documents to freely associated state (FAS) citizens living in the United States as legal migrants. These FAS individuals are citizens of the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

Under the Compacts of Free Association, FAS citizens, who are otherwise eligible, are admitted without visa to study, work and reside in the United

States and its territories. Admission at ports of entry in the Pacific, especially Guam and Hawaii, seldom pose a problem for legal FAS migrants. Once in the continental United States, however, FAS migrants can encounter state, local and private authorities who are not aware of their Compact privileges to study, work and live in the United States.

As lawful nonimmigrants, FAS citizens admitted under the Compacts are eligible (if otherwise qualified under state law) to be issued state driver's licenses compliant with the Real ID Act of 2005. However, because their admission to the United States is not for a specific time period, they are subject to a provision of the REAL ID Act that in many cases limits the validity period of the driver's license to one year, rather than the period of up to eight years otherwise authorized by the REAL ID Act. Although the Department of Homeland Security has provided guidance to state motor vehicle authorities advising them that FAS citizens presenting a U.S. Citizenship and Immigration Services employment authorization document may be issued a REAL ID-compliant driver's license valid until the expiration date of the employment authorization document which may be several years in the future, a more comprehensive statutory fix to this problem is appropriate.

Section 4 of the bill would provide a special provision for FAS Compact nonimmigrants exempting them from the provision otherwise limiting nonimmigrants without evidence of a specific period of authorized stay to a temporary driver's license valid only for one year. This provision would reduce unnecessary burden on FAS citizens in the United States, their employers, and state agencies alike by allowing them to obtain driver's licenses on the same basis as other long-term migrants in the United States.

The Administration supports the enactment of section 4 of S. 2360.

S. 2610 – AGREEMENT WITH PALAU

S. 2610 would approve the 15-year review agreement under the Compact of Free Association between the United States and the Republic of Palau.

As required in the original Compact (Public Law 99-658), a 15-year review was conducted, after which the review agreement was signed on September

3, 2010, primarily revising the U.S. economic assistance aspects of the Compact. The review agreement called for a U.S. appropriation for Palau of \$229 million through 2024. Instead, because the agreement has not yet been brought into force, the United States, through the U.S. Department of the Interior, has made annual payments, beginning with fiscal year 2010, of approximately \$13.1 million a year for a total of \$92 million in discretionary funds thus far. S. 2610 would fund the remaining amount of \$149 million, which includes remaining moneys for the U.S. Postal Service.

Just as important as the U.S. economic assistance aspects of the agreement and this legislation is the commitment of Palau to the economic, legislative, financial, and management reforms contained in the 2010 agreement. These reforms would ensure that Palau continues to take meaningful steps toward financial accountability and efficiency to increase Palau's long-term economic stability.

On February 22, 2016, the Secretary of the Interior re-transmitted draft legislation to Congress, along with the Departments of State and Defense, to implement the review agreement.

The relationship between the United States and the Republic of Palau is grounded in shared history, friendship, and a strong partnership in national security, especially with respect to the Asia-Pacific region. In the Battle of Peleliu, in Palau, more than 1,500 American servicemen lost their lives, and more than 8,000 were wounded, resulting in one of the costliest battles in the Pacific in World War II. After the war, the United States assumed administrative authority over Palau as part of the Trust Territory of the Pacific Islands and in 1994 the people of Palau expressed their desire, in plebiscite, to become a sovereign nation in free association with the United States under a Compact of Free Association.

The Compact provides U.S. military forces full authority and responsibility for security and defense matters in and relating to Palau. Conversely, the United States has the extraordinary advantage of being able to deny other nations' military forces access to Palau, an important element of our Pacific strategy for defense in the Pacific. 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 Guam and the Kwajalein Missile Range in the Marshall Islands.

In addition to the important historical and security relationship, Palau has consistently demonstrated a commitment to the U.S.-Palau partnership under the Compact. Palauan nationals have served in U.S. coalition missions and participated in U.S. led combat operations. Palauan citizens volunteer in disproportionately large numbers in the U.S. military compared to its population. At the United Nations, Palau has voted with the United States more than 95 percent of the time.

Approving the agreement with Palau is important to the national security of the United States, our bilateral relationship with Palau, and stability in the Western Pacific Region.

The Administration supports enactment of S. 2610.

ADDITIONAL INSULAR ISSUES

Besides the issues in S. 2360 and S. 2610, I would like to raise other matters of importance to the insular areas that have been raised by their leaders.

Compact Impact Aid

The first issue is the growing number of migrants under the Compacts of Free Association to U.S. jurisdictions, particularly Guam and Hawaii, and its financial impacts on these affected jurisdictions.

As noted earlier, the Compacts of Free Association allows FAS citizens to live and work in the United States as legal nonimmigrants. The Compact of Free Association Amendments Act, Public Law 108-188, included provisions to address the impact the Compacts are having on U.S. jurisdictions.

The law provides \$30 million in mandatory funds annually to defray costs associated with Compact impact. Congress has also provided approximately \$3 million in discretionary funds for the last several years to help meet education needs. However, the Governors of Guam and Hawaii combined have reported spending well in excess of \$200 million each year on services for FAS citizens, far exceeding the \$33 million federal contribution against costs.

The Governors, as well as other officials from these jurisdictions, seek additional funds to defray the increasing financial cost of migration. In addition to funding offsets, the affected jurisdictions have also advocated policy changes. In particular, officials propose eliminating restrictions contained in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. This would reinstate direct assistance for FAS citizens through Medicaid, Temporary Assistance for Needy Families, the Supplemental Nutrition Assistance Program, and other means-tested public assistance programs.

The Department of the Interior believes the concerns of the affected jurisdictions deserve attention. The Department concurs that the current allocation of mandatory and discretionary funds are insufficient to defray costs and welcomes revisiting the exclusion of FAS citizens from Federal public benefits with Congress and other Federal departments.

CNMI-Only Transitional Worker Visa Classification

The second issue I would like to raise is the elimination of the Commonwealth of the Northern Mariana Islands (CNMI) CNMI-Only Transitional Worker (CW) visa classification in 2019.

When the CNMI established a political union with the United States in 1986, the territory retained jurisdiction and control over immigration and allowed an influx of foreign contract workers. By the year 2000, 58 percent of the CMNI's population was born in a foreign country, illustrating the heavy reliance on foreign contract workers by the CNMI economy.

In 2008, Public Law 110-229, the Consolidated Natural Resources Act of 2008 (CNRA), extended Federal immigration law to the CNMI beginning in November of 2009, but provided for a transition period through December 31, 2014 (with possible extensions), during which foreign contract workers admitted under the former CNMI immigration laws would be phased out in favor of full implementation of the Immigration and Nationality Act and other Federal immigration laws. As part of the transition program, the CNRA provided for the CW nonimmigrant visa classification to provide necessary workers for the CNMI economy who would not be available under other federal immigration law.

On June 3, 2014, the U.S. Secretary of Labor exercised the authority provided to him under the CNRA to extend the CW program for five years, through December 31, 2019, because of an “insufficient number of U.S. workers to meet CNMI businesses’ current needs.” Following that decision, Congress extended the entire transition period through that same date of December 31, 2019, but removed the authority of the U.S. Secretary of Labor further to extend the CW program beyond that date.

Despite efforts by the CNMI Governor to increase the available U.S. workforce in the territory, current estimates predict that over ten thousand foreign workers will still be needed to meet the projected demands of the CNMI’s tourism and construction industries. The CNMI economy is just beginning to recover from the closure of all its garment factories in 2009, and the viability of the CNMI pension system is dependent on the construction of several proposed hotels and casinos. The recovery of the CNMI economy and efforts to train the CNMI workforce continues to be an issue of utmost importance.

Puerto Rico Tax and Health Legislation

In October 2015, the Administration forwarded a roadmap to the Congress outlining measures to deal with the economic and fiscal crisis in Puerto Rico. The plan contained four key elements, two of which are applicable to the other U.S. territories.

One element is to strengthen the Medicaid program in Puerto Rico and stabilize Federal funding so that it does not contribute to Puerto Rico’s fiscal challenges. The plan specifically notes that Medicaid funding in Puerto Rico is capped, U.S. citizens in Puerto Rico are offered fewer benefits, and the federal government contributes less on a per capita basis in Puerto Rico than in the remainder of the nation.

Another element recognizes the Earned Income Tax Credit (EITC) as one of the strongest policy tools for rewarding work and supporting economic growth. Providing Puerto Rico access to the EITC would put the territory on equal footing with the 50 states and the District of Columbia. Fully extending the Child Tax Credit to Puerto Rico would provide another incentive for workers while supporting growth.

Similar to Puerto Rico, the other four U.S. territories – Guam, American Samoa, the U.S. Virgin Islands, and the CNMI – face capped Medicaid funding from the Federal government and a lower per capita contribution than the 50 states and the District of Columbia. Recognizing the need to elevate healthcare services in the territories, the Administration's fiscal year 2017 budget proposes a path for the territories to establish Medicaid programs that offer similar benefits and receive Federal funding contributions like the 50 states. Extending the EITC and Child Tax Credit to the other four territories would also promote economic expansion and support workers in the islands who continue to face challenges in growing and diversifying their economies.

As the Congress addresses the crisis situation in Puerto Rico, the Department believes the other territories should be considered for inclusion in health and tax provisions that may be extended to Puerto Rico. This would equalize treatment among the territories and the states as well as take steps to prevent a crisis, based on unequal treatment, from developing in the other territories.

I appreciate the opportunity to testify and urge expeditious approval of S. 2360 and S. 2610.

Senator GARDNER. Thank you for your testimony.

David Gootnick, the Director of International Affairs and Trade, thank you very much. I look forward to hearing your testimony.

STATEMENT OF DAVID GOOTNICK, DIRECTOR, INTERNATIONAL AFFAIRS AND TRADE, U.S. GOVERNMENT ACCOUNTABILITY OFFICE

Mr. GOOTNICK. Thank you, Mr. Chairman.

Mr. Chairman and members of the Committee, thank you for asking GAO to participate in this hearing. My statement today will touch on three key issues associated with the compacts of free association. First, an analysis of S. 2610. Second, key challenges under the amended compacts with Micronesia and the Marshall Islands. And third, compact migration and its effects on U.S. areas.

First on Palau. As has been stated, S. 2610 would approve, fund and make modifications to the 2010 agreement. Over the past five years, in the absence of implementing legislation, the U.S. has provided \$67 million less than the agreement had anticipated. S. 2610, in essence, establishes a new schedule of economic assistance that would erase this gap.

In addition to the allocation funds to government operations, infrastructure, debt relief and Palau's trust fund, the agreement places some conditions on the economic package. I'll mention four. First, funding to government operations would be directed to specific purposes such as health and education. Second, an advisory group would be charged with overseeing the implementation of reforms such as those recommended by the IMF and the Asian Development Bank. Third, infrastructure funds would get additional scrutiny prior to funding. And fourth, infrastructure maintenance would prioritize the compact road and Palau's principle airport.

The agreement would also markedly improve the outlook for Palau's trust fund. In fact, under the agreed upon schedule and at its historic rate of return, the fund would continue to grow through 2044.

Importantly, the agreement extends authority to continue discretionary U.S. Federal programs such as Head Start, Community Health Centers, special education and PELL Grants. These programs have represented roughly one-third of all U.S. support since 1994 and projections of Palau's fiscal balance assume their continued presence.

Next, regarding the compacts with Micronesia and the Marshall Islands. Now roughly two-thirds of the way through the amended compact period both economies remain largely dependent on compact grants and U.S. program support. Compact grants are decreasing and will end in 2023. Both country's plans for this decrement are on increasing tax revenue, distributions from their trust funds, reduced government spending and a growing private sector. However, neither country has made significant progress on tax reform. Private sector investment is limited. And both trust funds face obstacles. Private sector growth, in particular, faces significant constraints, specifically the Islands' geographic isolation and their lack of infrastructure.

Both countries have had persistent problems with accountability for U.S. funds. In particular, their single audits show ongoing prob-

lems with procurement, cash management and managing government inventories, amongst other things.

Now last, regarding compact migration. As you know FAS citizens can enter and reside in the U.S. and its territories. The 2011 census estimated that over 56,000 compact migrants, nearly one quarter of all FAS citizens were living in the U.S. with more than half residing in Hawaii and Guam.

Under the amended compacts Hawaii, Guam and the Mariana Islands have received over \$400 million in Federal support toward the cost of health, education and social services attributed to compact migrants. Yet, over this period these affected jurisdictions have estimated more than \$2 billion in increased outlays for these services.

Finally, as you mentioned, FAS citizens may serve in the military. They also often contribute by taking hard to find, low-skill jobs. At the same time, many compact migrants struggle with language barriers, their kids face special challenges at school and many need access to health care not available to them back home.

Since 1996 compact migrants have not had access to most Medicaid benefits and they are not eligible for many other Federal programs, Federal benefits.

In sum, compact migration, a cornerstone of these three compacts, has emerged as a significant and growing challenge moving forward.

Mr. Chairman, this completes my remarks and I'm happy to answer your questions.

[The prepared statement of Mr. Gootnick follows:]



United States Government Accountability Office

Testimony
Before the Committee on Energy and
Natural Resources, U.S. Senate

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COMPACTS OF FREE ASSOCIATION

Issues Associated with Implementation in Palau, Micronesia, and the Marshall Islands

Statement of David Gootnick, Director, International
Affairs and Trade

GAO Highlights

Highlights of GAO-16-550T, a testimony before the Committee on Energy and Natural Resources, U.S. Senate.

Why GAO Did This Study

U.S. compacts with the FSM and the RMI entered into force in 1986 and were amended in 2003. A compact with Palau entered into force in 1994. Legislation pending before the Senate would approve, provide funding for, and make modifications to a 2010 agreement between the U.S. and Palau governments regarding their compact.

Under the compacts, the United States provides each country with, among other things, economic assistance—including grants and contributions to a trust fund; access to certain federal services and programs; and permission for citizens of the three countries to migrate to the United States and its territories without regard to visa and labor certification requirements. Guam, Hawaii, the Commonwealth of the Northern Mariana Islands, and American Samoa, which are designated in law as jurisdictions affected by compact migration, receive grants to aid in defraying the cost of services to migrants.

This testimony examines (1) the potential impact of the proposed legislation approving the 2010 Palau agreement, (2) challenges affecting implementation of the FSM and RMI compacts, and (3) migration from the FSM, RMI, and Palau and its impacts on U.S. areas. For this statement, GAO summarized previous reports issued in 2007 through 2013 and incorporated updated information from Palau, the Department of the Interior, and affected jurisdictions. GAO is not making any new recommendations in this testimony. GAO has made recommendations in its prior reports, some of which have not yet been addressed.

View GAO-16-550T. For more information, contact David B. Gootnick at (202) 512-3149 or gootnickd@gao.gov.

April 5, 2016

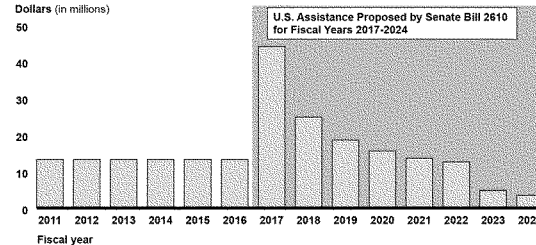
COMPACTS OF FREE ASSOCIATION

Issues Associated with Implementation in Palau, Micronesia, and the Marshall Islands

What GAO Found

If enacted, Senate Bill 2610 (S. 2610) would change the schedule for U.S. assistance to the Republic of Palau and improve prospects for Palau's compact trust fund. S. 2610 would approve a 2010 agreement between the U.S. and Palau governments and provide annual assistance to Palau through 2024. Congress has not approved legislation to implement the 2010 agreement, which scheduled \$216 million in U.S. assistance for fiscal years 2011 through 2024. Since 2011, the United States has provided \$79 million in economic assistance to Palau through annual appropriations. However, this amount was less than anticipated under the agreement and has not included trust fund contributions. S. 2610 would modify the agreement schedule to provide the remaining \$137 million in fiscal years 2017 through 2024, including a \$20 million trust fund contribution in 2017 and smaller contributions in later years (see fig.).

U.S. Assistance to Palau Provided in Fiscal Years 2011-2016 and Proposed by Senate Bill 2610 for Fiscal Years 2017-2024



Source: GAO analysis of Senate bill 2610 (S. 2610), 114th Cong. (2016) (as introduced in the Senate) and Department of the Interior documents. | GAO-16-550T

The Federated States of Micronesia (FSM) and Republic of the Marshall Islands (RMI) face challenges to achieving the compact goals of economic growth and self-sufficiency. GAO previously found that neither country has made significant progress on reforms and compact implementation has been characterized by unreliable performance data and by accountability and oversight challenges.

GAO has previously reported on the growth of migrant populations from Palau, the FSM, and RMI in U.S. areas as well as the reported impacts of these compact migrants. In Guam, Hawaii, and the Commonwealth of the Northern Mariana Islands—areas Congress has deemed affected jurisdictions—compact migrants increased from about 21,000 in 2003 to about 35,000 in 2013. In fiscal years 2004 through 2016, the Department of the Interior provided approximately \$409 million to affected jurisdictions to aid in defraying costs, such as for education and health services, attributable to compact migrants. In contrast, affected jurisdictions estimated costs of \$2.1 billion for these services in 2003 through 2014. However, GAO has noted that these estimates have limitations related to accuracy, documentation, and comprehensiveness.

United States Government Accountability Office

Chairwoman Murkowski, Ranking Member Cantwell, and Members of the Committee:

Thank you for this opportunity to discuss our prior work on U.S. Compacts of Free Association with the Freely Associated States (FAS) of the Pacific—the Republic of Palau, the Republic of the Marshall Islands (RMI), and the Federated States of Micronesia (FSM). In recent years, we have testified on several aspects of compact implementation, including analyses of a September 2010 agreement with the Palau government (2010 agreement) to provide assistance to Palau,¹ challenges to FSM and RMI compact progress and management, and the impact of migration from the FAS to U.S. areas.² As Congress considers legislation approving the 2010 agreement, my statement today will examine the proposed legislation's potential effects on U.S. assistance outlined in the 2010 agreement, including contributions to a trust fund established for Palau under the U.S.–Palau compact (compact trust fund).³ I will also summarize and update our previous reporting on challenges in FSM and RMI compact implementation and on migration from the FAS (compact migration) and its impacts on U.S. areas, including updates on the status of actions to address selected prior recommendations.

To examine the proposed legislation's potential effects on U.S. assistance outlined in the 2010 agreement, we reviewed the bill pending before the

¹The Agreement between the Government of the United States of America and the Government of the Republic of Palau Following the Compact of Free Association Section 432 Review (Sept. 3, 2010).

²See GAO, *Compacts of Free Association: Action Needed to Improve Oversight and Accountability of U.S. Assistance to Micronesia and the Marshall Islands*, GAO-14-243T (Washington, D.C.: Jan. 7, 2014); *Compacts of Free Association: Guidelines Needed to Support Reliable Estimates of Cost Impacts of Growing Migration*, GAO-13-773T (Washington, D.C.: July 11, 2013); *Compact of Free Association: Proposed U.S. Assistance to Palau through Fiscal Year 2024*, GAO-12-796T (Washington, D.C.: Sept. 10, 2012); *Compact of Free Association: Micronesia Faces Challenges to Achieving Compact Goals*, GAO-08-859T (Washington, D.C.: June 10, 2008); *Compact of Free Association: Implementation Activities Have Progressed, but the Marshall Islands Faces Challenges to Achieving Long-Term Compact Goals*, GAO-07-1258T (Washington, D.C.: Sept. 25, 2007).

³See S. 2610, 114th Cong. (as introduced in the Senate) and H.R. 4531, 114th Cong. (as introduced in the House). This testimony discusses only S. 2610.

Senate, Senate Bill 2610 (S. 2610), introduced in March 2016;⁴ analyzed U.S. economic assistance to Palau over the past 6 fiscal years; and updated our projections for Palau's compact trust fund. To discuss challenges in compact implementation, we relied primarily on prior reports on FSM and RMI compact trust fund and grant management that we issued from fiscal year 2007 through fiscal year 2013 as well as agency responses to our prior recommendations. To describe the impacts of compact migration on U.S. areas, we primarily relied on our prior report issued in 2011 and updated our previous analysis of reported cost impacts based on subsequent information obtained from the Department of the Interior (Interior), Hawaii, Guam, and the Commonwealth of the Northern Mariana Islands (CNMI). We also reviewed information provided by Interior to update the status of its response to our previous recommendations to address the impact of compact migration. Detailed information on the scope and methodology for our prior work summarized in this testimony can be found in the reports cited.⁵

We conducted the work on which this statement is based in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

⁴S. 2610 would amend Title I of Public Law 99-658; approve the results of a 15-year review of the compact, including the 2010 agreement; and appropriate funds for the purposes of amended Public Law 99-658, to carry out the agreements resulting from the review. S. 2610 (as introduced in the Senate). S.2610 also extends eligibility of the people, government, and institutions of Palau for certain discretionary programs, including special education and Pell grants, to 2024.

⁵See GAO, *Compacts of Free Association: Micronesia and the Marshall Islands Continue to Face Challenges Measuring Progress and Ensuring Accountability*, GAO-13-675 (Washington, D.C.: Sept. 20, 2013); *Compacts of Free Association: Improvements Needed to Assess and Address Growing Migration*, GAO-12-64 (Washington, D.C.: Nov. 14, 2011); *Compact of Free Association: Palau's Use of and Accountability for U.S. Assistance and Prospects for Economic Self Sufficiency*, GAO-08-732 (Washington, D.C.: June 10, 2008); *Compacts of Free Association: Trust Funds for Micronesia and the Marshall Islands May Not Provide Sustainable Income*, GAO-07-513 (Washington, D.C.: June 15, 2007); *Compacts of Free Association: Micronesia and the Marshall Islands Face Challenges in Planning for Sustainability, Measuring Progress, and Ensuring Accountability*, GAO-07-163 (Washington, D.C.: Dec. 15, 2006); *Compacts of Free Association: Development Prospects Remain Limited for Micronesia and Marshall Islands*, GAO-06-590 (Washington, D.C.: June 27, 2006).

Background

U.S. relations with the FAS began when American forces liberated the islands near the end of World War II. In 1947, the United Nations assigned the United States administering authority over the Trust Territory of the Pacific Islands, which included what are now the Republic of Palau, the FSM, and the RMI. Interior's Office of Insular Affairs (OIA) has primary responsibility for monitoring and coordinating all U.S. assistance to the FAS, and the Department of State is responsible for government-to-government relations. All three compacts give the United States responsibility for the defense of the FAS and provide the United States with 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.⁶

In 2014, Palau had the smallest population of the three nations, but its per capita gross domestic product (GDP) was about four times greater than the FSM's or the RMI's⁷ (see table 1). Economic growth has varied among the three nations. After adjustment for inflation, per capita GDP in the FSM was unchanged from 2004 to 2014 but grew by 11 percent in the RMI and 8 percent in Palau.

Table 1: Freely Associated States' Population, Gross Domestic Product (GDP), and Income, 2014

	Federated States of Micronesia	Republic of the Marshall Islands	Republic of Palau
Population	102,186	53,753	17,708
GDP	\$318.1 million	\$186.7 million	\$249.1 million
Per capita GDP	\$3,115	\$3,474	\$14,066

Source: Graduate School USA, Pacific Islands Training Initiative, Federated States of Micronesia Fiscal Year 2014 Economic Review (September 2015), Republic of the Marshall Islands Fiscal Year 2014 Economic Review (September 2015), Republic of Palau Fiscal Year 2014 Economic Review (August 2015). | GAO-16-550T

⁶See testimony before the Senate Committee on Energy and Natural Resources of Vikram J. Singh, Deputy Assistant Secretary of Defense for South and Southeast Asia, Office of the Secretary of Defense for Policy, July 11, 2013.

⁷Historically, Palau's private sector has relied heavily on foreign workers, mostly from the Philippines. For example, we reported in 2008 that since 1994 foreign workers, as registered with Palau's Social Security Office, had grown to account for half of Palau's total labor force. Because many of these foreign workers send wage income back to their home nations, in 2005 the annual net outflow of remittances from Palau equaled an estimated 5.5 percent of its GDP.

Palau Compact

The U.S. and Palau governments concluded their Compact of Free Association in 1986, and the compact entered into force on October 1, 1994. Key provisions of the Palau compact address the sovereignty of Palau, types and amounts of U.S. assistance, security and defense authorities, and periodic reviews of compact terms. (See app. I for a table summarizing the key provisions of the Palau compact.) In fiscal years 1995 through 2009, the United States provided about \$574 million in compact assistance to Palau, including \$70 million to establish Palau's compact trust fund and \$149 million for road construction.⁸ In addition, U.S. agencies—the Department of Education, the Department of Health and Human Services (HHS), and Interior, among others—provided assistance to Palau through discretionary federal programs as authorized by U.S. legislation and with appropriations from Congress.

On September 3, 2010, the governments of the United States and Palau reached an agreement to extend U.S. assistance to Palau, totaling approximately \$216 million in fiscal years 2011 through 2024.⁹ The planned assistance included extending direct economic assistance to Palau, providing infrastructure project grants and contributions to an infrastructure maintenance fund, establishing a fiscal consolidation fund, and making changes to the compact trust fund.¹⁰

FSM and RMI Compacts

1986 Compact

The 1986 Compact of Free Association between the United States, the FSM, and the RMI provided a framework for the United States to work toward achieving its three main goals: (1) to secure self-government for the FSM and the RMI, (2) to assist the FSM and the RMI in their efforts to advance economic development and self-sufficiency, and (3) to ensure

⁸In this testimony, all dollar amounts are nominal (i.e., not adjusted for inflation) unless otherwise indicated.

⁹Interior reports that the 2010 agreement provides \$229 million to Palau for fiscal years 2010 through 2024. The agreement, signed on September 3, 2010, acknowledged that the United States provided \$13.25 million in economic assistance to Palau in fiscal year 2010. Actual economic assistance provided by the United States to Palau was \$13.147 million in fiscal year 2010. We are reporting the assistance cited in the 2010 agreement for fiscal years 2011 through 2024.

¹⁰GAO-12-798T.

2003 Amended Compacts

certain national security rights for all of the parties. The second goal of the compact—advancing economic development and self-sufficiency for both countries—was to be accomplished primarily through U.S. direct financial payments (to be disbursed and monitored by Interior) to the FSM and the RMI. Under the 1986 compact, U.S. assistance to the FSM and the RMI to support economic development was estimated, on the basis of Interior data, at about \$2.1 billion in fiscal years 1987 through 2003. In addition, other U.S. agencies provided assistance to the FSM and RMI in the form of grants, services, technical assistance, and loans.

In 2003, the United States approved separate amended compacts with the FSM and the RMI.¹¹ The amended compacts provide for direct financial assistance to the FSM and the RMI in fiscal years 2004 through 2023, decreasing in most years, with the amount of the decrements to be deposited in trust funds for the two nations established under the amended compacts. The amended compacts' enabling legislation authorized and appropriated funds for the compact trust funds. The trust funds are to contribute to the economic advancement and long-term budgetary self-reliance of each government by providing an annual source of revenue after fiscal year 2023. After the grants end in fiscal year 2023, trust fund proceeds are to be used for the same purposes as grant assistance, or as mutually agreed, with priorities in education and health care. (See app. II for further information about planned U.S. trust fund contributions and grants to the FSM and RMI through fiscal year 2023.)

The amended compacts identify the additional 20 years of assistance—primarily in the form of annual sector grants and contributions to the compact trust fund for each country—as intended to assist the FSM and RMI governments in their efforts to promote the economic advancement and budgetary self-reliance of their people. The amended compacts and their subsidiary agreements, along with the countries' development plans, target the grant assistance to six sectors—education, health, public infrastructure, the environment, public sector capacity building, and private sector development—prioritizing two sectors, education and health. Interior projects that it will provide the FSM \$2.1 billion under the compact, while economic assistance and trust fund contributions to the

¹¹Compact of Free Association Amendments Act of 2003, Pub. L. No. 108-188, December 17, 2003. In this testimony, the act is referred to as "the amended compacts' enabling legislation."

RMI will total \$1 billion in fiscal years 2019 through 2023.¹² The amended compacts also provided for a joint economic management committee for the FSM and a joint management and financial accountability committee for the RMI to promote the effective use of compact funding. In practice, the committees allocate grants and attach terms and conditions to grant awards through resolutions, which the committees discuss and vote on at their meetings.

OIA has responsibility for administration and oversight of the FSM and RMI compact grants.¹³ The public law implementing the amended compacts required the President to submit annual reports to Congress regarding the FSM and RMI, a reporting requirement that has been delegated to the Secretary of the Interior. Every 5 years, these annual reports are to include additional information, including findings and recommendations, pertaining to reviews that are required by law to be conducted at 5-year intervals.¹⁴

Compact Migration

The compacts provide for FAS citizens to enter and reside indefinitely in the United States, including its territories, without regard to the Immigration and Nationality Act's visa and labor certification requirements. Since the compacts went into effect, thousands of migrants from the FAS have established residence in U.S. areas, particularly in Guam, Hawaii, and the CNMI. In the 2003 amended compacts' enabling legislation, Congress authorized and appropriated \$30 million annually for 20 years for grants to Guam, Hawaii, the CNMI, and American Samoa, which it deemed affected jurisdictions, and authorized additional

¹²The RMI amended compact also continued the U.S. defense relationship with the RMI, including a new agreement providing U.S. military access to Kwajalein Atoll in the RMI through 2086.

¹³OIA is also responsible for overseeing the use of a supplemental education grant that the amended compacts' implementing legislation authorized through 2023. In addition, other federal agencies provide other program assistance to the FSM and RMI.

¹⁴Under the amended compacts' enabling legislation, the U.S. government is to conduct 5-year reviews of the terms of the compacts and consider the overall nature and development of the U.S.-FSM and U.S.-RMI relationships, including general social, political, and economic conditions; the use and effectiveness of U.S. financial, program, and technical assistance; the status of economic policy reforms; the status of efforts to increase investment; and recommendations on ways to increase the effectiveness of U.S. assistance and to meet overall performance objectives. Compact of Free Association Amendments Act of 2003, Pub. L. No. 108-188, § 104(h), December 17, 2003.

appropriations. The \$30 million annual appropriation is to aid in defraying costs incurred by these jurisdictions as a result of increased demand for health, educational, social, or public safety services, or for infrastructure related to such services, due to the residence of compact migrants in their jurisdiction.¹⁵ Congress directed Interior to divide the \$30 million compact impact grants among the affected jurisdictions in proportion to the most recent enumeration of those compact migrants residing in each jurisdiction. The U.S. Bureau of the Census (Census) conducted these enumerations in 2003, 2008, and 2013.

**Proposed Legislation
Would Change Palau
Assistance Schedule
and Improve
Prospects for
Compact Trust Fund**

If enacted, S. 2610 would approve, provide funding for, and make modifications to the September 2010 agreement between the governments of the United States and Palau regarding their compact. S. 2610 would not greatly alter the total U.S. assistance to Palau for fiscal years 2011 through 2024 specified in the 2010 agreement. However, S. 2610 would make changes to the provision of assistance outlined in the agreement in line with the reduction in U.S. assistance in fiscal years 2011 through 2016 from that planned in the 2010 agreement. The annual trust fund contributions and withdrawal conditions that S. 2610 details would improve the fund's prospects for sustaining scheduled payments through fiscal year 2044.

**S. 2610 Maintains
Assistance to Palau at
About \$216 Million but
Would Modify Assistance
Schedule**

Under S. 2610, U.S. assistance to Palau would total about \$216 million—approximately equal to the amount specified in the 2010 agreement—for fiscal years 2011 to 2024.¹⁶ However, after 2016, larger amounts of assistance would be provided under S. 2610 than the annual amounts scheduled under the 2010 agreement. Under the 2010 agreement, which has not been implemented, annual U.S. assistance to Palau would have

¹⁵In this testimony, "compact migrants" refers to persons from the FSM, the RMI, and Palau and their children younger than 18 years who, pursuant to the compacts, were admitted to, or have resided in, U.S. areas since 1986 for the FSM and the RMI and 1994 for Palau.

¹⁶Other provisions in the 2010 agreement would define reporting and auditing requirements and passport requirements. The 2010 agreement would require that, by 2018, Palau resolve all deficiencies identified in annual single audit reports, which are required by the compact's fiscal procedures agreement, such that no single audit report recommendations or deficiencies dating from before 2016 remain. In addition, the 2010 agreement alters the entry procedures for citizens of Palau visiting the United States, requiring them to present a valid machine-readable passport to travel to the United States.

declined over 14 years from roughly \$28 million in 2011 to \$2 million in 2024. The 2010 agreement includes the following:

- *Direct economic assistance* (\$107.5 million). The 2010 agreement would provide direct economic assistance—budgetary support for Palau government operations and specific needs such as administration of justice and public safety, health, and education—of \$13 million in 2011, declining to \$2 million by 2023. The 2010 agreement also calls for the U.S. and Palau governments to establish a five-member Advisory Group to provide annual recommendations and timelines for economic, financial, and management reforms. The Advisory Group must report on Palau's progress in implementing these or other reforms, prior to annual U.S.–Palau economic consultations.¹⁷ These consultations are to review Palau's progress in achieving reforms¹⁸ such as improving fiscal management, reducing the public sector workforce and salaries, reducing government subsidization of utilities, and implementing tax reform. If the U.S. government determines that Palau has not made significant progress in implementing meaningful reforms, direct assistance payments may be delayed until the U.S. government determines that Palau has made sufficient progress.
- *Infrastructure projects* (\$40 million). Under the 2010 agreement, the U.S. government would provide U.S. infrastructure project grants to Palau for mutually agreed infrastructure projects—\$8 million in 2011 through 2013, \$6 million in 2014, and \$5 million in both 2015 and 2016. The 2010 agreement requires Palau to provide a detailed project budget and certified scope of work for any projects receiving these funds.

¹⁷The 2010 agreement requires that Palau undertake economic, legislative, financial, and management reforms giving due consideration to those identified by the International Monetary Fund, the Asian Development Bank, and other creditable institutions, organizations, or professional firms.

¹⁸The compact requires that the United States and Palau consult annually regarding Palau's economic activities and progress in the previous year, as described in a report that Palau must submit each year. In 2008, we reported that Palau had met reporting conditions associated with direct assistance but that, contrary to compact requirements, the bilateral economic consultations had not occurred on an annual basis, and had been informal and resulted in no written records. See GAO-08-732.

-
- *Infrastructure maintenance fund (\$28 million).* The 2010 agreement stipulates that the United States make contributions to a fund to be used for maintenance of U.S.-financed major capital improvement projects, including the Compact Road and Airai International Airport.¹⁹ From 2011 through 2024, the U.S. government would contribute \$2 million annually, and the Palau government would contribute \$600,000 annually to the fund.²⁰
 - *Fiscal consolidation fund (\$10 million).* The 2010 agreement states that the United States would provide grants of \$5 million each in 2011 and 2012, respectively, to help the Palau government reduce its debts. Unless agreed to in writing by the U.S. government, these grants cannot be used to pay any entity owned or controlled by a member of the government or his or her family, or any entity from which a member of the government derives income. U.S. creditors must receive priority, and the government of Palau must report quarterly on the use of the grants until they are expended.
 - *Trust fund (\$30.25 million).* The 2010 agreement provides for the United States to contribute \$30.25 million to the fund from 2013 through 2023. The government of Palau would reduce its previously scheduled withdrawals from the fund by \$89 million.²¹ From 2024 through 2044, Palau can withdraw up to \$15 million annually, as originally scheduled. Moneys from the trust fund account cannot be spent on state block grants, operations of the office of the President of Palau, the Olibiil Era Kelulau (Palau national congress), or the Palau judiciary. Palau must use \$15 million of the combined total of the trust

¹⁹In 2008, we reported that Palau and U.S. officials had expressed concerns about Palau's ability to maintain the Compact Road in a condition that would allow for the desired economic development. We also reported that Palau made initial efforts to maintain the road, but at levels that would cause the road to deteriorate over time and would not provide the economic development benefits envisioned for the people of Palau. See GAO-08-732.

²⁰Under the compact, Palau owes the United States a total of \$3 million. Under the 2010 agreement, Palau would deposit \$3 million in the infrastructure maintenance fund but not expend it. Any future income derived from the \$3 million must be used exclusively for the maintenance of the Compact Road.

²¹Under the 2010 agreement, Palau would withdraw \$5 million annually through 2013 and gradually increase its maximum withdrawal from \$5.25 million in 2014 to \$13 million in 2023.

fund disbursements and direct economic assistance exclusively for education, health, and the administration of justice and public safety.

If enacted, S. 2610 would increase the total annual assistance to Palau in fiscal years 2017 through 2024 over that which was scheduled in the 2010 agreement. This increase would be in line with the lower than scheduled amount of annual U.S. assistance that has been provided to Palau since 2011. Specifically, Congress has not passed legislation to approve the agreement, and Interior has provided Palau with a total of \$78.88 million in direct economic assistance from annual appropriations—\$13.147 million in each fiscal year from 2011 through 2016. The amount provided was approximately \$67 million less than the amount outlined for those years in the 2010 agreement, and it included no contributions to the Palau trust fund. S. 2610 outlines changes in the schedule for contributing approximately \$137 million with larger total contributions in fiscal years 2017 through 2024, which would amount to approximately the same total assistance specified in the 2010 agreement, \$216 million.²² S. 2610 would make the following changes to the contribution schedule:

- Rescheduling U.S. contributions to Palau's trust fund, with a \$20 million contribution in fiscal year 2017, \$2 million annually through fiscal year 2022, and \$250,000 in fiscal year 2023.
- Rescheduling U.S. contributions to Palau's infrastructure maintenance fund and fiscal consolidation fund, infrastructure project grants, and direct economic assistance.

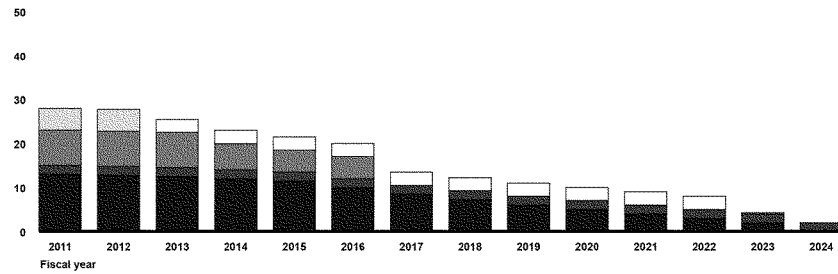
Figure 1 contrasts the scheduled annual assistance to Palau under the 2010 agreement with the contribution schedule under S. 2610. (See app. III for additional details on the schedule of U.S. assistance to Palau in the 2010 agreement and as modified in the provisions of S. 2610.)

²²If S. 2610 is enacted, the total amount of direct economic assistance provided to Palau in fiscal years 2011 through 2024, including the \$78.88 million of direct economic assistance provided by Interior in fiscal years 2011 through 2016, would total \$100,000 more than the amount scheduled in the 2010 agreement for fiscal years 2011 through 2024. According to Interior, the difference between the total direct economic assistance detailed in S. 2610 and the amount scheduled in the 2010 agreement reflects the fact that Palau received \$13.147 million in fiscal year 2010, whereas the 2010 agreement indicated that the United States would provide Palau \$13.25 in economic assistance in fiscal year 2010.

Figure 1: U.S. Assistance to Palau for Fiscal Years 2011–2024

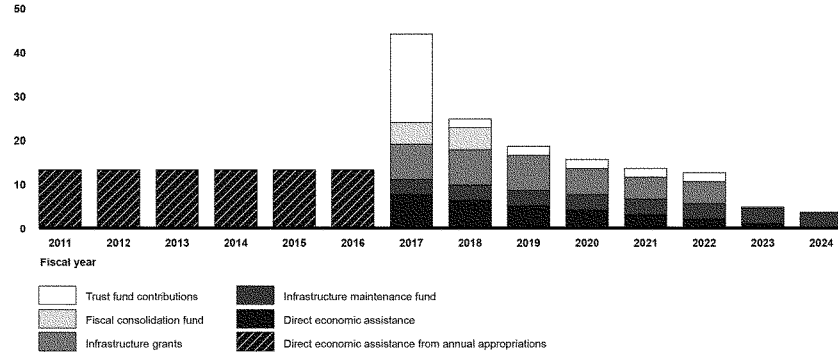
As outlined in the 2010 agreement

Dollars (in millions)



As provided by annual appropriations and outlined in S. 2610

Dollars (in millions)



Source: GAO analysis of Senate bill 2610 (S. 2610), 114th Cong. (2016) (as introduced in the Senate); Department of the Interior documents; and the Agreement between the Government of the United States of America and the Government of the Republic of Palau Following the Compact of Free Association Section 432 Review (Sept. 3, 2010) (the 2010 agreement). | GAO-16-550T

Notes: Years are fiscal (Oct. 1–Sept. 30) and dollar amounts are nominal (i.e., unadjusted for inflation). Compact federal services and discretionary federal programs are not included in this analysis.

S. 2610 would also place conditions on the provision of assistance to Palau. Under the bill, if Palau withdraws more than \$5 million from the trust fund in fiscal year 2016 or more than \$8 million in fiscal year 2017, additional assistance would be withheld until Palau reimbursed the trust fund for the amounts that exceed the \$5 million for fiscal year 2016 or the \$8 million for fiscal year 2017.²³ S. 2610 would not otherwise alter the withdrawal schedule outlined in the 2010 agreement. In the 2010 agreement, Palau agreed to a maximum withdrawal of \$5 million annually in fiscal years 2011 through 2013, with the maximum subsequently increasing in increments through fiscal year 2023 to \$13 million. Under the 2010 agreement, Palau agreed to withdraw up to \$6.75 million in fiscal year 2016; under S. 2610, Palau would be able to withdraw up to \$5 million in fiscal year 2016 without having assistance withheld.²⁴ Furthermore, Palau did not commit to a withdrawal schedule beyond 2023 in the 2010 agreement. However, the compact details an annual distribution goal of \$15 million for 2024 through 2044 from the trust fund.

**Proposed Legislation
Would Improve Long-Term
Prospects for Palau's Trust
Fund**

The contributions to, and conditions on withdrawals from, Palau's compact trust fund that S. 2610 outlines would improve the fund's prospects for sustaining payments beyond fiscal year 2044. At the end of fiscal year 2015, the trust fund had a balance of nearly \$184 million. With or without the contributions and conditions that S. 2610 would provide, the trust fund would be sustained through fiscal year 2044 if it maintains the 7.6 percent compounded annual rate of return it earned from inception through fiscal year 2015. However, given this historical rate of return, the account balance at the end of fiscal year 2044 would be dramatically lower without the contributions and conditions outlined in S. 2610—about \$32 million—than it would be with them—about \$521 million.²⁵ The balances with and without these contributions equal \$18

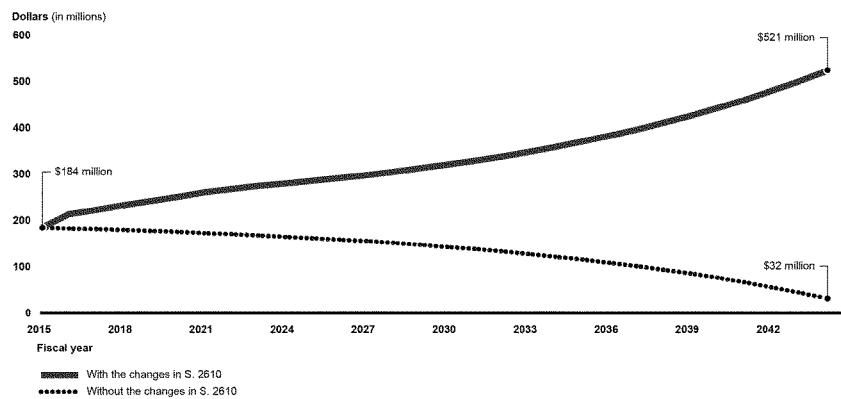
²³Funding for the trust fund, the infrastructure maintenance fund, the fiscal consolidation fund, and direct economic assistance would be withheld.

²⁴Under S. 2610, Palau would be able to withdraw a maximum of \$8 million in fiscal year 2017—the same limit specified by the 2010 agreement—without having assistance withheld.

²⁵This analysis assumes a rate of return of 7.6 percent, the historical rate that the fund has earned since its inception.

million and \$292 million, respectively, in 2015 inflation-adjusted dollars.²⁶ Figure 2 compares the fund balance at the historical rate of return with and without the changes outlined in S. 2610.

Figure 2: Projected Palau Trust Fund Balance in Fiscal Years 2015–2044 at Historical Rate of Return with and without Changes Outlined in S. 2610



Source: GAO analysis of Palau trust fund data and Senate bill 2610 (S. 2610), 114th Cong. (2016) (as introduced in the Senate). | GAO-16-550T

Notes: Years are fiscal (Oct. 1–Sept. 30) and dollars amounts are nominal (i.e., unadjusted for inflation). The historical rate of return is 7.6 percent. The analysis shown is based on the trust fund's balance as of September 30, 2015, and assumes enactment of the provisions of S. 2610.

In addition, with the changes in S. 2610, Palau's trust fund would be able to sustain scheduled payments through 2044 given varying rates of return in fiscal years 2015 through 2044.

²⁶For all inflation-adjusted numbers in this report, we calculated the price deflators for fiscal years 2016 to 2026 on the basis of the Congressional Budget Office's gross domestic product price index projection [see Congressional Budget Office, *Budget and Economic Outlook: 2016 to 2026* (January 2016)]. Our calculation for fiscal years 2027 through 2044 assumed that the price deflators would remain unchanged from 2026.

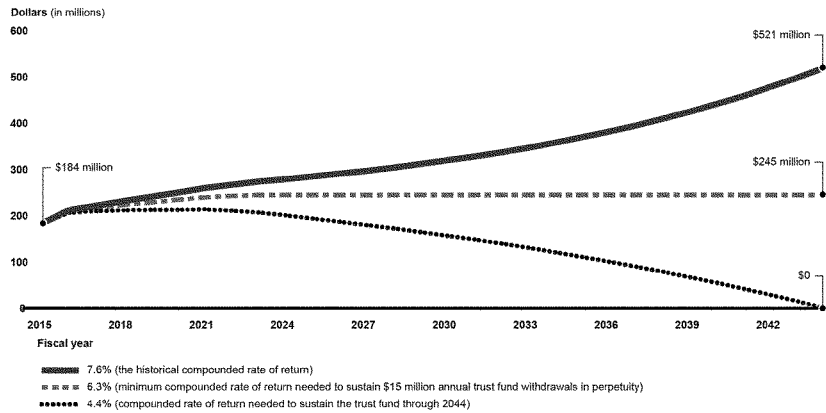
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- With its historical 7.6 percent annual compounded return, Palau's trust fund would sustain its annual withdrawal schedule and continue to grow beyond 2044, with a balance of \$521 million at the end of fiscal year 2044.²⁷ (The 2044 balance would be \$292 million in 2015 inflation-adjusted dollars.)
 - With at least a 6.3 percent annual compounded rate of return, Palau's trust fund would sustain its annual withdrawal schedule, with a balance of \$245 million or more at the end of fiscal year 2044. (The 2044 balance would be \$137 million in 2015 inflation-adjusted dollars.)
 - With a 4.4 percent annual compounded return, Palau's trust fund would sustain its annual withdrawal schedule through 2044, with a balance of \$0 at the end of fiscal year 2044.²⁸

Figure 3 shows the projected trust fund balances with these varying assumed rates of return.

²⁷At its inception, the trust fund's distribution goals were based on the assumption that the fund would have an annual rate of return of 12.5 percent.

²⁸If the fund earns a 4.4 percent annual compounded return but does not receive the contributions outlined in § 2610, the fund will be depleted by fiscal year 2033 rather than sustained through fiscal year 2044.

Figure 3: Projected Palau Trust Fund Balances in Fiscal Years 2015–2044 under the Contribution Schedule Outlined in S. 2610, at Varying Assumed Rates of Return



Source: GAO analysis of Palau trust fund data and Senate bill 2610 (S. 2610), 114th Cong. (2016) (as introduced in the Senate). | GAO-16-550T

Notes: Years are fiscal (Oct. 1–Sept. 30) and dollar amounts are nominal (i.e., unadjusted for inflation). The analysis shown is based on the fund's balance as of September 30, 2015, and assumes enactment of the provisions of S. 2610.

FSM and RMI Have Faced Critical Challenges to Achieving Long-Term Development Goals

As we have previously reported, in implementing their amended compacts with the United States, the FSM and RMI have faced a number of critical challenges that could affect their ability to achieve the compacts' long-term development goals.²⁹ Both countries have historically had limited prospects for achieving economic growth. Moreover, compact implementation by the FSM, RMI, and U.S. governments has displayed weaknesses that have affected their ability to allocate resources appropriately as well as provide accountability for, and oversight of, the use of compact grants, which are scheduled to end in 2023.

²⁹GAO, *Compacts of Free Association: Micronesia and the Marshall Islands Continue to Face Challenges Measuring Progress and Ensuring Accountability*, GAO-13-675 (Washington, D.C.: Sept. 20, 2013).

**FSM and RMI Prospects
for Economic Growth and
Self-Sufficiency Are
Limited**

We previously reported that the FSM's and RMI's economies were largely dependent on government spending of foreign assistance, including U.S. assistance under the amended compacts.³⁰ Because of the scheduled annual decrements of compact grant funding, annual grant assistance to the FSM and RMI will diminish over the funding period.³¹ In addition, neither country had made significant progress in implementing reforms needed to improve tax income or increase private sector investment opportunities. Moreover, tourism and fishing—private sector industries that both countries have identified as having growth potential—faced significant constraints, such as geographic isolation and lack of tourism infrastructure. In 2011, Interior's annual report to Congress regarding the FSM and RMI noted that the FSM faced numerous challenges to private sector economic growth and suggested that a consequence of declining U.S. grant assistance could be a decline in living standards or migration to the United States.³² At that time, Interior found that economic prospects for the RMI remained uncertain, although the RMI had experienced growth in fisheries and tourism. Interior expected the continuation of migration from the RMI to the United States.

We reported in 2007 that uncertainty existed regarding the sustainability of the FSM's and RMI's compact trust funds as sources of revenue after the amended compacts end.³³ We noted that the countries' compact trust funds' balances in 2023 could vary widely owing to market volatility and choice of investment strategy and that, as a result, the compact trust funds might be unable to generate disbursements in some years, affecting the governments' ability to provide services after U.S. contributions to the trust funds end. More recent analyses of the FSM and

³⁰GAO-07-1258T, GAO-08-859T.

³¹Under the amended FSM and RMI compacts, U.S. direct financial assistance is scheduled to decrease in most years, with the amounts of the decrements to be deposited in the compact trust funds. See app. II for more information about the scheduled decrements in U.S. compact grant funding and increments in U.S. trust fund contributions.

³²U.S. Department of the Interior, Assistant Secretary for Insular Areas, Office of Insular Affairs, *Report to the Congress on the Compacts of Free Association with the Federated States of Micronesia (FSM) and the Republic of the Marshall Islands (RMI) for Fiscal Years 2009 and 2010* (Washington, D.C.: November 2011). This is Interior's most recent annual report to Congress regarding the FSM and RMI.

³³GAO, *Compacts of Free Association: Trust Funds for Micronesia and the Marshall Islands May Not Provide Sustainable Income*, GAO-07-513 (Washington, D.C.: June 15, 2007).

RMI trust funds have highlighted the challenge of ensuring trust fund disbursements and proposed technical revisions to trust fund procedures.³⁴ In 2015, the Asian Development Bank (ADB) projected that the probability of FSM and RMI trust funds' maintaining their value through 2050 was 22 and 49 percent, respectively. The ADB projects significant fluctuations in FSM and RMI annual drawdowns and proposes revised trust fund withdrawal rules.³⁵ Moreover, 2015 economic reviews of the FSM and RMI compacts funded by Interior have projected that both trust funds will be underfunded and distribution shortfalls will be frequent and have recommended several changes to the distribution mechanism.³⁶ In its September 2012 comments on the U.S. government's first 5-year review of the amended compact, the RMI government made specific recommendations to improve compact performance, including technical revisions to trust fund procedures.³⁷

³⁴The trust fund agreements between the United States and the FSM and the RMI allowed for the agreements to be amended at any time in writing with mutual consent of the governments. However, the legislation implementing the amended compacts requires that any amendment, change, or termination of the trust fund agreements shall not enter into force until after Congress has incorporated it into an act of Congress.

³⁵Asian Development Bank, *Trust Funds and Fiscal Risks in the North Pacific: Analysis of Trust Fund Rules and Sustainability in the Marshall Islands and the Federated States of Micronesia* (Manila, the Philippines: 2015).

³⁶Graduate School USA, Pacific Islands Training Initiative, *Federated States of Micronesia Fiscal Year 2014 Economic Review* (September 2015), *Republic of the Marshall Islands Fiscal Year 2014 Economic Review* (September 2015). The reports, prepared under a contract with Interior, acknowledge that implementation of their recommendations requires congressional action.

³⁷Government of the United States of America, *First Five-Year Review of the Compact of Free Association, as Amended, Between the Governments of the United States and the Republic of the Marshall Islands: Report to the Congress of the United States of America*. Interior submitted the first 5-year review (fiscal years 2004–2008) of the FSM and RMI compacts to Congress on January 23, 2013. The second 5-year reviews (fiscal years 2009–2013) had not been submitted to Congress as of March 2016.

Implementation of FSM and RMI Compacts Has Shown Weaknesses

During the amended compacts' first 10 years, the FSM and RMI joint management and accountability committees directed the majority of compact grant assistance to the education and health sectors, which the compact agreements prioritized.³⁸ As we previously reported, weaknesses in FSM, RMI, and U.S. implementation of the compacts have limited the governments' ability to ensure the effective use of grant funds.³⁹

- **Lack of reliable performance data.** Ongoing problems with the reliability of data on grant performance in the education and health sectors have prevented both countries from demonstrating and assessing progress toward compact goals for these sectors and from using the data to set priorities and allocate resources to improve performance.⁴⁰
- **Challenges to ensuring accountability for compact grant funding.** The FSM's and RMI's single audits for fiscal years 2006 through 2011 indicated challenges to ensuring accountability of compact and noncompact U.S. funds in the FSM and RMI. For example, these governments' single audits showed repeat findings and persistent problems in noncompliance with U.S. program requirements, such as accounting for equipment.⁴¹ For this hearing, we have updated our prior analysis of audit reports and have found that accountability remains a concern. For example, while the RMI met the single audit reporting deadline for fiscal years 2006 through 2010, it submitted the required reports for fiscal years 2011 through 2014 after the deadline.

³⁸In fiscal years 2004 through 2013, allocations to the education and health sectors represented about 59 percent of compact grant assistance to the FSM and about 57 percent of compact grant assistance to the RMI. Allocations to the infrastructure sector also represented significant percentages of compact grant assistance during that period—29 percent in the FSM and 33 percent in the RMI. See GAO-13-675, app. V.

³⁹GAO-13-675.

⁴⁰In 2013, we recommended that Interior take all necessary steps to ensure that FSM and RMI produce reliable data to track progress in the education and health sectors. As of April 2015, neither the FSM nor RMI had developed reliable health and education performance data.

⁴¹In 2013, we recommended that Interior consult with other grantor agencies to determine whether the FSM and RMI meet criteria to be designated as high-risk grant recipients or whether other steps should be taken to improve accountability. As of September 2015, Interior had consulted with other federal agencies about designating the FSM and RMI as high-risk grantees but had not issued such a designation.

Moreover, the 2014 reports for both countries identified several material weaknesses, such as an inability to account properly for equipment.⁴²

- **Limited oversight of compact grants.** OIA's oversight of grants under the amended compacts has been limited by staffing shortages. As we have previously reported, OIA officials noted that budget constraints, as well as decisions to use available funding for other hiring priorities, were among factors that prevented OIA from hiring staff that it had projected as necessary to ensure effective oversight for the amended compacts. These staffing shortages have affected OIA's ability to ensure that compact funds are used efficiently and effectively.⁴³ According to FSM and RMI officials, staffing constraints, as well as a lack of authority to enforce compact requirements, hampered oversight by the FSM and RMI offices responsible for compact implementation.

Compact Migrant Populations and Reported Cost Impacts Are Growing

The population of FAS migrants in U.S. areas has continued to grow. We have previously reported that, while the majority of compact migrants live in three affected jurisdictions—Hawaii, Guam, and the CNMI—migrants are also present in several other U.S. states.⁴⁴ The three affected jurisdictions have reported more than \$2 billion in costs associated with providing education, health, and social services to compact migrants and have called for additional funding and changes in law to address compact migrant cost impacts.

⁴²Federated States of Micronesia National Government, *Report on the Audit of Financial Statements in Accordance with OMB Circular A-133, Year Ended September 30, 2014*; Republic of the Marshall Islands, *Basic Financial Statements, Additional Information and Independent Auditors' Report, Year Ended September 30, 2014*.

⁴³In 2013, we recommended that Interior take actions to correct the staffing shortage related to compact grant implementation and oversight. However, Interior has not yet addressed this recommendation.

⁴⁴The amended compacts' enabling legislation defined American Samoa, in addition to Guam, Hawaii, and the CNMI, as an affected jurisdiction. However, because of the small number of compact migrants enumerated by Census in American Samoa—10 in the 2003 enumeration, 15 in the 2008 enumeration, and 25 in the 2013 enumeration—this testimony does not address compact impacts in American Samoa.

Thousands of Compact Migrants Live in U.S. Areas, with the Majority in Three Affected Jurisdictions

Since the signing of the Compacts of Free Association, thousands of FAS citizens have migrated to U.S. areas. According to Census enumerations of migrants in three affected jurisdictions—Guam, Hawaii, and the CNMI—the total number of compact migrants in those jurisdictions increased from about 21,000, estimated in the 2003 enumeration, to about 35,000, estimated in the 2013 enumeration⁴⁵ (see fig. 4). In 2011, Census estimated that roughly 56,000 compact migrants—nearly a quarter of all FAS citizens—were living in U.S. areas in 2005 to 2009.⁴⁶ About 58 percent of compact migrants lived in Hawaii, Guam, and the CNMI at that time.⁴⁷ Nine mainland U.S. states—California, Washington, Oregon, Utah, Oklahoma, Florida, Arkansas, Missouri, and Arizona—each had an estimated compact migrant population of more than 1,000. (See app. IV for further information about the estimated compact migrant populations.) Approximately 68 percent of compact migrants were from the FSM, 23 percent were from the RMI, and 9 percent were from Palau.⁴⁸

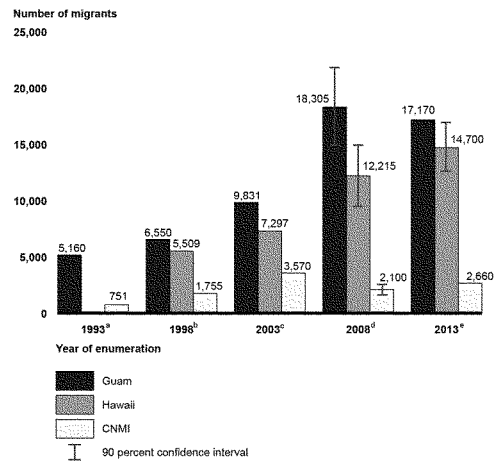
⁴⁵We noted in GAO-12-64 that Census approaches to enumerating compact migrants have both strengths and limitations.

⁴⁶GAO-12-64.

⁴⁷In addition to U.S. government efforts to enumerate the compact migrant population, the government of the FSM contracted for a separate survey of FSM compact migrants that captured population as well as demographic data. The FSM government report differed from our report in its estimate of the number of migrants. However, the report similarly found that more than half of FSM migrants were in affected jurisdictions. The report also found that outmigration from the FSM was ongoing. See Francis X. Hezel and Michael J. Levin, *Survey of Federated States of Micronesia Migrants in the United States including Guam and the Commonwealth of Northern Mariana Islands (CNMI)* (March–July 2012).

⁴⁸GAO-12-64.

Figure 4: Compact Migrant Population Estimated by 1993–2013 Census Enumerations in Guam, Hawaii, and the Commonwealth of the Northern Mariana Islands (CNMI)



Source: GAO analysis of Census surveys. | GAO-16-550T

^aCensus conducted the Guam survey in 1992 and the CNMI survey in 1993; Hawaii was not surveyed at that time. Because the Palau compact did not enter into force until 1994, Palauans are not included in the 1992 or 1993 totals.

^bGuam and Hawaii were surveyed in 1997, and the CNMI was surveyed in 1998.

^cThe 2003 survey was conducted in the summer of 2003. Census did not use a probability sample for surveys before 2008; therefore, those surveys do not have an associated confidence interval.

^dWithin Census's 90 percent confidence interval, the 2008 estimate for Guam ranges from 14,866 to 21,744; for Hawaii, from 9,479 to 14,951; and for the CNMI, from 1,589 to 2,611. The 2008 Hawaii estimate used 2005–2007 Census American Community Survey data. The Guam and CNMI surveys were conducted in 2008. The decline in compact migrants in the CNMI from 2003 to 2008 mirrored a general decline in the CNMI population overall.

^eCensus's 90 percent confidence interval for the 2013 Hawaii estimate ranges from 12,459 to 16,941. The 2013 enumeration used data from previous years: 2009–2011 Census American Community Survey data from Hawaii and 2010 Census data from Guam and CNMI. Because the 2013 Guam and CNMI figures are derived from a census as opposed to a survey, there is not an applicable margin of error.

Three Affected Jurisdictions Report That Cost Impacts Far Exceed Compact Impact Grants

In fiscal years 2004 through 2016, affected jurisdictions received approximately \$409 million in compact impact grants to aid in defraying their costs due to the residence of compact migrants. In fiscal years 2004 through 2016, Interior distributed a portion of the \$30 million annual appropriation that was authorized and appropriated in the amended compacts' enabling legislation to each affected jurisdiction according to the size of its compact migrant population. Since fiscal year 2012, as authorized by the amended compacts' enabling legislation, Interior has also provided compact impact grants to affected jurisdictions from annual appropriations,⁴⁹ which it has also divided according to the size of their migrant populations. Table 2 shows the compact impact grants that Guam, Hawaii, and the CNMI received in fiscal years 2004 through 2016.

Table 2: Compact Impact Grants to Guam, Hawaii, and CNMI, Fiscal Years 2004–2016

Dollars in millions

	Guam	Hawaii	CNMI	Total
Grants authorized and appropriated by amended compacts' enabling legislation	\$199.5	\$145.0	\$45.2	\$389.8
Additional grants, as authorized by amended compacts' enabling legislation	\$10.3	\$7.4	\$1.3	\$19.0
Total	\$209.8	\$152.4	\$46.5	\$408.7

Source: GAO analysis of data from the U.S. Department of the Interior, Office of Insular Affairs. | GAO-16-550T

Legend: CNMI = Commonwealth of the Northern Mariana Islands

Note: Numbers in columns may not sum to totals because of rounding.

The affected jurisdictions have continued to report to Interior that their cost impacts from compact migrants greatly exceed the amount of the compact impact grants. In 2003 through 2014, Guam reported \$825 million in costs, Hawaii reported \$1.2 billion, and the CNMI reported \$89

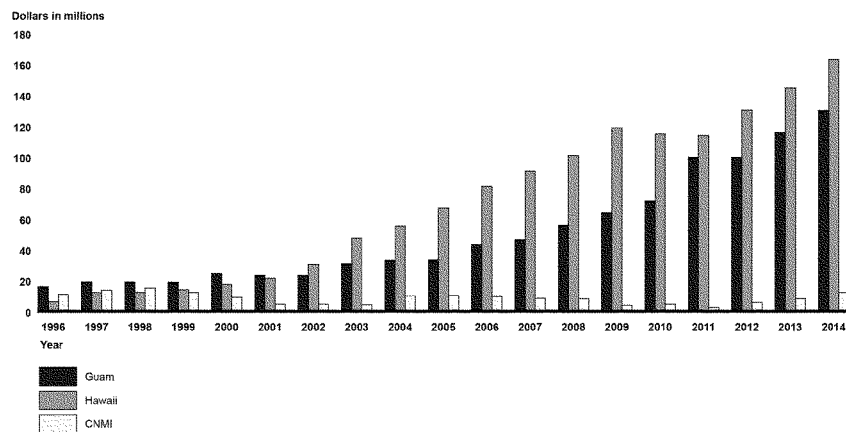
⁴⁹The amended compacts' enabling legislation authorized to be appropriated to the Secretary of the Interior, for each of fiscal years 2004 through 2023, such sums as may be necessary for grants to the governments of Guam, the State of Hawaii, the CNMI, and American Samoa, as a result of increased demands placed on educational, social, or public safety services or infrastructure related to service due to the presence in Guam, Hawaii, the CNMI, and American Samoa of compact migrants from the three FAS. Compact of Free Association Amendments Act of 2003, Pub. L. No. 108-188 (Dec. 17, 2003), §104(e)(10).

million.⁵⁰ (Fig. 5 shows the affected jurisdictions' reported annual costs of services to compact migrants.) These affected jurisdictions reported costs for the services identified in the amended compacts' enabling legislation: educational, health, public safety, and social services. Education costs accounted for the largest share of reported expenses in all three jurisdictions, and health care costs accounted for the second largest share. Officials in Guam and Hawaii also cited compact migrants' limited eligibility for a number of federal programs, particularly Medicaid, as a key contributor to the cost of compact migration borne by the affected jurisdictions.⁵¹

⁵⁰Guam reported an additional \$149 million in compact impact costs in 2015, and the CNMI reported an additional \$6 million. Hawaii has not reported compact impact costs for 2015.

⁵¹When the compacts were signed, FAS citizens were eligible for Medicaid; however, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 removed this eligibility. For further information, see GAO, *U.S. Insular Areas: Multiple Factors Affect Federal Health Care Funding*, GAO-06-75 (Washington, D.C.: Oct. 14, 2005).

Figure 5: Compact Migrant Cost Impacts Reported by Three Affected Jurisdictions, 1996–2014



Source: GAO analysis of affected jurisdictions' reported compact impact costs. | GAO-16-550T

Note: Guam's January 2016 reporting of compact impact costs includes revisions to data reported in previous years. Data shown for Hawaii and CNMI do not include revisions to data from previous years.

We have previously found that the three affected jurisdictions' cost estimates contained a number of limitations with regard to accuracy, adequate documentation, and comprehensiveness.⁵² These limitations affect the reported costs' credibility and prevent a precise calculation of total compact cost impact on the affected jurisdictions. For example, some jurisdictions did not accurately define compact migrants according to the criteria in the amended compacts' enabling legislation, account for federal funding that supplemented local expenditures, or include revenue received from compact migrants. Many local government agencies did not include capital costs in their impact reporting, which may have led to an understatement of costs. We recommended that the Secretary of the

⁵²GAO-12-64.

Interior disseminate guidelines to the affected jurisdictions that adequately address concepts essential to producing reliable impact estimates and that the Secretary call for their use in developing compact impact reports.⁵³ In a February 2015 report to Congress on the Governors' compact impact reports,⁵⁴ Interior noted that it had concerns about the uniformity of compact impact reports, including the use of different data gathering and formats by Guam and Hawaii. Interior reiterated those concerns in its January 2016 report to Congress.⁵⁵ While Interior developed a draft of compact impact reporting guidelines in 2014, it has not disseminated them to affected jurisdictions. In March 2016, Interior stated that OIA, in consultation with the leaders from the affected jurisdictions, would develop guidelines for measuring compact impact and that the guidelines would be completed in December 2016.

Since we reported on compact migration impacts in 2001, the three affected jurisdictions have continued to express concerns that they do not receive adequate compensation for the growing cost of providing government services to compact migrants.⁵⁶ For example, in his 2015 State of the Island address, the Governor of Guam noted that compact impact reimbursement had been a topic of disagreement for decades and criticized "the federal government's inability to live up to its promise" to help provide services to the compact migrant population. Similarly, in Hawaii's August 2015 cost impact report to Interior, the Governor of Hawaii noted that Hawaii had consistently advocated for an increase in compact impact assistance to the affected jurisdictions and that providing for direct federal assistance in programs such as Medicaid, Temporary Assistance for Needy Families (TANF), Supplemental Nutrition Assistance Program (SNAP), and other means-tested public assistance not currently available to compact migrants would significantly reduce

⁵³GAO-12-64.

⁵⁴Department of the Interior, *Report to the Congress: 2014 Compact Impact Analysis* (Feb. 10, 2015). The amended compacts' enabling legislation permits, but does not require, affected jurisdictions to report on compact migrant impact to Interior. If Interior receives such reports, it must submit reports to Congress that include, among other things, the governor's comments and the administration's analysis of any such impacts.

⁵⁵Department of the Interior, *Report to the Congress: 2015 Compact Impact Analysis* (Jan. 7, 2016).

⁵⁶GAO, *Foreign Relations: Migration from Micronesian Nations Has Had Significant Impact on Guam, Hawaii, and the Commonwealth of the Northern Mariana Islands*, GAO-02-40 (Washington, D.C.: Oct. 5, 2001).

Hawaii's impact costs.⁵⁷ The Governor further suggested that the governments of the FAS be encouraged to utilize the financial support they receive directly from the United States to contract services in the United States for their citizens who choose to reside in the United States.

In our 2011 report, we recommended that the Secretary of the Interior work with the U.S.–FSM and U.S.–RMI joint management committees to consider uses of sector grants that would address the concerns of FSM and Marshallese migrants and the affected jurisdictions. While Interior took initial steps to implement this recommendation and discuss compact impact at the joint management committee meetings, the discussions have not been continued. In March 2016, Interior OIA stated that the concerns of FSM and RMI migrants and affected jurisdictions will be discussed at future meetings of the joint management committees. In a January 2016 letter accompanying its Report to the Congress: 2015 Compact Impact Analysis, OIA stated that increased oversight and accountability are needed in the use of compact sector grants by the FAS—particularly for infrastructure grants for health and education—and that improving the quality of life for FAS citizens may help address the migration from the FAS to the United States.

Chairwoman Murkowski, Ranking Member Cantwell, and Members of the Committee, this concludes my statement. I would be pleased to respond to any questions you may have.

GAO Contact and Staff Acknowledgments

If you or your staff have any questions about this testimony, please contact David Gootnick, Director, International Affairs and Trade at (202) 512-3149 or gootnickd@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement. GAO staff who made key contributions to this testimony are Emil Friberg (Assistant Director), Ashley Alley, Ming Chen, David Dayton, Brian Hackney, Julie Hirshen, Jeff Isaacs, Reid Lowe, Grace Lui, Mary Moutsos, Michael McKemey, Michael Simon, Jena Sinkfield, and Ozzy Trevino.

⁵⁷In the 114th Congress, several bills have been introduced to address compact migration and its impact. These bills include S. 2360, the Omnibus Territories Act of 2015; S. 1301 and H.R. 2249, both titled the Restoring Medicaid for Compact of Free Association Migrants Act of 2015; H.R. 854, the Compact-Impact Aid Act of 2015; and H.R. 4370, the Compact Impact Relief Act of 2016.

Appendix I: Key Provisions of the Palau Compact of Free Association and Subsidiary Agreements

Key provisions of the compact and its subsidiary agreements address the sovereignty of Palau, types and amounts of U.S. assistance, security and defense authorities, and periodic reviews of compact terms. Table 3 summarizes key provisions of the Palau compact and related subsidiary agreements.

Table 3: Key Provisions of Palau Compact of Free Association and Subsidiary Agreements

Compact section	Description of key provisions
Title one:	<i>Sovereignty</i>
Government Relations	<p>Established Palau as a self-governing nation with the capacity to conduct its own foreign affairs.</p> <p><i>Immigration privileges</i></p> <p>Provided Palauan citizens with certain immigration privileges, such as the rights to work and live in the United States indefinitely and to enter the United States without a visa or passport. This privilege remains in effect as long as the compact agreement is not amended by mutual agreement or mutually or unilaterally terminated.</p>
Title two:	<i>Compact direct assistance</i>
Economic Relations	<p>Established 15-year term of budgetary support for Palau, beginning on compact's effective date. This support included direct assistance for current account operations and maintenance and for specific needs such as energy production, capital improvement projects, health, and education.</p> <p><i>Trust fund</i></p> <p>Required the United States to contribute to a trust fund for Palau.</p> <p><i>Compact Road</i></p> <p>Required the United States to construct a road system (the Compact Road).^a</p> <p><i>Compact federal services</i></p> <p>Required the United States to make available certain federal services and related programs to Palau, such as postal, weather, and aviation. The compact subsidiary agreement implementing such services was in force until Oct. 1, 2009.^b</p> <p><i>Accountability for compact funds</i></p> <p>Required Palau to report on its use of compact funds and required U.S. government, in consultation with Palau, to implement procedures for periodic audit of all grants and other assistance.</p>

**Appendix I: Key Provisions of the Palau
Compact of Free Association and Subsidiary
Agreements**

Title three:	<i>U.S. authority for security and defense matters</i>
Security and Defense Relations	<p>Established that the United States has full authority and responsibility for security and defense matters in, or relating to, Palau; would take action to meet the danger of an attack on Palau; and may conduct activities on land and water and in airspace as necessary.</p> <p><i>Strategic denial</i></p> <p>Foreclosed Palau to the military of any nation except the United States, unless they are invited by the United States and under the control of the U. S. armed forces.</p> <p><i>U.S. defense sites and operating rights</i></p> <p>Established that the United States may establish land and sea defense sites in Palau and has certain military operating rights. The subsidiary agreement implementing this provision provides the United States exclusive use of certain land adjoining the airport and certain submerged land in Malakal Harbor and remains in effect through 2044.</p> <p><i>Service in the armed forces</i></p> <p>Established eligibility of Palau citizens to serve in the U.S. armed forces.</p> <p>The provisions on U.S. authority for security and defense matters, U.S. defense sites and operating rights, and service in the armed forces remain in effect unless the compact is terminated by mutual agreement or, if the compact is unilaterally terminated, until October 1, 2044, and thereafter as mutually agreed. The strategic denial provision remains in effect through 2044 and thereafter until terminated or otherwise amended by mutual consent.</p>
Title four:	<i>Established general provisions regarding approval and effective date of the compact, conference and dispute resolution procedures, and compact termination procedures. Required reviews of its terms on the 15th, 30th, and 40th anniversaries of the compact's entry into force—that is, in 2009, 2024, and 2034, respectively.</i>
General Provisions	

Source: GAO analysis of the Compact of Free Association between the Government of the United States and the Government of the Republic of Palau. | GAO-16-550T

Notes: The compact's subsidiary agreements relate to specific titles of the compact; in many cases, they contain implementing details of compact provisions. Years cited are fiscal (Oct. 1–Sept. 30).

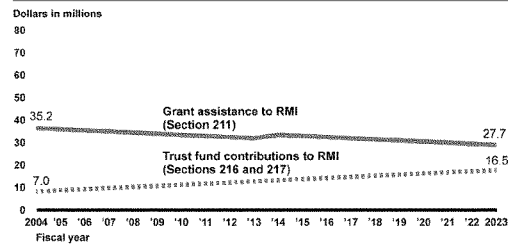
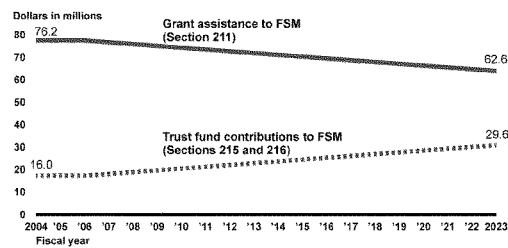
*The compact called for the United States to build the Compact Road according to mutually agreed specifications before Oct. 1, 2000. The road was completed and turned over to Palau on Oct. 1, 2007. See GAO-08-732, app. V, for more information.

*Federal Programs and Services Agreement Concluded Pursuant to Article II of Title Two and Section 232 of the Compact of Free Association, which took effect in 1995, established the legal status of programs and related services, federal agencies, U.S. contractors, and personnel of U.S. agencies implementing both compact federal services and discretionary federal programs in Palau. Under this agreement, the United States Postal Service (USPS) conveys mail between the United States and Palau and offers other services such as Priority Mail®, Collect on Delivery, and USPS Domestic Money Orders. Palau maintains its own postal service for internal mail delivery. Under this agreement, the National Weather Service reimburses Palau for the cost of operating its weather station in Palau, which performs upper air observations twice daily and as requested for the purpose of Palau's airport operations and the tracking of cyclones that may impact other U.S. territories such as Guam; and the Federal Aviation Administration provides aviation services to Palau, including en-route air traffic control from the mainland United States, flight inspection of airport navigation aids, and technical assistance and training.

Appendix II: U.S. Compact Trust Fund Contributions and Grants to the Federated States of Micronesia and Republic of the Marshall Islands

Figure 6 shows the annually decreasing U.S. grant funding to the Federated States of Micronesia (FSM) and Republic of the Marshall Islands (RMI) and increasing U.S. contributions to the FSM's and the RMI's compact trust funds in fiscal years 2004 through 2023.

Figure 6: U.S. Grant Assistance and Compact Trust Fund Contributions to the FSM and RMI as Scheduled by the Amended Compacts, Fiscal Years 2004–2023



Source: Compacts of Free Association as Amended, Between the Government of the United States of America and the Government of the Federated States of Micronesia (FSM) and the Government of the Republic of the Marshall Islands (RMI). Pub. L. No. 108-188. | GAO-16-550T

Notes: Sections 211 of the amended compacts detail grant assistance to the FSM and the RMI, while Sections 215 and 216 of the U.S.–FSM compact and sections 216 and 217 of the U.S.–RMI compact detail contributions to the FSM and RMI trust funds. See Pub. L. No. 108-188. These dollar amounts shall be adjusted each fiscal year for inflation by the percentage that equals two-thirds of the percentage change in the U.S. gross domestic product implicit price deflator, or 5 percent, whichever is less in any 1 year, using the beginning of 2004 as a base. Grant funding can be fully adjusted for inflation after 2014, under certain U.S. inflation conditions. The increase in RMI grant assistance from fiscal year 2013 to 2014 is due to a \$2 million increase in payments to be made available for addressing the special needs of the community at Ebeye and other Marshallese communities within the Kwajalein Atoll.

Appendix III: U.S. Assistance to Palau as Outlined in 2010 Agreement and Proposed in Senate Bill 2610

Senate Bill 2610 (S. 2610) would modify the schedule of U.S. assistance to Palau specified in the 2010 agreement between the U.S. and Palau governments, which has not been implemented.¹ Table 4 shows the assistance schedule for fiscal years 2011 through 2024 outlined in the 2010 agreement.

Table 4: Proposed Assistance to Palau as Outlined in the 2010 U.S.–Palau Agreement

Dollars in millions

Types of assistance	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	Total
Trust fund contributions	\$0	\$0	\$3.00	\$3.00	\$3.00	\$3.00	\$3.00	\$3.00	\$3.00	\$3.00	\$3.00	\$3.00	\$0.25	\$0	\$30.25
Infrastructure maintenance fund	2.00	2.00	2.00	2.00	2.00	2.00	2.00	2.00	2.00	2.00	2.00	2.00	2.00	2.00	28.00
Infrastructure project grants	8.00	8.00	8.00	6.00	5.00	5.00	0	0	0	0	0	0	0	0	40.00
Fiscal consolidation fund	5.00	5.00	0	0	0	0	0	0	0	0	0	0	0	0	10.00
Direct economic assistance	13.00	12.75	12.50	12.00	11.50	10.00	8.50	7.25	6.00	5.00	4.00	3.00	2.00	0	107.50
Total	\$28.00	\$27.75	\$25.50	\$23.00	\$21.50	\$20.00	\$13.50	\$12.25	\$11.00	\$10.00	\$9.00	\$8.00	\$4.25	\$2.00	\$215.75

Source: GAO analysis of *The Agreement between the Government of the United States of America and the Government of the Republic of Palau Following the Compact of Free Association Section 432 Review* (Sept. 3, 2010). | GAO-16-550T

Note: Years are fiscal (Oct. 1–Sept. 30), and dollar amounts are in nominal dollars (i.e., unadjusted for inflation).

Table 5 shows U.S. assistance provided to Palau through discretionary appropriations in fiscal years 2011 through 2016 and the assistance schedule proposed in S. 2610.

¹*The Agreement between the Government of the United States of America and the Government of the Republic of Palau Following the Compact of Free Association Section 432 Review* (Sept. 3, 2010).

Appendix III: U.S. Assistance to Palau as
Outlined in 2010 Agreement and Proposed in
Senate Bill 2610

Table 5: U.S. Assistance to Palau through Discretionary Appropriations in Fiscal Years 2011–2016, and Proposed in Senate Bill 2610 for Fiscal Years 2017–2024

Dollars in millions

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	Total
Trust fund contributions	\$0	\$0	\$0	\$0	\$0	\$0	\$20.00	\$2.00	\$2.00	\$2.00	\$2.00	\$2.00	\$0.25	\$0	\$30.25
Infrastructure maintenance fund	0	0	0	0	0	0	3.50	3.50	3.50	3.50	3.50	3.50	3.50	3.50	\$28.00
Infrastructure project grants	0	0	0	0	0	0	8.00	8.00	8.00	6.00	5.00	5.00	0	0	\$40.00
Fiscal consolidation fund	0	0	0	0	0	0	5.00	5.00	0	0	0	0	0	0	\$10.00
Direct economic assistance	0	0	0	0	0	0	7.50	6.25	5.00	4.00	3.00	2.00	.97	0	\$28.72
Direct assistance from Interior	13.15	13.15	13.15	13.15	13.15	13.15	0	0	0	0	0	0	0	0	\$78.88
TOTAL	\$13.15	\$13.15	\$13.15	\$13.15	\$13.15	\$13.15	\$44.00	\$24.75	\$18.50	\$15.50	\$13.50	\$12.50	\$4.72	\$3.50	\$215.85

Source: GAO analysis of Senate Bill 2610, Department of the Interior documents, | GAO-16-550T

Note: Years are fiscal (Oct. 1–Sept. 30) and dollar amounts are nominal (i.e., unadjusted for inflation).

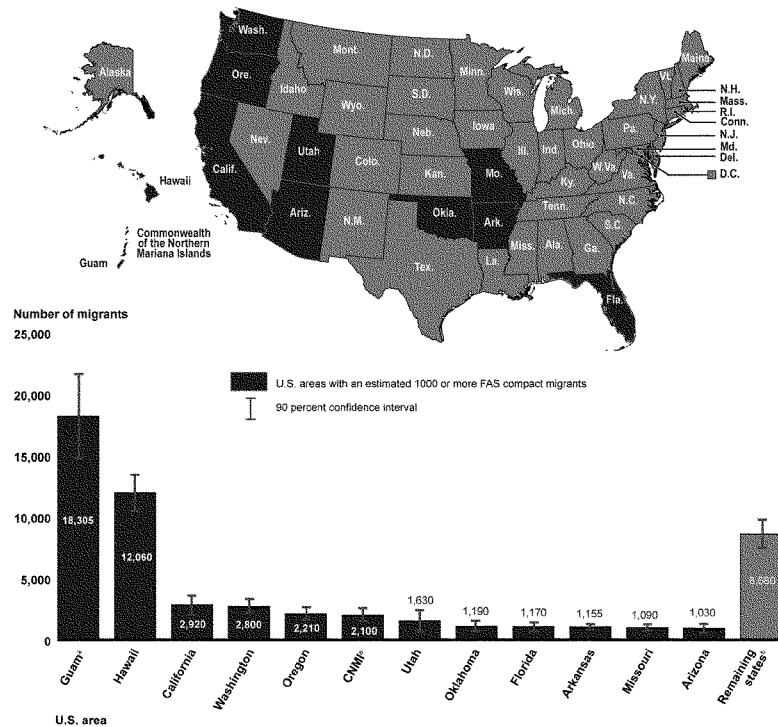
Appendix IV: Estimated Numbers of Compact Migrants in U.S. Areas, 2005–2009

Compact migrants reside throughout U.S. states and territories. In 2011, we reported that 57.6 percent of all compact migrants lived in affected jurisdictions: 32.5 percent in Guam, 21.4 percent in Hawaii, and 3.7 percent in the Commonwealth of the Northern Mariana Islands (CNMI).¹ According to American Community Survey data, nine mainland states had estimated compact migrant populations of more than 1,000 in 2005 through 2009 (see fig. 7). According to these estimates, the Federated States of Micronesia produced the highest number of migrants but migrants from the Republic of the Marshall Islands predominated in Arizona, Arkansas, California, and Washington.

¹GAO-12-64.

Appendix IV: Estimated Numbers of Compact Migrants in U.S. Areas, 2005–2009

Figure 7: Estimated Numbers of Compact Migrants in U.S. Areas, 2005–2009



Sources: Map Resources (map); GAO analysis of a special Census tabulation of American Community Survey 2005–2009 data for U.S. states; Census tabulations of 2008 FAS migrant survey data for Guam and the CNMI. | GAO-16-550T

*The estimates for Guam and the Commonwealth of the Northern Mariana Islands (CNMI) are from the 2008 enumeration by the U.S. Census Bureau (Census); remaining estimates are from the 2005–2009 American Community Survey.

Appendix IV: Estimated Numbers of Compact
Migrants in U.S. Areas, 2005–2009

^bCensus suppressed the estimated values for remaining states to protect the confidentiality of individual respondents. As a result, we are unable to report any other states that contain migrants.

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Senator GARDNER. Thank you, Mr. Gootnick.

Thank you both, again, for the time before this Committee this morning and your testimony.

Ms. Kia'aina, I would just start with you in terms of the questions this morning.

Former White House Advisor, Senior Advisor John Podesta, visited Palau in 2014 for the Pacific Islands Forum. After his trip, we were told that finding an offset for the Palau agreement was a priority for the Administration, yet it does not appear that there has been movement on the matter. I would just ask you what the current situation within the Administration for finding that offset is today?

Ms. KIA'AINA. Thank you, Mr. Chairman.

That is correct. Mr. Podesta endeavored to find alternative mechanisms to fund the Palau compact agreement last year which have failed, and we continue to work with senior leadership of the Office of Management and Budget and the Department of State and the Department of Defense, given the urgency of the matter and the need to, once and for all, collectively find a viable offset. We admit that for the offsets provided by the Department we continue to work with the Committee, but we believe that it would have to take a collective approach by all three agencies, in concert with the Office of Management and Budget, to take care of the remaining \$149 million.

When Palau signed the compact agreement, they signed it with the United States of America, not the U.S. Department of the Interior or any individual agency.

Senator GARDNER. You mentioned the three other agencies or the three agencies working together, Defense, State, and Interior, is that correct, the three?

Ms. KIA'AINA. That's correct.

Senator GARDNER. The offset burden, it does not lie solely with Interior then. It lies with all three. Are they actively engaged in finding or is this simply—

Ms. KIA'AINA. That has been the challenge. At the moment the President's budget solely has it residing in the Department of the Interior. We have already provided \$92 million in discretionary funds out of the Office of Insular Affairs, and we believe that given the magnitude of the amount of money and the continuing challenge for all offsets that we are working with the Office of Management and Budget and the other two Departments who clearly have a vested interest.

Palau is an independent nation. The Department of Defense has control of helping to safeguard the national security, not only of the United States, but the Republic of Palau. And again, we believe that given the amount that it would be a prudent approach for the Office of Management and Budget to work with the Department of the Interior and the other two Departments to find viable offsets that would be satisfactory to the U.S. Congress.

Senator GARDNER. What is the reasoning behind the Administration submitting a budget that leaves it solely within Interior without reaching into the other Departments?

Ms. KIA'AINA. Mr. Chairman, historically during the first compact when Palau was a U.S. trust territory under the purview of

the Department of Interior, we had funded the underlying compact agreement. And during the negotiations, I guess, of this recent review agreement, I just came on board in 2014, but that was the approach that was undertaken. And we are respectfully asking for reconsideration of the approach.

Senator GARDNER. Thank you.

Have the people of Bikini Atoll identified any locations outside of the Marshall Islands where they would like to use their resettlement/relocation funds?

Ms. KIA'AINA. That's a good question, Mr. Chairman.

I know that the previous mayor publicly has stated certain, has mentioned certain states, including Hawaii and Arkansas, where there are significant Marshallese populations including Bikinians. But to my knowledge, collectively, the Bikinian Council has not determined in concert with the people where they intend to reside.

Senator GARDNER. Thank you, and a final question.

The 2010 agreement with Palau requires meaningful reforms by Palau in financial accountability and efficiency. What steps has your office taken to have an effective plan and process in place to review those reforms taken by Palau toward that end should this agreement be signed into law?

Ms. KIA'AINA. I'm going to have to get back to you on that, Mr. Chairman.

I do know that out of all of the three Freely Associated States, Palau has been the model nation in the region for accountability.

Senator GARDNER. Well, if you could get back to us on that question, that would be fantastic for the record.

Ms. KIA'AINA. Thank you.

[The information referred to was not provided as of the date of printing.]

Senator GARDNER. Thank you.

Senator Cantwell?

Senator CANTWELL. Thank you, Mr. Chairman.

Again I thank the witnesses for being here and covering these important responsibilities that are before our Committee.

I am going to defer to Senator Hirono to ask questions.

Senator HIRONO. Thank you very much, Mr. Chairman, for this hearing.

Hawaii is very well aware of the challenges facing our compact citizens and so clearly one topic of this hearing is where we need to meet our obligations to the Palauans. I met with their Ambassador and he is clearly frustrated with the fact that our country, having entered into this Agreement, has not lived up to its Agreement.

I would like to follow up on the Chairman's questioning with regard to these agreements and with Palau because the State Department and DOD are very much involved and should be involved in coming up with a way that we can meet our obligations with regard to Palau, in particular.

So, I would really like this Committee, Mr. Chairman, to focus very clearly on the obligations of these other Departments and not just Interior.

With regard to the impact of the compact citizens on Guam and Hawaii, I have visited with the Governor of Guam and of course,

I stay in touch with the Governor of Hawaii. In spite of the fact that there is \$30 million appropriated annually for the compact impact, that is woefully short. I think it would be very helpful if there was a concerted effort to enable our compact citizens to be eligible, and this is also a question for the person from GAO, for Medicaid, for TANF, for SNAP. That would be helpful to our states and to Guam, would it not? Either one of you can respond. Perhaps Mr. Gootnick from GAO because I think you mentioned it?

Mr. GOOTNICK. Well certainly there have been numerous proposals from the Governors and legislation introduced on that subject. It's important to recognize that the \$30 million that you mentioned, the authorization for the \$30 million a year, as well as the authorization for other funds, will expire in 2023. So, while compact migration is likely to continue to grow, that source of funding will also go away.

Senator HIRONO. That is why it is even more important that after the 1997 welfare reform law when suddenly our compact citizens no longer qualified for Medicaid, that that be restored. Those kinds of institutional changes need to occur because in 2023 when the impact funds end, that will leave places like Guam, Hawaii, and other states now, basically having to bear the full burden.

Mr. GOOTNICK. Right. And you know, in addition to the fiscal issues I'm in close touch with some of the public health officials in Hawaii who have briefed me on the process of enrolling compact migrants.

Senator HIRONO. Yes.

Mr. GOOTNICK. And now the Affordable Care Act.

Senator HIRONO. Yes.

Mr. GOOTNICK. And there are, there's a significant administrative burden, as well as many compact migrants who are falling through the cracks who need health care attention. And that, I think the same could be said in the other sectors, education, social services.

Senator HIRONO. I think that we really need to push forward, not only, you know, I would love to see an increase in the \$30 million but that all ends soon.

So as I said, I would like to see a much more concerted effort on the part of the Administration to support efforts to enable the compact citizens to qualify for these Federal programs because granted, many of them do come for health care. They have huge educational needs. I am very familiar with the gap in enrolling our compact citizens into our Affordable Care Plan. In Hawaii there are language issues, all kinds of things.

In fact, I had to step in and ask for an extension of time to enable our, especially our Marshall Island citizens in Hawaii, to be able to enroll for health care. So this is going to be an ongoing effort.

But first and foremost regarding Palau, it just really bothers me that the State Department and the Defense Department are not stepping forward to help fulfill our country's obligations.

Now the Governor of Hawaii, Madam Secretary, mentioned that maybe some of the money that goes directly to these Freely Associated States could be used by them to contract for various programs. What do you think of that idea?

Ms. KIA'AINA. Sure. Well thank you, Senator Hirono.

Maybe, let me just step back here and give you an update on the Administration's approach on the overall issue of compact impact which will address your issue.

The issue, clearly, is complicated. It deals with our nation's obligations to hold accountable the use of compact funds to the Freely Associated States. And to that end last year there was about \$150 million backlog in infrastructure funds that were not spent by the Marshall Islands or to the Federated States of Micronesia. This impacts quality of life issues for health and education because a lot of the infrastructure funds were for that purpose. And the citizens migrate.

So we worked feverishly with both governments, and I am pleased to report that we have set up mechanisms which would satisfy our concerns and have released all \$150 million last year.

Second, we believe that Federal authorities, current Federal authorities, should be exercised. Last year we established "one-stop" Micronesian service centers in both Guam and Hawaii. And in fact, the service center in Hawaii helped to enroll FAS citizens in health care.

We've set up a Federal interagency approach to look at all of the statutory authorities including your proposal on Medicaid re-eligibility to determine what statutory changes would be needed. And also we, now that the infrastructure challenge is over, we intend at the next joint financial meetings, to agendize compact impact aid before the Marshall Islands and the Federated States of Micronesia to ensure that they know that this is a serious problem.

We will consult with our attorneys but they provide scholarships to students who leave. At the moment we do not see anything that would preclude them of providing some of their funds to help their citizens in Guam and Hawaii.

Senator HIRONO. If I may, Mr. Chairman, the funding for the one stop center is only for one year, I believe. And I am glad that Interior stepped up and provided some of that funding. And this is a one stop center. I have worked very closely with those folks from the Marshall Islands, in particular.

But as we go forward I think that we need to restore some of the eligibility of our compact citizens for particularly three programs, Medicare, TANF and SNAP. So that is where we are going, and it is not as though we do not have the language because the language to restore Medicaid eligibility was put into the immigration bill two years ago in the Senate.

Ms. KIA'AINA. Senator, if you don't mind I wanted to follow up.

During the last year we have found that Federal agencies, including FEMA, are broadly interpreting the Welfare Reform Act. So in fact, it's not narrowly tailored to just those four programs. It is a broader approach.

So the easiest fix would be to modify the Welfare Reform Act to make re-eligible FAS citizens for the term of public benefit——

Senator HIRONO. Yes.

Ms. KIA'AINA. Under the act.

Senator HIRONO. And quite possibly, looking at the existing legislation, there may be a way to more broadly interpret the existing

legislation so that we do not have to pass another bill. I would like to have further discussions with you all on that.

Ms. KIA'AINA. Thank you.

Senator HIRONO. Thank you very much, Mr. Chairman.

Senator GARDNER. Thank you, Senator Hirono.

Senator Warren?

Senator WARREN. Thank you, Mr. Chairman.

So the five populated U.S. territories, Guam, Puerto Rico, the U.S. Virgin Islands, American Samoa and the Northern Mariana Islands, are part of America. And the 4,000,000 people who live on those islands are Americans. They are subject to Federal law. More than 150,000 people from these islands have served our country in the Armed Forces. Many have died in the service.

It is a central principle of our American democracy that Americans, through their votes, can have a say in their own governments, and yet these 4,000,000 Americans have almost no say in Federal decision-making, even when it directly affects the islands they live on. They cannot vote in Presidential elections, they have no Senators, and each territory gets only one, non-voting representative in the House of Representatives.

Assistant Secretary Kia'aina, your agency coordinates Federal policy for most of the territories so maybe you can help me understand exactly how this works. If a U.S. citizen is born in Guam, she can't vote for President as long as she lives on the island. Is that right?

Ms. KIA'AINA. That's correct.

Senator WARREN. But if she moves to a U.S. state, say California, can she vote there?

Ms. KIA'AINA. If she, her residence requirements and voter registration was in California and her permanent record was not in Guam, the answer is yes.

Senator WARREN. Okay, so she can register and vote in California, as long as she moves her paperwork.

Ms. KIA'AINA. And meets the requirements of the State of California.

Senator WARREN. Of whatever California has.

Let's say she moves from California to a foreign country. For example, she goes from California to Italy. Can she vote for President from Italy?

Ms. KIA'AINA. It depends on her record of residency.

Senator WARREN. But if she moves from California?

Ms. KIA'AINA. Yes.

Senator WARREN. If she is registered to vote in California?

Ms. KIA'AINA. That's correct.

Senator WARREN. So this U.S. citizen from Guam can vote in California or can vote in Italy but if she moves from Italy back to Guam, she still cannot vote there. Is that right?

Ms. KIA'AINA. It depends on where her record of residency is. If it's still in California because it was, if it was California when she was in Italy and she still determined—

Senator WARREN. Well but that is my point. If she moves back. If her residency is now in Guam she loses her ability to vote.

Ms. KIA'AINA. That's correct.

Senator WARREN. You know, I just have to say this is absurd. Four million Americans live on American soil and can fully participate in our democracy, but only if they leave home. At their homes, on U.S. soil, all of their representational rights disappear.

This kind of second class status is not how our government is supposed to work and it has real implications. Right now Puerto Rico is a \$72 billion hole. Much of its debt is held by Wall Street vulture funds that have intimidated local government into slashing funding for schools, for hospitals, for first responders. There is broad agreement that the current situation is unsustainable, and there have been several congressional proposals to create an orderly process for Puerto Rico to restructure its debt. But powerful financial interests would prefer we do nothing, and so far Congress still has not acted. Congress should approve a plan to help Puerto Rico immediately. And that would be much more likely if the millions of Americans who live in Puerto Rico were allowed to participate fully in our democracy.

The 4,000,000 people who live in the territories are not the subjects of a King. They are Americans. They live in America but their interests will never be fully represented within our government until they have full voting rights, just like every other American.

Thank you, Mr. Chairman.

Senator FLAKE. [presiding]: Thank you.

Let me follow up with a couple of questions with regard to the first bill, finding authorization for use of established trust fund to resettle former residents of the Bikini Atoll outside of the Marshall Islands.

Tell me, give examples of how this might be used, what problems are they facing now and how this would remedy it?

Ms. KIA'AINA. Well, thank you, Mr. Chairman.

Under current Federal law the funds for the Bikini resettlement trust fund is limited to resettlement in the Marshall Islands, more specifically on the Islands of Kili and Ejit. We face dire circumstances at the moment on the Island of Kili where when the King Tides come in now it inundates almost half of the Island. The people, that number between 800 to 1,000 people there, literally running for their lives to the other side of the Island. As a result their public safety is at risk and they have requested that they be given the opportunity to use their resettlement funds to resettle outside of the Marshall Islands, if that could be in the United States or anywhere else in the world.

Senator FLAKE. How many, do we believe, would take advantage of this new provision to utilize those resources?

Ms. KIA'AINA. I don't have an answer to that question. There are over, I understand, over 5,000 Bikinians, both collectively in the Marshall Islands as well as in the United States.

It's a very difficult issue for a lot of the elders who, many who don't want to leave. A lot are actually leaving for health purposes now to be with their families who live in Arkansas and other states.

Senator FLAKE. Thank you.

I have a bit of a soft spot for the Marshalls. I spent some time there, and I want to make sure that they can utilize these funds

and we can address these problems that have festered for not just years, but decades and decades, as we know.

Ms. KIA'AINA. Sure.

Senator FLAKE. With regard to the REAL ID Act, the government of the Marshall Islands has contacted our office with these issues. Will this provide the remedy, simply going back to the REAL ID Act and taking out the reference?

Ms. KIA'AINA. Yes.

Senator FLAKE. To the trust territory of the Pacific? Do we think that will then?

Ms. KIA'AINA. Yeah.

Senator FLAKE. Will that take care of it?

Ms. KIA'AINA. My understanding from the Department of Homeland Security is this would be a helpful fix because while they have provided guidance to the states, it has been very challenging. And so this would provide clarity across the nation to ensure the, or improve the availability of licenses and other official IDs for a longer period of time. At the moment it's being restricted to one year.

Senator FLAKE. Okay.

Ms. KIA'AINA. Because of the REAL ID Act.

So this would be a statutory fix to allow FAS citizens, regardless of where they live, to be able to get a license or other ID for a longer duration of time.

Senator FLAKE. Alright.

Well, thank you.

Senator Wyden?

Senator WYDEN. Thank you very much, Mr. Chairman.

I want to welcome our guests. I can tell you, those of us who have had the honor of chairing this Committee over the last few years have been wrestling with these issues for years and years. It is time, in my view, to actually get some resolution. These relationships are extraordinarily important.

On the Omnibus Territories bill I want to note my support. This bill contains a number of common sense solutions, as I said, to issues that have gone on for, this feels like the longest running battle since the Trojan War. It just goes on and on and on.

And there are problems from allowing compact migrants to get driver licenses in states like Oregon, give flexibility in terms of how resettlement funds are used.

And so, I want to ask a question of the Assistant Secretary here in a moment.

It is hard to place a dollar value on an unsinkable aircraft carrier in the Pacific, unchallenged, with the ability to defend a huge swath of ocean and a steadfast ally. But we do know the cost. The cost is \$149 million, about the cost of one F35 fighter jet. So it is hard to overstate the value and the strategic necessity of approving the agreement.

Obviously China has been interested in expanding its sphere of influence throughout that region, so a failure to get an agreement with Palau, to approve it, would give China, in my view, an opening in the Pacific and send a very bad signal to the allies in the region. So our country has made an agreement with the people of Palau, and the bill allows us to keep our word.

I want to ask the Assistant Secretary, of the \$92 million in stop gap funding already paid to Palau, how much has come from the Department of State or Defense?

Ms. KIA'AINA. Thank you, Senator.

Those funds have come from the Department of the Interior.

Senator WYDEN. Okay.

I would like the Administration to give to the Committee, the Chair and the Ranking Minority Member, I am just a member of the Committee, not Chair or the Ranking Minority Member, but I have been very involved in this issue. Chairman Bingaman tried to resolve it. I tried to resolve it. It has gone on and on, literally Democratic Chairs and Republican Chairs.

So I would like the Administration to send the Committee what they would consider viable offsets for the Palau agreement. In other words, offsets that would be agreeable to the Administration so that we can actually get this done. I would like that within two weeks. Is that acceptable to you?

Ms. KIA'AINA. Yes, Senator. We've, in concert with the Assistant Secretary for Policy Management and Budget we've already put in a request with Senior Management at OMB to have a collective meeting with the Departments of State and Defense to talk about this matter.

Senator WYDEN. I think that is great. I think collective meetings are wonderful. We have lots of them in Washington. I wish I had a nickel for every time I went to a collective meeting.

I would like you to say whether it is acceptable to you that we will get an answer to the question within two weeks. What would be offsets acceptable to the Administration within two weeks? Is that acceptable to you?

Ms. KIA'AINA. Senator, I can only speak for the Department of the Interior. I can't speak for OMB or the other Departments. So in the President's budget we do have offsets identified from the Department of Interior which clearly has not been viable. And so, again, I can only speak for our Department but I will work with the OMB and the other Departments to send you other viable offsets.

Senator WYDEN. I appreciate that.

[The information referred to was not provided as of the date of printing.]

Senator WYDEN. I think this has been part of the problem. Everybody points at everybody else. In other words, Interior and State and Defense, and when we are done with all the pointing we are no further along in getting this resolved.

So in effect what I am asking is that because your expertise is well known and you are well regarded by me and others, that you be the point person because you are in front of us and you are the person that we have. Can we ask you to take on that assignment? It is, sort of, status in lieu of salary, I guess. But we need somebody to be the point person to drive this.

Ms. KIA'AINA. I will try my best, Senator.

Senator WYDEN. I can't ask for more.

Thank you very much. I look forward to following up.

Mr. Chairman, the point of this is, I do not want us to be back here in another five, eight, ten years asking yet another dedicated

public servant exactly the same question because we have been doing that year after year after year, and we obviously want to do this in a bipartisan way. Senator Flake and I work on forestry, all kinds of things, in a bipartisan way.

I appreciate you are trying to step in and seeing if you can coordinate this. You are here with us today, you are well respected, and I appreciate your willingness to approach it that way.

Thank you, Mr. Chairman.

Senator FLAKE. Thank you, Senator Wyden.

Let me just follow up with regard to the REAL ID issue with regard to Palau. Provisions in S. 2610 would require Palau to issue different passports for U.S. citizens in order for them to qualify for REAL ID. Instead of stipulating how Palau issues its own IDs, would it be sufficient to just require Palau citizens to have a qualifying passport to work or to travel/reside, the one that complies? Is there another way, an easier way, to go about this then simply strike the reference to the trust territories?

Ms. KIA'AINA. Mr. Chairman, I'm going to try to answer that question. I don't know if I have—I'm going to get this right. But I don't think the burden is on that part. The burden is on the part of the states, the various states, to issue IDs for a longer duration of time and it's become very challenging.

The issue is that some states are only, because of the REAL ID Act, are only issuing it for one year. And it makes it very hard for FAS citizens, who are working in the United States, to have valid licenses.

So I don't know if it is more an issue of what the FAS states provide to the states, it's rather that the states, because of the REAL ID Act, are not allowing, even if the Department of Homeland Security has directed them, to issue licenses to up to eight years. Maybe David has an answer as well?

Mr. GOOTNICK. We've not actually looked at it, so I don't have anything to add.

Senator FLAKE. Okay.

Well I guess the concern that I think the states have, or some people have, is that allowing the residents of the Freely Associated States simply to prove legal status there by demonstrating citizenship that that potentially causes some national security concerns that we need to go beyond that.

I know that it is an issue that is of great concern. I hope that we can come to some resolution that won't place an unnecessary burden on those traveling or working or residing here.

I look forward to working with your offices on something that will work, not just for the short term, but for the longer term as well.

Alright, well thank you for your testimony.

This hearing is adjourned.

[Whereupon, at 10:50 a.m. the hearing was adjourned.]

APPENDIX MATERIAL SUBMITTED



114TH CONGRESS
1ST SESSION

S. 2360

To improve the administration of certain programs in the insular areas,
and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 7, 2015

Ms. MURKOWSKI (for herself and Ms. CANTWELL) (by request) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To improve the administration of certain programs in the
insular areas, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Omnibus Territories
5 Act of 2015”.

6 **SEC. 2. RESETTLEMENT AND RELOCATION FOR THE PEO-** 7 **PLE OF BIKINI.**

8 The first proviso under the heading “TRUST TERRI-
9 TORY OF THE PACIFIC ISLANDS” under the heading “OF-
10 FICE OF TERRITORIAL AFFAIRS” under the heading “DE-

1 PARTMENT OF THE INTERIOR” in chapter VIII of
 2 title I of the Supplemental Appropriations Act, 1982
 3 (Public Law 97–257; 96 Stat. 840), is amended by strik-
 4 ing “in the Marshall Islands, principally on Kili and Ejit
 5 Islands”.

6 **SEC. 3. RELIABLE AIR SERVICE IN AMERICAN SAMOA.**

7 Section 41703(c) of title 49, United States Code, is
 8 amended—

9 (1) in paragraph (1), by striking “or” at the
 10 end;

11 (2) in paragraph (2), by striking the period at
 12 the end and inserting “; or”; and

13 (3) by adding at the end the following:

14 “(3) notwithstanding subsection (a)(1), the
 15 navigation under this subsection is necessary to pro-
 16 vide and sustain air commerce in American Samoa
 17 between the islands of Tutuila and Manu’a.”.

18 **SEC. 4. DRIVERS’ LICENSES AND PERSONAL IDENTIFICA-**
 19 **TION CARDS.**

20 (a) DEFINITION OF STATE.—Section 201(5) of the
 21 REAL ID Act of 2005 (49 U.S.C. 30301 note; Public Law
 22 109–13) is amended by striking “the Trust Territory of
 23 the Pacific Islands,”.

1 (b) EVIDENCE OF LAWFUL STATUS.—Section
 2 202(c)(2)(B) of the REAL ID Act of 2005 (49 U.S.C.
 3 30301 note; Public Law 109–13) is amended—

4 (1) in clause (viii), by striking “or” at the end;

5 (2) in clause (ix), by striking the period at the
 6 end and inserting “; or”; and

7 (3) by adding at the end the following:

8 “(x) is a citizen of the Republic of the
 9 Marshall Islands, the Federated States of
 10 Micronesia, or the Republic of Palau who
 11 has been admitted to the United States as
 12 a nonimmigrant pursuant to a Compact of
 13 Free Association between the United
 14 States and the Republic or Federated
 15 States.”.



II

114TH CONGRESS
2D SESSION**S. 2610**

To approve an agreement between the United States and the Republic of Palau.

IN THE SENATE OF THE UNITED STATES

MARCH 1, 2016

Ms. MURKOWSKI (for herself, Ms. CANTWELL, and Ms. HIRONO) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To approve an agreement between the United States and the Republic of Palau.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. APPROVAL OF AGREEMENT BETWEEN UNITED**
4 **STATES AND REPUBLIC OF PALAU.**

5 (a) DEFINITIONS.—In this section:

6 (1) AGREEMENT.—The term “Agreement”
7 means the Agreement and appendices signed by the
8 United States and the Republic of Palau on Sep-
9 tember 3, 2010.

1 (2) COMPACT.—The term “Compact” means
 2 the Compact of Free Association between the Gov-
 3 ernment of the United States of America and the
 4 Government of Palau, as contained in section 201 of
 5 Public Law 99–658 (48 U.S.C. 1931 note).

6 (b) RESULTS OF COMPACT REVIEW.—

7 (1) IN GENERAL.—Title I of Public Law 99–
 8 658 (48 U.S.C. 1931 et seq.) is amended by adding
 9 at the end the following:

10 **“SEC. 105. RESULTS OF COMPACT REVIEW.**

11 “(a) IN GENERAL.—The agreement and appendices
 12 signed by the United States and the Republic of Palau
 13 on September 3, 2010 (referred to in this section as the
 14 ‘Agreement’), pursuant to section 432 of the Compact, are
 15 approved—

16 “(1) except for the extension of article X of the
 17 Agreement regarding Federal programs and services,
 18 concluded pursuant to article II of title II and sec-
 19 tion 232 of the Compact; and

20 “(2) subject to the provisions of this section.

21 “(b) WITHHOLDING OF FUNDS.—If the Republic of
 22 Palau withdraws more than \$5,000,000 from the trust
 23 fund established under section 211(f) of the Compact dur-
 24 ing fiscal year 2016, or more than \$8,000,000 during fis-
 25 cal year 2017, the amounts payable under sections 1, 2(a),

1 3, and 4(a) of the Agreement shall be withheld from the
 2 Republic of Palau until the date on which the Republic
 3 of Palau reimburses the trust fund for the total amounts
 4 withdrawn that exceeded \$5,000,000 during fiscal year
 5 2016 or \$8,000,000 during fiscal year 2017, as applicable.

6 “(c) FUNDING FOR CERTAIN PROVISIONS.—Not later
 7 than 30 days after the date of enactment of this section,
 8 out of any funds in the Treasury not otherwise appro-
 9 priated, the Secretary of the Treasury shall transfer to
 10 the Secretary of the Interior such sums as are necessary
 11 for the Secretary of the Interior to implement sections 1,
 12 2(a), 3, 4(a), and 5 of the Agreement, to remain available
 13 until expended, without any further appropriation.

14 “(d) AUTHORIZATION OF APPROPRIATIONS.—There
 15 are authorized to be appropriated—

16 “(1) to the Secretary of the Interior to sub-
 17 sidize postal services provided by the United States
 18 Postal Service to the Republic of Palau, the Repub-
 19 lic of the Marshall Islands, and the Federated States
 20 of Micronesia \$1,500,000 for each of fiscal years
 21 2017 through 2024, to remain available until ex-
 22 pended; and

23 “(2) to the head of each Federal entity de-
 24 scribed in paragraphs (1), (3), and (4) of section
 25 221(a) of the Compact (including any successor of

1 such a Federal entity) to carry out the responsibil-
 2 ities of the Federal entity under section 221(a) of
 3 the Compact such sums as are necessary, to remain
 4 available until expended.”.

5 (2) OFFSET.—Section 3 of the Act of June 30,
 6 1954 (68 Stat. 330, 82 Stat. 1213, chapter 423), is
 7 repealed.

8 (c) PAYMENT SCHEDULE; WITHHOLDING OF FUNDS;
 9 FUNDING.—

10 (1) COMPACT FUND.—Section 1 of the Agree-
 11 ment is amended to read as follows:

12 **“SECTION 1. COMPACT FUND.**

13 “The Government of the United States shall con-
 14 tribute \$30,250,000 to the Fund established under section
 15 211(f) of the Compact in accordance with the following
 16 schedule:

17 “(1) \$20,000,000 for fiscal year 2017.

18 “(2) \$2,000,000 for each of fiscal years 2018
 19 through 2022.

20 “(3) \$250,000 for fiscal year 2023.”.

21 (2) INFRASTRUCTURE MAINTENANCE FUND.—
 22 Subsection (a) of section 2 of the Agreement is
 23 amended to read as follows:

24 “(a) GRANT.—

1 “(1) IN GENERAL.—The Government of the
 2 United States shall provide a grant in an amount
 3 equal to \$3,500,000 for each of fiscal years 2017
 4 through 2024 to create a trust fund (referred to in
 5 this agreement as the ‘Infrastructure Maintenance
 6 Fund’), to be used for the routine and periodic
 7 maintenance of major capital improvement projects
 8 financed using funds provided by the Government of
 9 the United States.

10 “(2) CONTRIBUTIONS BY PALAU.—The Govern-
 11 ment of Palau shall match the contributions made
 12 by the Government of the United States by making
 13 contributions of \$150,000 to the Infrastructure
 14 Maintenance Fund on a quarterly basis during the
 15 period beginning on October 1, 2016, and ending on
 16 September 30, 2024.

17 “(3) REQUIREMENT.—The implementation of
 18 this subsection shall be carried out in accordance
 19 with appendix A to this agreement.”.

20 (3) FISCAL CONSOLIDATION FUND.—Section 3
 21 of the Agreement is amended to read as follows:

22 **“SEC. 3. FISCAL CONSOLIDATION FUND.**

23 “(a) IN GENERAL.—The Government of the United
 24 States shall provide to the Government of Palau
 25 \$5,000,000 for each of fiscal years 2017 and 2018 for

1 deposit in an interest-bearing account to be used to reduce
 2 government arrears of the Government of Palau.

3 “(b) REQUIREMENT.—The implementation of this
 4 section shall be carried out in accordance with appendix
 5 B to this agreement.”.

6 (4) DIRECT ECONOMIC ASSISTANCE.—Sub-
 7 section (a) of section 4 of the Agreement is amended
 8 to read as follows:

9 “(a) DIRECT ECONOMIC ASSISTANCE.—

10 “(1) IN GENERAL.—In addition to economic as-
 11 sistance in an amount equal to \$13,147,000 pro-
 12 vided to the Government of Palau by the Govern-
 13 ment of the United States for each of fiscal years
 14 2010 through 2016, and unless otherwise specified
 15 in this agreement or an appendix to this agreement,
 16 the Government of the United States shall provide
 17 to the Government of Palau \$28,721,000 in eco-
 18 nomic assistance, as follows:

19 “(A) \$7,500,000 for fiscal year 2017.

20 “(B) \$6,250,000 for fiscal year 2018.

21 “(C) \$5,000,000 for fiscal year 2019.

22 “(D) \$4,000,000 for fiscal year 2020.

23 “(E) \$3,000,000 for fiscal year 2021.

24 “(F) \$2,000,000 for fiscal year 2022.

25 “(G) \$971,000 for fiscal year 2023.

1 “(2) METHOD.—Unless otherwise specified in
 2 this agreement or in an appendix to this agreement,
 3 the funds provided for a fiscal year under this sub-
 4 section shall be provided in 4 quarterly payments in
 5 an amount equal to—

6 “(A) 30 percent of the total applicable
 7 amount during the first quarter;

8 “(B) 30 percent of the total applicable
 9 amount during the second quarter;

10 “(C) 20 percent of the total applicable
 11 amount during the third quarter; and

12 “(D) 20 percent of the total applicable
 13 amount during the fourth quarter.”.

14 (5) INFRASTRUCTURE PROJECTS.—Section 5 of
 15 the Agreement is amended to read as follows:

16 **“SEC. 5. INFRASTRUCTURE PROJECTS.**

17 “(a) IN GENERAL.—The Government of the United
 18 States shall provide to the Government of Palau grants
 19 in a total amount equal to \$40,000,000, as follows:

20 “(1) \$8,000,000 for each of fiscal years 2017
 21 through 2019.

22 “(2) \$6,000,000 for fiscal year 2020.

23 “(3) \$5,000,000 for each of fiscal years 2021
 24 and 2022.

1 “(b) USE.—The Government of Palau shall use each
 2 grant provided under subsection (a) for 1 or more mutu-
 3 ally agreed-upon infrastructure projects, in accordance
 4 with appendix C to this agreement.”.

5 (d) PASSPORT REQUIREMENT.—Section 141 of the
 6 Compact is amended to read as follows:

7 **“SEC. 141. PASSPORT REQUIREMENT.**

8 “(a) ADMISSION.—

9 “(1) IN GENERAL.—Any person who meets the
 10 requirements of any category described in paragraph
 11 (2) may be admitted to, and lawfully engage in occu-
 12 pations and establish residence as a nonimmigrant
 13 in, the United States and its territories and posses-
 14 sions, without regard to paragraph (5) or
 15 (7)(B)(i)(II) of section 212(a) of the Immigration
 16 and Nationality Act (8 U.S.C. 1182(a)), subject to
 17 the condition that the passport presented to satisfy
 18 paragraph (7)(B)(i)(I) of that section is a valid, un-
 19 expired, machine-readable passport that satisfies the
 20 internationally accepted standard for machine read-
 21 ability.

22 “(2) DESCRIPTION OF CATEGORIES.—The cat-
 23 egories referred to in paragraph (1) are the fol-
 24 lowing:

25 “(A) A person who—

1 “(i) on September 30, 1994, was a
2 citizen of the Trust Territory of the Pacific
3 Islands (as defined in title 53 of the Trust
4 Territory Code in force on January 1,
5 1979); and

6 “(ii) has become, and remains, a cit-
7 izen of Palau.

8 “(B) A person who acquires the citizenship
9 of Palau, at birth, on or after the effective date
10 of the Constitution of Palau.

11 “(C) A naturalized citizen of Palau who—

12 “(i) has been an actual resident of
13 Palau for not less than 5 years after at-
14 taining that naturalization; and

15 “(ii) holds a certificate of that actual
16 residence.

17 “(3) EFFECT OF SUBSECTION.—Nothing in this
18 subsection—

19 “(A) confers on a citizen of Palau the
20 right—

21 “(i) to establish residence necessary
22 for naturalization under the Immigration
23 and Nationality Act (8 U.S.C. 1101 et
24 seq.); or

1 “(ii) to petition for benefits for alien
2 relatives under that Act; or

3 “(B) prevents a citizen of Palau from oth-
4 erwise acquiring—

5 “(i) a right described in subparagraph
6 (A); or

7 “(ii) lawful permanent resident alien
8 status in the United States.

9 “(b) ACCEPTANCE OF EMPLOYMENT.—Any person
10 who meets the requirements of any category described in
11 subsection (a)(2) shall be considered to have the permis-
12 sion of the Secretary of Homeland Security to accept em-
13 ployment in the United States.

14 “(c) ESTABLISHMENT OF HABITUAL RESIDENCE IN
15 CERTAIN TERRITORIES AND POSSESSIONS.—The right of
16 a person who meets the requirements of any category de-
17 scribed in subsection (a)(2) to establish habitual residence
18 in a territory or possession of the United States may be
19 subject to any nondiscriminatory limitation under any law
20 (including regulations) of—

21 “(1) the United States; or

22 “(2) the applicable territory or possession of the
23 United States.”.

24 (e) CONTINUING PROGRAMS AND LAWS.—Section
25 105(f)(1)(B)(ix) of the Compact of Free Association

1 Amendments Act of 2003 (48 U.S.C. 1921d(f)(1)(B)(ix))

2 is amended by striking “2009” and inserting “2024”.

○

**U.S. Senate Committee on Energy and Natural Resources
Hearing on April 5, 2016: Oversight on Issues Facing U.S.-Affiliated
Islands and to Consider Two Measures Related to U.S.-Affiliated Islands:
S. 2360, the Omnibus Territories Act of 2015, and S. 2610, a Bill to Approve
an Agreement between the United States and the Republic of Palau
Questions for the Record Submitted to the Honorable Esther P. Kia'aina**

Questions from Ranking Member Maria Cantwell

Question 1: Would you update the Committee on OMB's efforts to find an offset, and tell us whether there are specific options the Committee should consider?

RESPONSE: Approving the results of the September 3, 2010, Compact Review Agreement between the United States and the Republic of Palau is of critical importance for United States' national security, including our bilateral relationship with Palau and our broader strategic interests in the Asia Pacific region. On February 22, 2016, the Administration transmitted legislation to the Congress that would approve the Agreement. The Administration has offered several mandatory savings proposals that could be used to offset the funding required in proposed legislation, including terminating payments to states that have been certified as completing the reclamation of abandoned coal mines, and production incentive fees on non-producing Federal oil and gas leases. The Administration stands ready to continue working with Congress toward the approval of the Palau agreement, a vital issue.

Question 2: Toward the end of each fiscal year there are unobligated funds in agency budgets. Was using a portion of these unobligated funds as an offset an option considered by OMB?

RESPONSE: The Administration has not proposed using year-end unobligated funds as an offset. However, the Administration has proposed several mandatory savings proposals that could be used as offsets for the proposed legislation.

Question 3: The federal government spends billions of dollars each year on fuel for cars, trucks, ships and aircraft. Has consideration been given to using some of the savings the government has recently seen in cost of fuel as the offset to the Palau bill?

RESPONSE: The Administration executes the Federal budget, including expenditures on fuel, in line with congressional appropriation line items. In the event that a Federal entity does not fully obligate its annual appropriation for fuel, the budget authority would expire and the funds would remain at Treasury. The President's fiscal year 2017 budget contains requests for funds sufficient to meet anticipated fuel needs. No extra funds are included in the projection.

Question 4: Has the Government of Bikini indicated where they intend to resettle, in what numbers, and whether they intend to resettle as one group, or several groups?

RESPONSE: Last year, the former Mayor of Bikini suggested relocating to three U.S. locations, Arkansas, Oklahoma, and the island of Hawaii in the State of Hawaii because these locations have established populations of persons of Bikini connection and ancestry. While locations may have been suggested, no relocation or resettlement plan has been formally adopted by the Kili/Bikini/Ejit Local Government Council.

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Question 5: Do you think that consideration should be given to modifying Section 2 of S. 2360 to require that the use of Resettlement Funds shall be tied to a resettlement plan that is developed in cooperation with the community into which they intend to resettle?

RESPONSE: Public Law 97-257 directed the establishment of a trust fund for the relocation and resettlement of the people of Bikini. This law also gives the Secretary of the Interior the authority to disapprove payments from the trust fund. The Department believes this is sufficient authority to ensure the resettlement plans take care of the desires of the people of Bikini and the intent of the trust fund.

Question 6: Do you think that consideration should be given to limiting the use of the Bikini Resettlement Fund to specific community purposes such as the purchase of real estate and group health insurance, so that the Fund isn't depleted for expenses of individuals?

RESPONSE: The Department believes the disapproval authority given to the Secretary of the Interior in Public Law 97-257 is sufficient to ensure the resettlement plans and wishes of the people of Bikini are carried out.

Question 7: Please explain in how Section 3 of S. 2360 would change the current requirement that a foreign carrier must get a 30-day emergency capability authorization to provide this service, and explain how the bill would affect the ability of a domestic carrier to assume this service in the future?

RESPONSE: The change would provide the U.S. Department of Transportation (DOT) an option of authorizing a foreign air carrier to provide service within American Samoa between the islands of Tutuila and Manu'a under 14 CFR Part 375. The existing service would no longer have to be authorized as an emergency cabotage exemption under 49 USC 40109(g), which requires a new application and DOT approval every 30 days.

The bill would not affect the ability of a properly licensed domestic carrier from obtaining authorization from the Federal Aviation Administration to operate the Tutuila-Manu'a route at any time.

Question 8: To ensure that domestic carriers that might want to provide this service at some point in the future have that opportunity, and at the same time reduce the current burden of applying for emergency authorization every 30 days, wouldn't it work to simply lengthen the period between applications for the emergency authorization from 30 days, to say, 6 months, or a year?

RESPONSE: As explained in the answer to question 7, a United States domestic carrier could enter the Tutuila-Manu'a market at any time. In that event, the foreign carrier would be required to exit.

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Question 9: When did a domestic carrier last provide this service and what are the prospects for a domestic carrier to provide it in the future?

RESPONSE: Domestic carrier operations have been conducted intermittently since 2009, and most recently ceased in the summer of 2014. The prospects for future operations by a domestic carrier are unknown.

Question 10: How many flight and passengers are there each week between Tutuila and the Manu'a Islands?

RESPONSE: Polynesian Airlines, incorporated in the country of Samoa, is currently the only provider of air service between Tutuila and the Manu'a Islands. There is one daily flight to Fitiuta on the island of Tau (the larger island in Manu'a) on Monday, Tuesday, Wednesday, and Friday, and only one flight on Thursday to Ofu (the smaller island on which the Marine Park is located). There are no flights to Manu'a on Saturdays and Sundays.

Polynesian Airlines uses a 19-seat Twin Otter Aircraft for its flights to Manu'a. The plane flies at full capacity each way. On occasion, Polynesian has provided charter service for the following agencies: the American Samoa Department of Health, the American Samoa Telecommunications Authority and the American Samoa Power Authority. The airline also responds to government emergencies and has provided medical evacuation services when requested.

Question 11: Are the aircraft used by Polynesian Air to fly between Tutuila and the Manu'a Islands each day also used to fly domestic routes to or within the nation of Samoa routes on those same days?

RESPONSE: Yes, Polynesian Airlines uses the same aircraft that they use to fly within American Samoa to or within the nation of Samoa.

Question 12: What efforts have been made, or are planned, to restore or extend eligibility for federal assistance programs to Compact migrants?

RESPONSE: The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law 104-193, established comprehensive limitations and requirements on the eligibility of all noncitizens for means-tested public assistance. Reinstating direct assistance for citizens of the freely associated states (FAS) through Medicaid, Temporary Assistance for Needy Families, Supplemental Nutrition Assistance Program, and other means-tested public assistance programs would require an act of Congress to amend PRWORA.

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Question 13: Given the structure of the Compacts, what more can the U.S. do to encourage the island governments to make more progress on tax reforms and attracting more investment? For example, Interior has the authority to establish grant conditions and to withhold funds for non-performance. Is that a practical strategy?

RESPONSE: The nature of the Compacts places practical limits on the ability of the U.S. to encourage progress on tax reforms and in attracting more investment. Most Compact funding goes to the health, education, and public infrastructure sectors. Although the U.S. has on occasion used grant conditions to affect policy in health, education, and public infrastructure by reallocating grant resources within those sectors, it would be untenable to withhold education and health funding, for example, to force changes in economic policy. The U.S. has withheld public sector infrastructure funding from each country to enforce better capital planning and administration, but again, those actions were sector specific and designed to address specific sector problems. However well-intentioned, the use of grant terms and conditions to impact economic policy would be seen by the RMI and the FSM as heavy-handed and a violation of their countries' sovereignty.

The FSM and the RMI receive economic policy advice not only from the U.S., but from the World Bank, the International Monetary Fund, and the Asian Development Bank. They have developed internal plans that would lead to tax reform and increased investment, if implemented. The current conditions reflect choices made by the political leadership of each country.

Question 14: On page 19 of Dr. Gootnick's testimony he said that "staffing shortages have affected (Interior's) ability to ensure that Compact funds are used efficiently and effectively." Would you elaborate on this -- how many staff currently oversee the roughly \$200 million in annual Compact grant funding and how many more staff should be employed to reasonably ensure that the funds are used effectively and efficiently?

RESPONSE: The Office of Insular Affairs currently has six full-time employees in the field dedicated to managing grant funding. Two are assigned to the U.S. embassies (Republic of the Marshall Islands and the Federated States of Micronesia) and four are based in Honolulu, Hawaii. Another six employees in headquarters spend roughly 50% of their time on Compact related issues. This equates to nine full-time employees, roughly 25% of the staff at the Office of Insular Affairs. This percentage exceeds an office work plan that was developed in 2010 which identified that 22% of staff was needed for compact related activities. Although additional personnel based in the field would be useful, the allocation of budgetary resources and personnel is currently adequate.

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Question from Senator Joe Manchin III

Question: As you know, S. 2610 approves the September 23, 2010 agreement between the United States and the Republic of Palau including a phase-out of financial assistance and revisions to the Compact of Free Association that governs our relationship with this island.

As a member of the Armed Services Committee, I am very aware that our country's continued relationship with Palau is vital. In particular, the original Compact provides exclusive access for U.S. military forces to the territory and allows us to establish defense sites on Palau should we so choose. This Compact, along with other regional agreements, enables the United States to maintain important access to the Asia-Pacific region.

Furthermore, Palau has been a constant ally of the United States before the United Nations. The Departments of Defense and State continue to express the importance of approving this agreement. This legislation has come before this Committee more than once since I've been a member; I encourage the Committee to pass this bill with bipartisan support in recognition of the importance of the Republic of Palau to our strategic posture in Southeast Asia.

Would you discuss any other concerns before the committee if this Legislation is not passed?

RESPONSE: Approving the results of the September 3, 2010, Compact Review Agreement between the United States and the Republic of Palau is of critical importance for United States national security, including our bilateral relationship with Palau and our broader strategic interests in the Asia Pacific region. Continued failure by the U.S. to approve the September 23, 2010 agreement erodes the trust between our nations; thereby, creating an opening for other nations to try to exert influence in the region.

Additionally, the 2010 Compact Review Agreement advances specific mutually agreed upon goals including maintaining the viability of Palau's trust fund and keeping the Government of Palau's spending stable while they enact policy reforms to increase the long-term economic stability of Palau and to maximize the benefits of the economic assistance provided by the Government of the United States. Achievement of these goals becomes increasingly difficult with each year that passes without Congressional approval of the 2010 agreement.

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Questions from Ranking Member Maria Cantwell**Question 1: Even if Congress continues to provide annual “stop-gap” funding for operations, what do you see as the financial and economic consequences to Palau in the other four sectors if Congress fails to approve this Agreement?**

Without enactment of Senate bill 2610 (S. 2610),¹ which would modify and approve the *Agreement between the Government of the United States of America and the Government of the Republic of Palau Following the Compact of Free Association Section 432 Review* (the 2010 Agreement),² certain measures contained in the 2010 Agreement related to grants and oversight would not take effect. We analyzed the implications of Congress choosing to continue to provide “stop-gap” funding, if S. 2610 is not enacted, at the same levels and with the same conditions as prior stop-gap funding that totals \$137 million—an amount equal to the funding that S. 2610 would have provided. For both scenarios, Palau would eventually receive \$216 million in total assistance as identified in the 2010 Agreement. In the case of the stop-gap scenario, we assume that Interior would continue to provide \$13.147 million in discretionary economic assistance annually through fiscal year 2026 and provide the remaining \$5.5 million in fiscal year 2027; Palau would continue to withdraw \$5 million annually from its compact trust fund until fiscal year 2026, would withdraw \$12.65 million in fiscal year 2027, and would withdraw \$15 million annually in subsequent years.

Measures Related to Grants and Oversight

The 2010 Agreement and S. 2610 include several measures on U.S. assistance to Palau related to grants and oversight. For example, the 2010 Agreement called for a

¹See S. 2610, 114th Cong. (as introduced in the Senate).

²*Agreement between the Government of the United States of America and the Government of the Republic of Palau Following the Compact of Free Association Section 432 Review* (Sept. 3, 2010).

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five-member Advisory Group to provide recommendations and timelines for economic, financial, and management reforms along with a schedule for implementing these reforms. The Advisory Group is to annually report on Palau's progress in implementing reforms recommended by the Advisory Group undertaken by Palau. Under the 2010 Agreement, if, after annual bilateral economic consultations, the U.S. government determines that Palau has not made significant progress in implementing meaningful reforms, direct assistance payments may be delayed until the U.S. government determines that Palau has made significant progress.³ Also according to the 2010 Agreement, infrastructure projects using U.S. assistance must be mutually agreed between the United States and Palau, and Palau must also provide a detailed project budget and certified scope of work. Furthermore, the 2010 Agreement details limits, and S. 2610 contains conditions, on the amount of money the government of Palau may withdraw from its trust fund. These measures in S. 2610 and the 2010 Agreement have not been approved to date, and legislation providing stop-gap funding would need to include these measures to place such conditions on the funding.

Timing and Categories of U.S. Assistance

S. 2610 would extend U.S. assistance to Palau, totaling approximately \$137 million in fiscal years 2017 through 2024, in five areas: the fiscal consolidation fund, direct economic assistance, the infrastructure maintenance fund, infrastructure project grants, and trust fund contributions (see table 1). Interior provided \$13.147 million in annual direct assistance for fiscal years 2011 through 2016, totaling \$78.88 million. If stop-gap funding totaling \$137 million is provided by Interior at the same annual amounts it provided in fiscal years 2011-2016, Palau would receive funding through 2027. Absent legislative direction in the stop-gap funding to provide the funds in the manner outlined

³The 2010 Agreement states that the U.S. government may delay funds after direct consultation with the President of Palau and after 90 days notice to the government of Palau.

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in S. 2610, Interior would not provide these funds for the categories outlined in the bill
and Palau would not have direction to target these categories when it uses the
assistance.

**Table 1: Schedule of U.S. Assistance to Palau under S. 2610 and with Continued "Stop-Gap"
Payments, Fiscal Years 2017-2027**

Dollars in millions

Under S. 2610												
	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	Total
Fiscal consolidation fund	\$5.00	\$5.00										\$10.00
Direct assistance from S.2610	\$7.50	\$6.25	\$5.00	\$4.00	\$3.00	\$2.00	\$0.97					\$28.72
Infrastructure maintenance fund	\$3.50	\$3.50	\$3.50	\$3.50	\$3.50	\$3.50	\$3.50	\$3.50				\$28.00
Infrastructure project grants	\$8.00	\$8.00	\$8.00	\$6.00	\$5.00	\$5.00						\$40.00
Trust fund contributions	\$20.00	\$2.00	\$2.00	\$2.00	\$2.00	\$2.00	\$0.25					\$30.25
Total assistance	\$44.00	\$24.75	\$18.50	\$15.50	\$13.50	\$12.50	\$4.72	\$3.50				\$136.97

With continued stop-gap payments												
Fiscal year	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	Total
Direct assistance from Interior	\$13.5	\$13.15	\$13.15	\$13.15	\$13.15	\$13.15	\$13.15	\$13.15	\$13.15	\$13.15	\$5.50	\$136.97

Annual difference in assistance with stop-gap payments and under S. 2610												
Fiscal year	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	Total
Differential	-\$30.85	-\$11.60	-\$5.35	-\$2.35	-\$0.35	\$0.65	\$8.43	\$9.65	\$13.15	\$13.15	\$5.50	\$0.00

Source: GAO analysis of Senate bill 2610 (S. 2610).

Note: Years are fiscal (Oct. 1–Sept. 30) and dollars amounts are nominal (i.e., unadjusted for inflation). Numbers in rows and columns may not sum to totals because of rounding.

Trust Fund

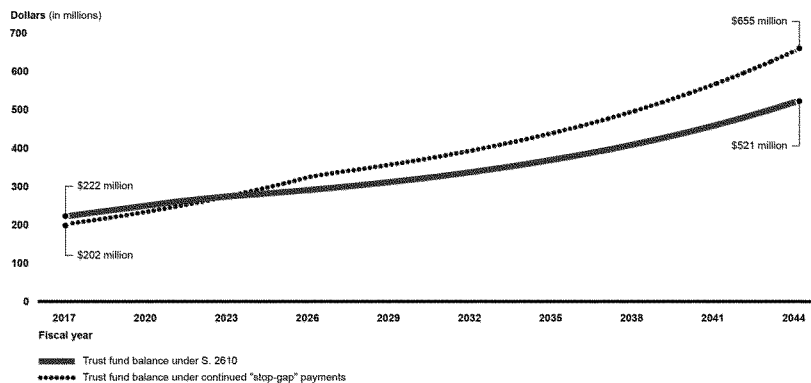
The continuation of stop-gap discretionary economic assistance to Palau at current levels through 2027 would also have a significant impact on Palau's trust fund. Under

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the 2010 Agreement as modified and approved by S. 2610, the United States would provide \$30.25 million in trust fund contributions fiscal years 2017 through 2023, while Palau agreed to withdraw \$73.5 million from the trust fund over the same years. Assuming the 7.6 percent historical rate of return, if Palau continued to withdraw \$5 million annually from its trust fund while the United States provided stop-gap discretionary economic assistance, and if Palau did not make any contributions to the trust fund, the fund would have a balance of \$655 million by fiscal year 2044 under the stop-gap scenario—\$134 million more than under the provisions of the 2010 Agreement as modified and approved by S. 2610.

Figure 1: Projected Trust Fund Balance under S. 2610 and with Continued “Stop-Gap” Payments, at Historical Rate of Return, Fiscal Years 2017-2044



Notes: Years are fiscal (Oct. 1–Sept. 30) and dollars amounts are nominal (i.e., unadjusted for inflation). The historical rate of return is 7.6 percent. The analysis shown is based on the trust fund’s balance as of September 30, 2015, and assumes enactment of the provisions of S. 2610 or continuation of the annual assistance provided by Interior at the same level as in 2016. Under the stop-gap scenario, we assume that Palau would continue to withdraw \$5 million annually from its compact trust fund until fiscal year 2026, would withdraw \$12.65 million in fiscal year 2027, and would withdraw \$15 million annually in subsequent years.

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Palau Government Financial Resources

If discretionary stop-gap economic assistance continues to be provided by Interior at the same levels as in fiscal years 2011 through 2016 and trust fund withdrawals were limited to \$5 million until fiscal year 2026, the government of Palau would have less funding available from 2017 through 2022 and in 2024 but would have more available in fiscal years 2023 and 2025 through 2027.⁴ As table 2 shows, if Interior continued to provide stop-gap assistance in fiscal years 2017 through 2027, the total assistance available for Palau government spending would be \$41 million less than it would be under S. 2610.

Table 2: Assistance Available to the Government of Palau under S. 2610 and with Continued "Stop-Gap" Payments, Fiscal Years 2017-2027

Dollars in millions

Under S. 2610												
	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	Total
Fiscal consolidation fund	\$5.00	\$5.00										\$10.00
Direct assistance from S.2610	\$7.50	\$6.25	\$5.00	\$4.00	\$3.00	\$2.00	\$0.97					\$28.72
Infrastructure maintenance fund	\$3.50	\$3.50	\$3.50	\$3.50	\$3.50	\$3.50	\$3.50	\$3.50				\$28.00
Infrastructure project grants	\$8.00	\$8.00	\$8.00	\$6.00	\$5.00	\$5.00						\$40.00
Withdrawal from trust fund	\$8.00	\$9.00	\$10.00	\$10.50	\$11.00	\$12.00	\$13.00	\$15.00	\$15.00	\$15.00	\$15.00	\$133.50
Total available to Palau	\$32.00	\$31.75	\$26.50	\$24.00	\$22.50	\$22.50	\$17.47	\$18.50	\$15.00	\$15.00	\$15.00	\$240.22

⁴This analysis assumes that the withdrawals from the trust fund would increase in fiscal year 2027 to compensate for the exhaustion of the reduction in assistance in fiscal year 2027 due to the exhaustion of the original \$216 million of assistance outlined in the 2010 Agreement.

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With continued stop-gap payments												
	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	Total
Direct assistance from Interior	\$13.15	\$13.15	\$13.15	\$13.15	\$13.15	\$13.15	\$13.15	\$13.15	\$13.15	\$13.15	\$5.50	\$136.97
Withdrawal from trust fund	\$5.00	\$5.00	\$5.00	\$5.00	\$5.00	\$5.00	\$5.00	\$5.00	\$5.00	\$5.00	\$12.65	\$62.65
Total available to Palau	\$18.15	\$18.15	\$18.15	\$18.15	\$18.15	\$18.15	\$18.15	\$18.15	\$18.15	\$18.15	\$18.15	\$199.62

Annual difference in assistance with "stop-gap" payments and under S. 2610												
	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	Total
Differential	-\$13.85	-\$13.60	-\$8.35	-\$5.85	-\$4.35	-\$4.35	\$0.68	-\$0.35	\$3.15	\$3.15	\$3.15	-\$40.60

Source: GAO analysis of Senate bill 2610 (S. 2610).

Note: This analysis does not include U.S. contributions to the trust fund as outlined in S. 2610, because these contributions are not available to be used by the government of Palau. Years are fiscal (Oct. 1–Sept. 30) and dollars amounts are nominal (i.e., unadjusted for inflation).

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Question 2: Given the structure of the Compacts, what more can the U.S. do to encourage the island governments to make more progress on tax reforms and attracting more investment? For example, Interior has the authority to establish grant conditions and to withhold funds for non-performance. Is that a practical strategy?

The compacts with the FSM and RMI provide several mechanisms whereby the U.S. government can encourage the FSM and the RMI governments to address tax reform and investment.

- The public law implementing the compacts requires the President to submit annual reports to U.S. Congress regarding, among other things, economic conditions in the FSM and RMI; the status of the FSM's and RMI's economic policy reforms, including progress toward establishing self-sufficient tax rates; and the status of efforts to increase investment in the FSM and RMI, including the level of private investment. However, Interior has not submitted these reports for recent years. Interior's most recent report to Congress regarding the FSM and RMI is dated November 2011 and covers fiscal years 2009 and 2010. Every 5 years, these annual reports are to include additional information, including findings and recommendations, pertaining to reviews that are required by law to be conducted at 5-year intervals. Interior submitted the first 5-year review (fiscal years 2004-2008) of the FSM and RMI compacts to Congress on January 23, 2013. The second 5-year review (fiscal years 2009-2013) had not been submitted to Congress as of March 2016.
- The compacts require the FSM and RMI governments to produce development plans for promoting economic advancement and budgetary self-reliance. The respective joint management committees (U.S.-FSM, U.S.-RMI) review the development plans and other planning and budgeting documents and monitor each country's progress toward economic development and budgetary self-reliance. These plans are strategic planning documents that might provide a road

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map for tax reform. However, joint committee meetings held in September 2015 discussed the fact that the two countries' plans had not been updated. The RMI government has not submitted an update of its 2013 draft "Medium Term Budget and Investment Framework." The FSM government has not updated its 2005 strategic development plan. The FSM government finalized a 2023 action plan in November 2014; however, according to Interior it is unclear whether this document forms the basis of the FSM's official development plan. Without such documents it is unclear what more the U.S. government could do to support FSM and RMI's tax reform.

- The compacts call for annual compact grants for private sector development in the FSM and RMI to support efforts to attract new foreign investment and increase indigenous business activity. One priority for these grants is analyzing and developing new systems, laws, regulations, and policies to foster private sector development. In 2016, the private sector development grant was the smallest FSM sector grant allocation, at \$1.2 million of approximately \$60 million allocated. This grant funded basic operations for several agencies to increase tourism, promote agriculture, and support small business. Interior has reported that without national goals for the grant, performance evaluation is hampered. In the RMI, no funding has been provided for private sector development since 2006. The United States, working through the joint management committee process, has allocated funds for specified activities. For example, in the FSM, the United States working through the committee required that the education grant be used to purchase school books. Similarly, the United States could require that the private sector development grant be used for specified activities.
- The United States may withhold compact grant funds if the countries breach the terms and conditions of certain sections of the amended compacts or of the fiscal procedures agreements or if they fail to comply with the award conditions of a

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grant. OIA has previously recommended the withholding of sector grant funds.
For example, infrastructure funds were withheld in the RMI until an independent
assessment of infrastructure grant implementation could be completed.

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Question 3: Dr. Gootnick, on page 19 of your testimony you say that “staffing shortages have affected (Interior’s) ability to ensure that Compact funds are used efficiently and effectively.” Would you elaborate on this -- how many staff currently oversee the roughly \$200 million in annual Compact grant funding and how many more staff should be employed to reasonably ensure that the funds are used effectively and efficiently?

Staffing shortages have affected the Office of Insular Affairs’ (OIA) ability to ensure that compact funds are used efficiently and effectively. As we reported in September 2013, in fiscal years 2011 through 2013, OIA experienced staff constraints, particularly in the Honolulu field office and in the Federated States of Micronesia (FSM), that limited its ability to carry out its compact oversight responsibilities.⁵ In 2010, OIA created a plan that provided detailed staffing projections across OIA for fiscal years 2010 through 2014. To ensure effective oversight for the amended compacts, OIA projected a need for 8 staff in the Honolulu field office, 2 field staff in the FSM, and 1 field staff in the Republic of the Marshall Islands (RMI) for fiscal years 2011 through 2013—a total of 11 staff.⁶ In 2011 through 2013, actual OIA staffing ranged from 5 to 6 persons; in 2014, OIA had 4 field-based staff for compact oversight; in 2015, OIA had 5 field-based staff (see table 3).

⁵GAO, *Compacts of Free Association: Micronesia and the Marshall Islands Continue to Face Challenges Measuring Progress and Ensuring Accountability*, [GAO-13-675](#) (Washington, D.C.: Sept. 20, 2013).

⁶Additional OIA staff support compact oversight from Washington, D.C.

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Table 3: Office of Insular Affairs (OIA) Staffing Projections for Compact Oversight, Fiscal Years 2010-2015

Position	Projected Need						Actual Supply					
	2010	2011	2012	2013	2014	2015	2010	2011	2012	2013	2014	2015
Lead Program Grants Specialist, Honolulu, HI	1	1	1	1	1	1	1	1	1	1	1	1
Education Grants Specialist, Honolulu, HI	1	2	2	2	2	2	1	1	1	1	1	2
Health Grants Specialist, Honolulu, HI	1	1	1	1	1	1	1	1	1	1	0	0
Fiscal Program Specialist, Honolulu, HI	1	4	4	4	4	4	1	1	1	1	0	0
Grants Specialist, FSM	1	1	1	1	1	1	0	0	0	1	1	1
Insular Policy Specialist, FSM	1	1	1	1	1	1	0	0	0	0	0	0
Grants Specialist, RMI	1	1	1	1	1	1	1	1	1	1	1	1
Totals	7	11	11	11	11	11	5	5	5	6	4	5

Source: GAO analysis of OIA's 2010 workforce plan and interviews with OIA officials.

Legend: FSM = Federated States of Micronesia; RMI = Republic of the Marshall Islands

Note: 2015 projected need assumes the same base as required in 2014.

Congresswoman Madeleine Z. Bordallo
Testimony for the Senate Energy and Natural Resources Committee
Oversight Hearing on S.2360, the Omnibus Territories Act of 2015, and S. 2610, A Bill to
Approve an Agreement between the U.S. and the Republic of Palau
Tuesday, April 5, 2016

Chairwoman Murkowski and Ranking Member Cantwell, thank you for allowing me the opportunity to submit testimony for this oversight hearing on legislation pertaining to the territories and the Freely Associated States, S.2360, the Omnibus Territories Act of 2015, and S. 2610, a bill that would approve an agreement between the United States and the Republic of Palau.

Firstly, I appreciate this committee's leadership on issues important to Guam and the U.S. territories, and commend Chairwoman Murkowski, Ranking Member Cantwell, and Senator Hirono, on their introduction of S.2610, legislation that would renew the Palau Compact. Renewal of the Palau Compact is crucial to our country's continuing strategic rebalance to the Asia-Pacific region, and this rebalance must be matched with actions, not just words. Palau is one of our nation's closest and strongest allies. Renewal of the Palau Compact is about more than receiving federal financial support—it is about the safety and security of America and our allies in the Asia-Pacific region. The longer we delay fulfilling our commitment to Palau, the more we risk our strategic relationship with Palau and potentially undermine other efforts in support of the Asia-Pacific rebalance strategy. I hope that we can work together to identify appropriate offsets so that we can move this bill forward, including the possibility of including the Palau Compact on the annual defense authorization bill. I look forward to doing what I can in the House to move this legislation forward.

Secondly, I understand that S.2360 addresses issues unique to American Samoa and the Freely Associated States. However, I encourage the committee to broaden discussion and consideration of issues regarding the Compact States to include Compact Impact and the issues that jurisdictions, such as Hawaii and Guam, face in administering services to Compact migrants. Doing so would help to address one of the most pressing issues for affected jurisdictions. I support the intent of the Compacts and understand the benefits these agreements have for our nation and our security. However, the costs borne by our local governments for providing social services to Compact migrants are unsustainable. While I understand that an increase in annual mandatory funding from the \$30 million to the \$185 million recommended by the GAO is difficult in this current budget environment, I encourage exploring important fixes that could provide much needed relief to our local governments without significant costs to taxpayers. Congress must work towards innovative solutions that provide relief for affected jurisdictions who have spent millions of local

funds to support the Compacts and migrants. This strain only increases, especially in the face of uncertain economic conditions in the Freely Associated States, as well as the impact of climate on Pacific island nations. I have introduced several ideas in legislation, H.R. 4370, that are based on ways to reduce the burden on the affected jurisdictions and address three key components that impact our jurisdictions the most, namely health care, education, and housing.

Firstly, my bill would permit the affected jurisdictions to use the cumulative amount that they have spent to provide social services to COFA migrants, towards the non-federal portion of providing Medicaid to their local residents. The bill proposes a new formula that would increase the Federal Medical Assistance Percentage for each of the affected jurisdictions. This would greatly alleviate the burden on jurisdictions by increasing the percentage assistance provided by the federal government for Medicaid.

Secondly, the bill would categorize elementary and secondary education-aged COFA students as federally connected students and make them eligible for Impact Aid. I understand the fiscal challenges that the Impact Aid community faces, and I am committed to working with them to address the effect this bill may have on them. The bill attempts to offset this effect by increasing funding authorization and ensures that we are not taking from one group to pay for another.

Thirdly, this legislation would clarify Congress's intent when we extended eligibility for housing assistance programs to COFA migrants. This bill ensures that U.S. citizens, nationals, or lawful permanent residents are not displaced but rather given priority when applying for housing benefits.

Lastly, the bill calls for an independent study to review the viability of the Compacts moving forward and to make recommendations to Congress on ways to improve them when the Compacts are up for renewal in 2023. I hope the committee will include this bill in the Omnibus Territories Act so we can address this key issue for the territories and the State of Hawaii.

I would also request that the committee include a provision in this bill to assist the Government of Guam in strengthening its retirement plan for government employees. Currently, the Guam Retirement Plan is not able to meet the needs of retirees, and the Guam Legislature is currently considering local legislation to make the plan fiscally stable. As the committee is aware, the failure of the government retirement plan contributed to Puerto Rico's current debt crisis. While Guam's fiscal situation is nowhere near Puerto Rico's, I am encouraged that the Guam Legislature is taking a proactive step to prevent a Puerto Rico-like situation in Guam. However, a change in

federal law is required to enable Guam to extend Social Security to new government hires. I have introduced legislation in the House, H.R. 3642, that would provide Guam with this flexibility, and the Social Security Actuaries have estimated that it would have a small but positive increase to the OASDI actuarial balance. I hope that the committee will include the text of this bill in this Omnibus Territories Act to empower Guam to be proactive in avoiding fiscal challenges to their pension plan.

Lastly, I hope the committee will include language in this Omnibus Territories Act to recognize the survivors of the Japanese occupation of Guam during World War II for the atrocities they endured. As the committee is aware, the people of Guam suffered greatly during the 32 months of enemy occupation; many were subjected to forced labor and forced march, detained in concentration camps, raped, and even killed. I have introduced legislation in each Congress since 2003 that would provide claims to these survivors. War claims legislation has passed the House of Representatives on five separate occasions and has been considered by the Senate twice. Unfortunately, it has never been passed by the full Senate, and I hope that we can work together to include the text of my bill, H.R. 44, into any Omnibus Territories Act. This measure is fully paid for using federal mandatory funds specifically allocated to Guam, and it addresses other concerns that have previously been expressed by Senators by using future Section 30 funds to pay for the expected cost of the legislation. The offset would only impact Guam and is supported by our local leaders.

Passing war claims for the survivors of the occupation would finally resolve this longstanding issue for the people of Guam. These survivors demonstrated exceptional and unwavering loyalty to the United States, even when they and their families were threatened with death. I believe Congress has a duty and moral responsibility to recognize them for their patriotism. Each day, survivors of the occupation pass on without just recognition. I hope that we can work to resolve this matter for them.

Again, I thank the Committee for holding this important hearing today. I also appreciate you including my written testimony in the hearing record. I appreciate your consideration of the unique needs of Guam and U.S. territories and look forward to working with you to address these issues in the pending legislation before this Committee.

STACEY E. PLASKETT
U.S. VIRGIN ISLANDS



Congress of the United States
House of Representatives
Washington, D.C. 20515

Congresswoman Stacey E. Plaskett Statement
for
The Senate Energy and Natural Resources Committee Hearing “To Consider the Omnibus
Territories Act of 2015.”

April 6, 2016

Thank you Chairwoman Murkowski and Ranking Member Cantwell for holding this hearing to conduct oversight on issues facing U.S.-affiliated islands and to consider the Omnibus Territories Act of 2015. I would like to submit my statement for the record.

The Month of March is one with special significance to the U.S. Virgin Islands. It is the month we celebrate the contributions of outstanding Virgin Islanders, and it is also the month marking the anniversary of our islands formally becoming a part of the United States.

This past March, not only marked Virgin Islands History Month, it also marked the 99th anniversary of the Transfer of the Virgin Islands from Denmark to the United States.

Nearly a century ago, the United States purchased the Virgin Islands from Denmark for its geopolitical importance. Prior to this purchase, the Virgin Islands had served as the hub of Western hemisphere commerce in the region for several centuries, and served a crucial role in naval military activity in the Caribbean Basin.

On March 31, 2017, the Virgin Islands of the United States will celebrate 100 years as a possession and part of the union of the United States of America.

Recently, I introduced H.R. 2615, the Virgin Islands of the United States Centennial Commission Act. It was considered by the House Committee on Oversight and Government Reform, where it passed unanimously out of Committee and recommended to the House Floor.

The bill establishes a Virgin Islands of the United States Centennial Commission to research, plan, develop, and carry out activities the Commission considers appropriate to commemorate the 100th Anniversary of the Virgin Islands of the United States becoming an unincorporated territory of the United States.

This Congressional Centennial Commission will provide an opportunity to revisit the history leading up to and directly following the transfer of the islands from Denmark to the United States and educate those unaware of that history—on a national level—of the importance of the territories to the geopolitical advancement of this great nation. It is also imperative to the continued growth of this nation, that it embrace and recognize the culture, history and

accomplishments of its many members. Recognizing 100 years of inclusion through a discrete, short term bi-partisan commission comprised of House and Senate members along with Administration and other officials and volunteers, seems only fitting. In addition to planning commemorative events, I believe that this Congressional Commission will engage the other lawmakers in Congress and the Administration in a new national discussion around the challenges and enormous opportunities present in the Virgin Islands.

The coming centennial anniversary of the inclusion of the Virgin Islands into the United States of America allows us to revisit this history and our ongoing relationship. It is also an opportunity to highlight the enormous contributions to the United States by Virgin Islanders and the richness of our Virgin Islands heritage. Through the arts, sports, politics, military service, and intellectual discourse, the Virgin Islands of the United States has and continues to contribute to the rich fabric of the United States while cherishing its unique Caribbean history and culture.

Through individuals such as the first African-American band master of the U.S. Navy, Alton Augustus Adams, television producer and director Kelsey Grammer, and impressionist founder Camille Pissaro, Virgin Islanders have contributed to the arts.

Virgin Islanders have also served as drafters, soldiers, and patriots of the new Nation through notables such as Alexander Hamilton and David Levy Yulee, the first Jewish member of the U.S. Senate.

Virgin Islanders also acted as leaders on both sides of the great question of slavery and race in the new Nation. Virgin Islander Denmark Vessey led one of the earliest slave revolts in the United States, and Judah Benjamin served as Secretary of the Treasury of the Confederate States during the Civil War.

As explorers and intellects, the small islands of the Virgin Islands have contributed to this country through individuals such as Edward Wilmot Blyden the founder of Pan Africanism and William Leidesdorff, the founder of San Francisco.

As the Virgin Islands of the United States enters its next century under U.S. jurisdiction, it will have continued relevance in the region, as issues of foreign investment, increasing levels in maritime and information technology, and commerce grow and as other Caribbean nations look to the territory as the physical example and influence in the region of American thought, economic leadership, and sophistication.

Madame Chairwoman, it is befitting that this legislation is added to the Omnibus Territories Act of 2015. Ours staffs have worked together to get this bill for some time to arrive at a place where both sides have found common ground and I ask your support with moving it forward.



April 4, 2016

The Honorable Lisa Murkowski
Chairman, Committee on Energy and Natural Resources
United States Senate
304 Dirksen Senate Building
Washington, DC 20510

The Honorable Maria Cantwell
Ranking Member, Committee on Energy and Natural Resources
United States Senate
304 Dirksen Senate Building
Washington, DC 20510

Dear Chairman Murkowski and Ranking Member Cantwell:

Thank you for the opportunity to submit this letter in connection with the Committee's review of S. 2610 to approve the Compact Review Agreement signed on September 3, 2010, by Palau and the United States. This Agreement carries out the results of the formal review mandated in Section 432 of the Compact of Free Association between our two countries. When implemented, it will exemplify the strong partnership of our two nations and be a significant contribution to economic and political security in the Western Pacific. I hope you can include this letter in the record of the Committee's hearing on S. 2610.

Palau appreciates that the U.S. Executive Branch has again proposed implementation legislation in its letter of February 22, 2016. However, Palau has concerns about the Executive Branch proposal which effectively amends the Agreement. At the same time, implementation of the Agreement has become even more urgent given the challenges faced by both our countries in the Western Pacific.

Palau believes that adjustments are required in the Executive Branch proposal to achieve today the economically equivalent result that the U.S. and Palau agreed to when the Agreement was signed over six years ago. These include:

1. Paying to Palau in Fiscal Year 2017 funding that in 2010 the U.S. agreed to pay to Palau in Fiscal Years 2016 and earlier and not further delaying payments under the Agreement;
2. Making payments to Palau due in subsequent fiscal years in the fiscal years agreed upon by the U.S. and Palau in 2010; and

The Honorable Lisa Murkowski
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3. Correcting for the U.S. delay in payment over the last six years by:
 - a. Adjusting the payment amounts by two-thirds of the rate of inflation as provided in the Compact;
 - b. Having the U.S. assume responsibility for the cost of audits for its benefit as is already provided in the Compact; and
 - c. Not taking from Palau the approximately \$7 million (about \$1.2 million per year) that the U.S. paid to Palau over six years under U.S. continuing resolutions in excess of what the Agreement would have provided if it had been timely approved.

While Palau's economic and governmental accomplishments are significant and firmly in place, Palau's economy remains fragile and it has not reached full economic self-sufficiency as envisioned in the Compact. In particular, in the Compact the U.S. and Palau agreed in the 1980's to establish a trust fund which, after 15 years, would provide sufficient annual draws to end the need for Palau to receive annual economic assistance from the U.S. The Compact negotiators more than 30-years ago over optimistically assumed that the trust fund would grow at 12.5% per annum. As a result, the trust fund did not reach the necessary size to provide annual draws that would allow Palau to achieve economic self-sufficiency and end dependence on U.S. annual economic assistance.

To address this and other needs identified in the review, the Agreement provides through fiscal year 2024 for a carefully developed combination of continued limits on withdrawals from the trust fund, additional funding of the trust fund, funding for infrastructure and other identified needs, declining annual economic assistance ending in 2024, and continued governmental improvements in Palau. The cost of the delay in U.S. implementation together with the structure of the U.S. Executive Branch proposal upsets this balance and the anticipated resolution of capital and infrastructure needs in Palau. For Fiscal Years 2017 and later, It would also require Palau to make excessive draws from the trust fund, depleting its future value, to cover the approximately \$1 million a year proposed U.S. take back to recover so-called "excess" payments made under the continuing resolutions.

As noted in Chairman Murkowski's remarks introducing S. 2610 and the Executive Branch's transmission letter, the Republic of Palau is one of the United States' strongest allies, a security bulwark in the Western Pacific and a success story for democratic and economic development. Palauans have a very high enlistment rate in the U.S. military (some have paid the ultimate sacrifice). Other nations in the Pacific are watching whether and how the United States acts in meeting its commitments to such a well-known, close U.S. ally. The continued U.S. failure to implement an agreement central to its relationship with Palau is having an impact on how the United States is viewed both within Palau and throughout the Asia Pacific region. Nations with antithetical agendas are trying to move into what they perceive to be a vacuum and are creating their own economic incentives.

In addition, continued U.S. delay creates an obstacle to Palau's continued economic growth and progress toward self-reliance. This uncertainty affects the confidence of domestic and potential foreign investors. It also creates delays in critical public infrastructure investments, delays in

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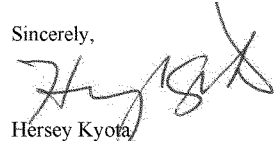
funding for maintenance of existing economic infrastructure, and delays in initiating the closer coordination and oversight of needed economic policy improvements called for under the Agreement.

Palau understands that there are budget rules issues that have impeded approval of the Agreement notwithstanding support from all across the U.S. government. How this is resolved is obviously a matter to be decided by the U.S. and not Palau. However, the resulting delay is not understood by and is a matter of great frustration among the people of Palau and its friends.

As you know, Palau is now undertaking the creation of a National Marine Sanctuary in an area of 193,000 square miles, the size of France. The Sanctuary is economically positive for Palau and the U.S. It will also aid U.S. and Palauan conservation and security interests. However, as many observers have pointed out, the oceans are infected by illegal fishing and transport and repeated criminal activity. Without approval of the Agreement, there are those that will see an opportunity to illegally take advantage in the Sanctuary because in part they question the U.S. willingness to fulfill its commitments to Palau.

Palau wants to continue, and believes the United States also wants to continue, a very successful and effective across the board close relationship, including economic, security and defense matters in the Pacific and elsewhere. We believe adjustments in the U.S. Executive Branch proposal can be agreed upon with the same good will that governs our relationship. We are most appreciative of your support for Palau and we hope you can help the U.S. urgently address solutions that will allow prompt approval of the Agreement in the U.S. and Palau.

Sincerely,



Hersey Kyota
Ambassador to the United States
Republic of Palau

cc: Tommy E. Remengesau, Jr.
President of the Republic of Palau

DELEGATE GREGORIO KILILI CAMACHO SABLÁN

TESTIMONY FOR THE RECORD ON S. 2610,
A BILL TO APPROVE AN AGREEMENT BETWEEN THE UNITED STATES AND THE REPUBLIC OF PALAU

SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

APRIL 5, 2016

Thank you, Chairman Murkowski and Ranking Member Cantwell, for holding a hearing on S. 2610. Approval of the agreement, entered into by the United States and the Republic of Palau in 2010, to extend the Compact of Free Association between our two nations is long overdue.

Earlier this year, I introduced similar legislation, H.R. 4531, which reflects certain updates that the Republic of Palau believes necessary given the five years that have elapsed since the agreement to extend the Compact was concluded. These differences can certainly be worked out in the course of the legislative process and in full consultation with the Republic of Palau. What is critical is that this Congress at last move forward to approve extension of the Compact and to confirm the commitment of the United States to a faithful ally and strategically important partner in the Western Pacific.

It was President Ronald Reagan who, recognizing the importance of the Western Pacific to U.S. security interests, first negotiated a Compact of Free Association with the people of Palau. President Reagan's prescience of the need to maintain strategic denial to the military of other nations from the land, air, and sea of Palau—an area the size of Texas—is apparent now more than ever. Given the increasingly expansionist policies of China, a close continuing relationship between Palau and the United States is a very real national security interest.

I do not need to remind you that under the Compact of Free Association the U.S. has the authority to operate our armed forces in the area under Palau's jurisdiction and operate military bases on Palau land. The Compact also provides that other states can make use of Palau territory only if the U.S. agrees.

The State Department made this point in testimony to this Committee in 2011—five years ago. It remains true today and worth repeating:

The importance of our special relationship with Palau is most clearly manifested in the U.S. defense posture in the Asia-Pacific region, which forms a north-south arc from Japan and South Korea to Australia. Maintaining U.S. primacy in the Pacific depends on our strong relationship with the Freely Associated States of Palau, the Marshall Islands and the Federated States of Micronesia, which along with Hawaii, Guam, the Commonwealth of the Northern Mariana Islands, American Samoa and the smaller U.S. territories comprise an invaluable east-west strategic security zone that spans almost the entire width of the Pacific Ocean.

Additionally, critical security developments in the region require the United States' sustained presence and engagement, particularly given the range of U.S. strategic interests and equities in the Western Pacific. Essential elements of our presence include the Reagan Ballistic Missile Defense Test Site on U.S. Army Kwajalein Atoll and disaster relief operations throughout the region. This posture will become increasingly important as regional powers become increasingly active and seek to supplant U.S. military leadership and economic interests in the region. Following through on our commitments to Palau, as reflected in the proposed legislation, buttresses our defense posture in the Western Pacific.¹

Yet we in Congress have failed to maintain the commitment that President Reagan established with Palau. Yes, Congress has continued to provide financial assistance to Palau per the terms of the extension agreement, which includes a gradual tapering off of this support over a fifteen year period. But our support has only been on an installment basis, year-by-year, as if we are unsure that the relationship is important. No long-term commitment to our ally has been forthcoming, despite what the U.S. agreed in 2010.

Yet, the Republic of Palau continues to send its citizens to serve in the U.S. Armed Forces. Palau votes with the United States in the United Nations 95 percent of the time, ranking only behind Israel in this mark of loyalty. And Palau's keystone geographic position in the defensive "second island chain" in the Western Pacific has not altered.

Our failure to follow through on a negotiated agreement with a key ally not only leaves Palau uncertain about America's commitment. It leaves any nation of the twelve Pacific island states wondering whether to put its faith with America or with others. China, we know, is trying to establish a foothold in the region with aggressive business investment and island-building. Russia is engaged, in Fiji, with transfers of military equipment. Strange as it may seem, even Cuba has established itself, through a medical program, in the Solomon Islands. The people of the Pacific are friendly toward the U.S., but if Congress does not follow through on its commitments to Palau that sends a signal to all to look elsewhere for assistance and friendship.

So, now is time for Congress to affirm the alliance that President Reagan first sealed. Legislation approving the extension of the Compact of Free Association with the Republic of Palau will accomplish that goal. Legislation, such as S. 2610, will help maintain the American presence acquired at great cost in the bloody battles of World War II and will bulwark America's position in the Western Pacific in the years ahead.

Thank you for the opportunity to submit this testimony for the Committee's record.

¹ Frankie A. Reed, Deputy Assistant Secretary, Bureau of East Asian and Pacific Affairs; Statement before Senate Committee on Energy and Natural Resources, Washington, DC; June 16, 2011.

**Statement of the Honorable Minister John M. Silk,
Minister of Foreign Affairs,
Republic of the Marshall Islands**

**Presented to the United States Senate Committee on Energy and Natural Resources
Regarding S. 2360, the Omnibus Territories Act of 2015**

April 5, 2016

Chairman Murkowski, Ranking Member Cantwell, and Members of the Committee, on behalf of the Government of the Republic of the Marshall Islands (RMI), thank you for the opportunity to submit this written statement in support of S. 2360, the Omnibus Territories Act of 2015.

Background on the RMI-US Relationship

The Republic of the Marshall Islands (RMI) and the United States of America (US) have a long standing relationship that has spanned over 7 decades. Our relationship has taken us from the end of WWII when American soldiers liberated the Marshall Islands and stopped the violent atrocities and human rights violations being committed on Marshallese; to today, where hundreds of Marshallese men and women fighting alongside American soldiers in the war on terror.

The Trust Territory of the Pacific Islands (TTPI), of which the Marshalls was a “district”, was established in 1947 but the US had determined by 1945 or earlier that the location would provide a significant advantage for security. Administration of the TTPI was transferred from the Navy to the Department of the Interior in 1951. This led to the atomic and thermonuclear weapons era in our two countries’ respective histories. As a result, many Marshallese still feel the ill-effects of this era to date, yet we still believe that our role was essential to the preservation of democracy and the ideals we strive for today.

In 1986, the Trust Territory relationship came to an end and a new undertaking took shape in the form of a Compact of Free Association. Today, this strategic partnership continues to evolve to where our two countries work in equal partnership on many issues in the domestic, regional and international arena.

This mutual partnership has provided a myriad of opportunities for both the RMI and the US. Since late 1940s, the US military has continuously leased Kwajalein Atoll for its strategic missile defense program. And at the same time, citizens of the Marshall are able to live, work and pursue educational advancement in the US.

Although this relationship has come a long way, there is no doubt that our countries must continue to look for more opportunities to further strengthen our close and unique ties.

Bikinians Relocation and Resettlement

The RMI supports Section 2 of S. 2360 which relates to the modification of the Bikini Atoll Resettlement and Relocation Trust Funds to be used outside of the Marshall Islands. It will provide an avenue for the Bikinians to access support and resources to improve their living conditions on the islands of Kili and Ejit. It will allow the Bikinians to be able to use their trust funds to acquire property outside of the Marshall Islands, in order to provide an alternative place of residence for the people who do not want to continue to live on the increasingly flooded Kili and Ejit islands. These people have been displaced for decades due to the United States nuclear testing program in the Marshall Islands.

From 1946 to 1958, the US conducted atomic and thermonuclear testing in the Marshall Islands, in which sixty-seven (67) atmospheric nuclear weapons were detonated on Bikini and Enewetak Atolls. The most powerful of these weapons was the Hydrogen bomb known as “Bravo” to be denoted in the world on March 1st, 1954. March 1st has been designated as the national holiday in the RMI to commemorate to honor the victims and survivors of the nuclear testing.

The nuclear legacy has affected every aspect of life in the islands, including our people’s health and our environment. The testing will forever be remembered in the perils of time as a period in which many of our people were forced to be displaced from their home islands, not being able to cultivate and benefit from their lands, and ushered in a time of unprecedented levels of new and various types of cancers emerging in the local population.

Drivers’ Licenses and Personal Identification Cards

The RMI also supports Section 4 of S. 2360 which calls for a technical amendment to the Real ID Act of 2005, Public Law 109-13, to allow the citizens of the Republic of the Marshall Islands including Federated States of Micronesia, and the Republic of Palau to obtain State-issued driver’s license and personal identification card.

When the Real ID Act was passed by Congress in 2005, no mention was made of the three Freely Associated States (FAS) and what documentation was necessary for our citizens to present to State officials in order to obtain a state issued driver’s license or identification card. As a practical matter, possession of such state issued documents is essential for FAS citizens to live in the US, and gain employment in the US State where they are residing. The consequence of this problem in the law is that FAS citizens are denied access these state issued documents resulting in the inability to gain employment and engage in other lawful activities.

Adoption of this technical amendment to the Real ID Act of 2005 will enable thousands of our citizens to obtain essential state documentations and prepare them to better contribute to the US communities in which they reside as well as to the FAS themselves.

Other Issues for RMI

Besides my government's support on S. 2360, I would like to raise and put forth other issues of great importance for the RMI.

Compact Implementation: 5-Year Review

Pursuant to Section 104(h)(2) of Public Law (108-88), the amended Compact provides for the U.S. Government to "review the terms of the respective Compacts and consider the overall nature and development of the U.S.-FSM and U.S.-RMI relationships". The section further states that the RMI will have a chance to review and comment on the review with further follow-up by the U.S. President including "any recommendations for actions to respond to such findings." Furthermore, this includes Section (E) of paragraph (1) which allows for "recommendations on ways to increase the effectiveness of United States Assistance and to meet overall economic performance objective, including, if appropriate, recommendations to Congress to adjust the inflation rate or to adjust the contributions to the Trust Funds based on non-U.S. contributions."

The first 5-Year Review has been done, and as we are in the 10th year of the Compact, the second review is overdue. To date, the RMI has identified key areas that need to be addressed to fully optimize the potential of Compact assistance. Although the RMI has already provided the following in our comments to the first 5-Year Review, we take this opportunity to reiterate them herein.

Full Inflation Adjustment

Limiting the inflation adjustment to just two-thirds (2/3) of the Gross Domestic Product (GDP) Implicit Price Deflator has had a negative impact for the RMI. This, coupled with the annual decrement of \$500,000 from the financial assistance from the U.S., is currently taking a toll on the RMI's fiscal stability. The declining real and nominal values of the grant assistance is hindering our ability to fully maximize the potential economic growth for the Marshall Islands.

For example, from fiscal year 2005, the first year both the decrement and the partial inflation were applied to the base grant, today, the RMI lost approximately \$5.5 million (not including full inflation) in real value. This places significant pressure on the RMI to provide mandated services without cutting essential elements in providing these services. If this situation does not improve, many of the essential services currently being provided by the Government will have to decrease or ultimately be cut.

Global economic conditions further exacerbate the effects of the partial inflation adjustment and the decrement to our fiscal situation. One example is the cost of petroleum. This single commodity has managed to ravage our energy sector, increase the cost of delivering vital services to our people, and has increased the operation cost of the Government, as a whole. Paying for fuel to ensure that lights are kept on and that ships are running on schedule has become more of a burden to our financial situation.

Full inflation adjustment is needed to assist the RMI in offsetting some of the impact caused by the decrement. Granting RMI the full inflation adjustment will limit the effect of the decrement on our financial situation in the short-term, and will give us ample time to transition to a fiscally stable state. We anticipate that when the decrement finally catches up to us, the shift will not be too extreme. Not doing so will force the RMI to make radical decisions that could potentially hinder our economic growth.

Trust Fund Sufficiency and Amendments to the Trust Fund Agreement

The amended Compact provides a provision for the establishment of the Trust Fund. The main purpose of this Trust Fund is to replace the revenue source currently provided under Section 211 of this agreement post-2023.

The last GAO report on the RMI Trust Fund calls into question the adequacy of the fund, much like reports by the International Monetary Fund, Asian Development Bank, U.S. Graduate School and Goldman Sachs. The RMI agrees with these assessments and urge the U.S. to work with the RMI to find a solution that will guarantee the sustainability of the trust fund. Our immediate concern is to facilitate a reasonable approach to maximize the potential and viability of the Trust Fund. Below are some possible solutions to this dilemma.

Extension of Grant Assistance

The initial delay in the establishment and investment of the Trust Fund puts the RMI at a disadvantage from the beginning. The Trust Fund Agreement requires an investment for a period of twenty (20) years, but because of the delay, the Trust Fund will have been earning income for only seventeen years. There were legal and administrative hurdles to overcome before the fund was invested.

To remedy this delay, the RMI would seek an additional three years of annual grant assistance to meet the conditions set forth in the agreement of a twenty-year investment and build up timeframe. Discussion on a base amount would have to happen to determine the appropriate level of grant assistance for the three-year extension. This amount would become, in effect, the benchmark for the annual proceeds from the trust fund.

Additional Contributors

The Republic of China (Taiwan) is the only subsequent contributor to the Trust Fund. Taiwan will provide \$50 million to the trust fund over the life of the build-up time period, making payments on a scheduled plan prescribed by our bi-lateral arrangement with the Taiwanese government. This is a major step as we try to give all the possible opportunities for the trust fund to become viable post 2023. The RMI is actively seeking other subsequent contributors to the Trust Fund, and I urge the U.S. to do the same.

Full Inflation adjustment for Trust Fund Contributions

Under the current trust fund agreement, contributions to the fund are not adjusted for full inflation. These contributions lose their real value each year it is not inflated to reflect its true value. We believe a full inflation adjustment to the Trust Fund contributions will help stabilize this fund, and provide adequate resources to the RMI post-2023.

Tax and Trade Compensatory Adjustment

The RMI is seeking remedy to the tax and trade report it submitted to the U.S. Government in September 2009. Pursuant to Section 111(d) of Public Law 99-239, the RMI could petition the U.S. Congress to allow for compensatory adjustments if the RMI could show adverse impact from U.S. Congressional changes to the tax and trade provisions in the original Compact. The 2009 report stipulated that the RMI had indeed lost potential revenue as a result of the enactment of the original Compact.

The report clearly shows that the RMI lost out on approximately \$245 million as a result of these changes. The U.S. Administration conducted its own study based on the RMI's submission, and concurred with our findings and recommended to the U.S. Congress to act on these findings. The Compact has authorized up to \$60 million to compensate the RMI and the FSM for these changes, and the RMI is awaiting the U.S. Congress to fully address this issue. I urge the Congress to act accordingly as these funds will be injected into the Trust Fund to ensure its viability as per Section 216 (b) of the amended Compact.

Supplemental Education Grant (SEG)

The idea behind having the Supplemental Education Grant (SEG) was to enable the RMI considerable freedom in designing and implementing our own educational programs to best fit our needs. This led to the RMI "cashing-out" of these federal programs to establish a similar system without the strict criteria in which many of these Federal Programs adhered to. The Compact, as Amended, authorizes \$6.1 million annually to fund these supplemental educational programs.

Our national Kindergarten Program is a primary beneficiary from this arrangement. This grant allows the RMI to formulate a universal pre-school program that caters to the learning norms in the Marshall Islands.

Though progress has been made with respect to the implementation of the SEG, there are still barriers to which we still need to overcome to fully appreciate the intent and purpose of the SEG. Moreover, while there have been some improvements in regards to the disbursement of the SEG, it is important to note that it remains a year behind.

To compound these problems, the SEG is not adjusted for the 2/3rd inflation provided in the Compact. The RMI has seen the reduction in the SEG since the second year it was made available to the RMI, and fears that this trend will subsequently lead to the RMI not being appropriated the SEG in future years.

The RMI requests this committee and the Administration to make provision that the SEG be made available to the RMI as a permanent appropriation and adjusted for inflation. This is an issue that could be corrected in the Compact mandated 5-Year Review. Doing so would greatly improve our ability to provide educational services to all Marshallese.

Thank you Madam Chair for the opportunity. I look forward to answering any questions that you or the committee might have.

Testimony of Jonathan M. Weisgall
Legal Counsel for the People of Bikini
Before the Senate Energy and Natural Resources Committee
April 5, 2016

Thank you, Madam Chairman, for allowing me to submit this written testimony. I am Jonathan Weisgall, and I have served as legal counsel for the people of Bikini for 41 years. I am testifying in support of S. 2360, the Omnibus Territories Act of 2015, but I also want to bring to the committee's attention other important issues affecting the people of Bikini.

In 1982, Congress passed Public Law 97-257 (96 Stat. 840), which established the Resettlement Trust Fund for the People of Bikini "for the relocation of resettlement of the Bikini people in the Marshall Islands, principally on Kili and Ejit Islands."

Background on Kili Island: The people of Bikini were moved off their atoll by the U.S. Navy in March 1946 – more than 70 years ago – to facilitate Operation Crossroads, the world's fourth and fifth atomic bomb explosions. The Navy first moved them to Rongerik Atoll, 125 miles east of Bikini, where they experienced severe food shortages. Following reports from a U.S. physician that the Bikinians "were visibly suffering from malnutrition" and from a U.S. anthropologist that starvation conditions existed on Rongerik, the Navy moved the Bikinians to Kwajalein Atoll in March 1948 and then moved them again six months later, this time to Kili Island, about 400 miles southeast of Bikini Atoll.

Background on Ejit Island: Based on the findings of a blue-ribbon AEC panel, President Lyndon B. Johnson announced in August 1968 that Bikini was radiologically safe, and the U.S. began moving Bikinians back to their atoll, which had been completely decimated by 23 atomic and hydrogen bomb tests, including the March 1, 1954 Bravo shot, the largest U.S. nuclear test in history with an explosive force equal to nearly 1,000 Hiroshima-type atomic bombs. Radiological measurement in the early 1970's led U.S. scientists to warn the Bikinians to limit their intake of locally grown foods, and U.S. physicians examining the Bikinians in April 1978 described what they called an "incredible" one-year 75% increase in their body burdens of radioactive cesium-137, leading them to conclude that the Bikinians had likely ingested the largest amounts of radiation of any known population. In August 1978, the U.S. again evacuated the Bikinians from their atoll, sending some to Kili Island and others to Ejit Island in Majuro Atoll.

Bikini Atoll's 23 islands surround a 243-square mile lagoon. Kili is a single island, with no lagoon, and its land area of barely over one quarter square mile is less than one-sixth the land area of Bikini's 23 islands. The lagoon-centered fishing skills that had sustained the people of Bikini on their atoll for generations were of no use on Kili, which has neither a lagoon nor a protected anchorage. For six months out of the year, access to the island by boat is extremely hazardous and fishing is nearly impossible. More recently, conditions on both Kili and Ejit Islands have deteriorated due to crowding and more cramped living quarters, a lack of suitable sustainable resources, and increased frequency of storms and flooding. A February 11, 2011 wave surge that inundated Kili– the first known such surge in recorded history – rendered the

water in its wells too saline for human consumption, and additional high waves have now swept over Kili and Ejit Islands every year since then, destroying some crops and raising deep concerns about public health and safety.

Despite these events, the Bikinians, like other Marshallese, still look to the United States as a friend under the Compact of Free Association. Indeed, some Bikinians today serve in the U.S. military, along with other Marshallese.

Section 2 of S. 2360 would amend Public Law 97-257 by striking its provision that limits the use of Resettlement Trust Fund money for relocation and resettlement only in the Marshall Islands, thus allowing the Bikinians to use the trust fund's resources to relocate their communities outside of the Marshalls. For all of the above reasons, the Bikinians strongly support this bill.

That, however, is not the end of the story. In her October 15, 2015 letter to Vice President transmitting this provision of what is now S. 2360, Assistant Secretary of Interior Kia'aina wrote that this language would "provide the people of Bikini much needed options for habitable and sustainable living" – which is true. She then added: "The people of Bikini, who face such dire circumstances on Kili and Ejit Islands, should have as many options available to them as possible in order to improve their quality of life."

One option that is not available to them is a radiologically clean Bikini. It has now been over 70 years since the Bikinians were moved off their islands. Several generations of Bikinians have not seen their homeland. The Bikini leaders have continuously asked the U.S. Government to conduct a cleanup of Bikini, most recently in a resolution passed last year.

The U.S. Government decimated Bikini Atoll and promised to care for its people. It has failed to do so. Isn't 70 years long enough? Ask the Interior Department. Ask the State Department. Ask the Department of Defense. As far as they are concerned, these events are now relegated to the trash bin of history. Ask the Bikinians. For them, this is a travesty.

And ask yourselves: You haven't failed to appropriate the necessary funds for the Department of Justice to pay out more than \$2 billion under the Radiation Exposure Compensation Act for uranium workers, downwinders and others injured as a result of nuclear tests in Nevada that were nearly 100 times smaller in magnitude than the tests conducted in the Marshall Islands

Ask yourselves: You haven't failed to appropriate many tens of billions of dollars to the Department of Energy's Environmental Management Program budget to clean up radioactive waste at 107 U.S. nuclear weapons production and development sites. Your average annual appropriation to that program for the last three fiscal years has exceeded \$5.5 billion, and its fiscal year 2017 request is over \$6.1 billion. The Program's web site states that its mission is to "address the nation's Cold War environmental legacy" at "some of the world's most dangerous radioactive sites." What about Bikini Atoll?

Ask yourselves: You haven't failed to appropriate about \$40 billion just at the Hanford, Washington nuclear weapons site, and the price tag for completing the remainder of that cleanup, is estimated to be \$112 billion. What about Bikini Atoll, which can be made safe for under \$100

million? That's what the Bikinians want. They want to live in their own homeland in the Marshall Islands. Changing the terms of their trust fund to allow them to resettle outside the Marshall Islands is a convenient way of ignoring the real issue.

The people of Bikini also support Section 4 of S. 2360, which would amend the REAL ID Act to provide that Marshallese citizens who have been admitted to the United States as nonimmigrants under the Compact of Free Association are eligible for driver's licenses or personal identification cards. I understand that the Marshall Islands Government is supportive both Sections 2 and 4 as well.

Thank you. I would be pleased to answer questions you may have.