



The President
Palikir, Pohnpei
Federated States of Micronesia

September 30, 2010

PRESIDENTIAL COMM. NO. 16-290
FSM CONGRESS

The Honorable Isaac V. Figir
Speaker
16th FSM Congress
Palikir, Pohnpei State, FM 96941

Dear Speaker Figir:

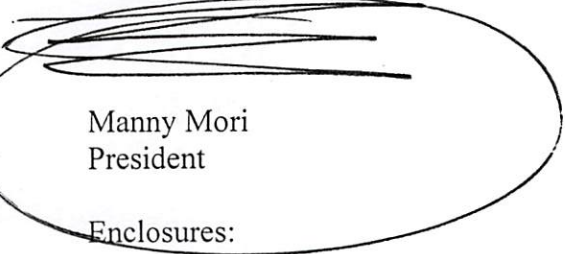
I am pleased to transmit Congressional Act No. 16-48, entitled,

“AN ACT TO APPROPRIATE \$39,041,803 FROM THE GENERAL FUND OF THE FEDERATED STATES OF MICRONESIA FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2011, TO PROVIDE FUNDING FOR THE OPERATIONS OF ALL BRANCHES OF THE NATIONAL GOVERNMENT OF THE FEDERATED STATES OF MICRONESIA, ITS AGENCIES, VARIOUS PROGRAMS, GRANTS, SUBSIDIES AND CONTRIBUTIONS; AND FOR OTHER PURPOSES.”

which I have signed to become Public Law No.16-42 pursuant to section 22, article IX of the FSM Constitution. Attached to this transmittal is a signing statement that explains the constitutional ramifications surrounding the passage of the budget act. The signing statement is incorporated herein by reference and shall serve as part of the general intent and guideline of implementation for the Executive Branch.

I take this opportunity to thank you and all the members of Congress for passing the FY11 budget act.

Sincerely,



Manny Mori
President

Enclosures:

Xc: Chief Justice, FSM Supreme Court
Secretary, Department of Justice
Director, Office of SBOC
Legislative Counsel, CFSM
Library, CFSM
PIO, FSM





The President
Palikir, Pohnpei
Federated States of Micronesia

PRESIDENTIAL COMM. NO. 16-290
FSM CONGRESS

PRESIDENTIAL STATEMENT ON THE SIGNING OF CONGRESSIONAL ACT NO. 16-48: "AN ACT TO APPROPRIATE \$39,041,803 FROM THE GENERAL FUND OF THE FEDERATED STATES OF MICRONESIA FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2011, TO PROVIDE FUNDING FOR THE OPERATIONS OF ALL BRANCHES OF THE NATIONAL GOVERNMENT OF THE FEDERATED STATES OF MICRONESIA, ITS AGENCIES, VARIOUS PROGRAMS, GRANTS, SUBSIDIES AND CONTRIBUTIONS; AND FOR OTHER PURPOSES."

This statement conveys on record the President's analyses of the FY2011 annual budget for the operation, projects and programs of the national government.

At the outset, the Executive Branch is gravely concerned about the delay in the transmittal of the approved FY2011 budget to the Executive. The President submitted the FY2011 proposed budget in April 2010 in the amount of \$ 53,044,445 and subsequently a recommended adjustment on the expense side of the budget on September 16, 2010. After having held budget hearings in the May and the current sessions, Congress only approved \$39,042,920. The budget session began on September 13, 2010, and Congress unfortunately waited until the evening of September 29th before presenting the approved budget to the Executive. The drastic reduction in the budget would require the President and his staff to carefully review the budget and to solicit comments from the various departments and agencies, particularly on how to deal with the budget cuts. The late presentment of the budget put the Executive in a difficult dilemma. In as much as the President and his staff must thoroughly review the budget, the President has no choice but hastily gives his approval, otherwise, a potential shutdown of operation faces the national government at the beginning of a new fiscal year. This must not constitute a precedent because this impinges upon the duty of the national government to provide improved government service. Moreover, the late transmittal of budget from Congress undermines the effectiveness of the budget process.

In the approved budget, Congress eliminated Federal Program expenditures from the bill and thereby reduced the total expenditures by \$4,686,201. Unfortunately, there still remains a reduction of \$9,934,642 from the original proposed budget. Much of this reduction has been made from proposed programs that were targeted at improving the financial position of the nation, to spur the development of the FSM's private sector and to strengthen the Public Sector's Infrastructure.

Specifically, the Congress has reduced funding for National Scholarships by \$700,000, Social Security by \$800,000, the Pension Plan by \$500,000, Infrastructure contributions by approximately \$2.75 million, the FSM Trust Fund by \$500,000, the FSM Development Bank by \$1 million and the Capital Integrated Information System by \$300,000. These investments in human resource development, infrastructure and capital formation are critical to the Nation's blueprint in bringing the Nation out from the economic malaise. For example, the underfunding of the social security program could adversely impact more than six thousand beneficiaries throughout the country and could also have destabilizing effect on the economy.



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Because the approved budget does not carefully consider the above ramifications, it leads the Nation to a potential crisis. The national government's budget sets a stage for fiscal policy and general economic direction for the whole Nation. But the way the budget is processed and approved, it does not appear to fulfill this objective. The process must improve, particularly in the area of consultation between the branches of government. The Executive being the implementing branch of government must be afforded ample opportunity, aside from public hearings, to engage in the budget consultation. This has not been the case and certainly has not been fulfilled in the budget process.

Moreover, being delegated with the authority to appropriate public funds, Congress has the constitutional obligation to fund the operation of the national government at such level as necessary and sufficient to accomplish the objectives of government. In the current fiscal year, the Division of National Police incurred overtime costs due to unplanned trips, but which are necessary for the national government to perform its duties on law enforcement. The Division of Immigration also incurred additional costs due to overtime works that the officers are required by law to perform at the ports of entry of the Nation. Moreover, cost of law enforcement will further increase due to P.L. No. 15-81 whereby four more ports of entry are designated but not budgeted.

The above are obligations of the national government to provide funding. Unfortunately, Congress has approved a budget that is insufficient to cover the full costs of operation. Hence, FY2011 starts with insufficient appropriated funds that resulted from drastic cuts in the proposed budget which have not been explained and which defeat the objective of the Executive in avoiding supplemental budget. Supplemental appropriation must be limited only to unplanned and unanticipated expenditures; it is not a mechanism by which to re-submit unapproved budget items. Our past experiences must be changed because it indicates a weak and ineffective fiscal policy. For example, the deficiency in the FY 2010 budget resulted in non-payment of services of several employees of the national government.

Failure on the part of the national government to provide adequate funding for personnel constitutes a seeming violation of constitutional guarantees of due process and equal protection under the law. This violation exposes the national government to potential liability for civil rights lawsuit. Congress is put on notice that this type of liability is an obligation that the national government must address and not avoid. The legal obligations between the national government and its employees are mutual in nature, meaning, the employees render services and the government pays compensation for services rendered. This obligation is entered into at the commencement of the employment. The government cannot unilaterally avoid its legal



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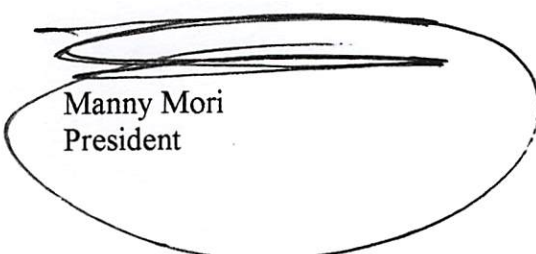
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obligation by not approving enough funding for salary. It is not only a breach of obligation, but a violation of the constitution as well. The recent, and continuing, non-payment of salary of employees in the Department of Justice and the Department of Education is a scenario created by failure to fulfill a constitutional duty to appropriate funds for the operation of the national government.

Based on the foregoing, I grudgingly signed Congressional Act No. 16-48, to become Public Law No. 16-43, out of necessity and to prevent a shutdown of government operation at the beginning of fiscal year, which is three hours away. It is my understanding that hereafter Congress will revisit the budget act, particularly as a result of the apparent misunderstanding as to the correct interpretation of 54 FSMC 226 as I had explained in my letter of September 25, 2010. I therefore invite Congress to engage the Executive branch in this review process at the earliest opportunity, to ensure that the budget act is properly aligned with the constitutional mandate of the national government.

I thank you and your colleagues for the time spent in approving the act.

With warm personal regards, I remain,



Manny Mori
President



CONGRESS OF THE FEDERATED STATES OF MICRONESIA

P.O. Box PS 3
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Pohnpei State, FM 96941
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PRESIDENTIAL COMM. NO. 16-291
FSM CONGRESS

Office of the Chief Clerk

September 30, 2010



His Excellency Manny Mori
President
Federated States of Micronesia
Palikir, Pohnpei FM 96941

Dear President Mori:

I have the honor to transmit herewith Congressional Act No. 16-50, "AN ACT TO APPROPRIATE FROM THE GENERAL FUND OF THE FEDERATED STATES OF MICRONESIA SUPPLEMENTAL FUNDING IN THE TOTAL AMOUNT OF \$200,280 FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2010, BY AMENDING SECTIONS 1 AND 2, OF PUBLIC LAW NO. 16-7, AS AMENDED BY PUBLIC LAWS NOS. 16-20, 16-22, 16-25, AND 16-35, AND FOR OTHER PURPOSES.", which was passed by the Sixteenth Congress of the Federated States of Micronesia, Fifth Regular Session, 2010, by a two-thirds vote of all the State delegations as required and as duly certified.

Sincerely yours,

Liwiana Ramon Ioanis
Liwiana Ramon Ioanis
Chief Clerk, Congress of the
Federated States of Micronesia

Enclosures



PRESIDENTIAL COMM. NO. 16-291
FSM CONGRESS

SIXTEENTH CONGRESS OF THE
FEDERATED STATES OF MICRONESIA
FIFTH REGULAR SESSION
SEPTEMBER 13 – OCTOBER 6, 2010

PUBLIC LAW No. 16-42

An Act

TO APPROPRIATE FROM THE GENERAL FUND OF THE FEDERATED STATES OF MICRONESIA SUPPLEMENTAL FUNDING IN THE TOTAL AMOUNT OF \$200,280 FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2010, BY AMENDING SECTIONS 1 AND 2, OF PUBLIC LAW NO. 16-7, AS AMENDED BY PUBLIC LAWS NOS. 16-20, 16-22, 16-25, AND 16-35, AND FOR OTHER PURPOSES.

INTRODUCED BY: SENATOR DION G. NETH

DATE: SEPTEMBER 28, 2010

REFERRED TO: COMMITTEE ON WAYS AND MEANS
WITHDRAWN – SEPTEMBER 29, 2010

FIRST READING: SEPTEMBER 29, 2010

SECOND READING: SEPTEMBER 30, 2010

for Consuelo Gamil
Liwiana Ramon Ioanis
Chief Clerk, FSM Congress



CONGRESS OF THE FEDERATED STATES OF MICRONESIA

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Office of the Speaker

PRESIDENTIAL COMM. NO. 16-291
FSM CONGRESS

ACT NO. 16-50

(CONGRESSIONAL BILL NO. 16-146, C.D.1)

We hereby certify that on September 30 the foregoing act passed Second and Final Reading of the Sixteenth Congress of the Federated States of Micronesia, Fifth Regular Session, 2010, by a two-thirds vote of all the State delegations as required under article IX, section 20, of the Constitution of the Federated States of Micronesia.

A handwritten signature in black ink, appearing to read "Isaac V. Figir".

Isaac V. Figir
Speaker
Congress of the
Federated States of Micronesia

for Consuelo Guil
Diwiana Ramon Ioanis
Chief Clerk
Congress of the
Federated States of Micronesia

AN ACT

To appropriate from the General Fund of the Federated States of Micronesia supplemental funding in the total amount of \$200,280 for the fiscal year ending September 30, 2010, by amending sections 1 and 2, of Public Law No. 16-7, as amended by Public Laws Nos. 16-20, 16-22, 16-25, and 16-35, and for other purposes.

BE IT ENACTED BY THE CONGRESS OF THE FEDERATED STATES OF MICRONESIA:

1 Section 1. Section 1 of Public Law No. 16-7, as amended by
2 Public Laws Nos. 16-20, 16-25, and 16-35, is hereby further
3 amended to read as follows:

4 "Section 1. The title of this act is as follows: To
5 appropriate the sum of \$40,165,306 from the General Fund
6 of the Federated States of Micronesia for the fiscal
7 year ending September 30, 2010, for the purpose of
8 funding the operations of all branches of the National
9 Government of the Federated States of Micronesia, its
10 agencies, various programs, grants, subsidies and
11 contributions; and for other purposes. Of the total
12 amount of funds appropriated herein, \$4,403,240 shall be
13 deemed to come from funds available under the FSM
14 Education Grant – Fiscal Year 2010 – Amendment 1;
15 \$684,564 shall be deemed to come from funds available
16 under the FSM Supplemental Education Grant – Fiscal Year
17 2009; \$845,333 shall be deemed to come from funds
18 available under the FSM Health Section Grant – Fiscal
19 Year 2010; \$384,107 shall be deemed to come from funds

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1 available under the FSM Public Sector Capacity Building
2 Grant – Fiscal Year 2010; \$-0- shall be deemed to come
3 from funds available under the FSM Private Sector
4 Development Sector Grant – Fiscal Year 2010; and \$-0-
5 shall be deemed to come from funds available under the
6 FSM Infrastructure Grant – Fiscal Year 2010. The sum
7 appropriated herein shall be apportioned as follows:"

8 Section 2. Section 2 of Public Law No. 16-7, as amended
9 by Public Laws Nos. 16-20, 16-25 and 16-35, is hereby further
10 amended to read as follows:

11 "Section 2. Operating expenses of the Executive Branch.

12 The sum of \$15,830,729 or so much thereof as may be
13 necessary, is hereby appropriated from the General Fund
14 of the Federated States of Micronesia for the fiscal
15 year ending September 30, 2010, for the purpose of
16 funding the operations of the Executive Branch of the
17 National Government during the fiscal year 2010. Of the
18 total amount of funds appropriated herein, \$603,240
19 shall be deemed to come from funds available under the
20 FSM Education Sector Grant – Fiscal Year 2010 –
21 Amendment 1; \$-0- shall be deemed to come from funds
22 available under FSM Supplemental Education Grant –
23 Fiscal Year 2009; \$645,333 shall be deemed to come from
24 funds available under the amended Compact from health
25 sector; and \$81,750 shall be deemed to come from funds

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available under the Public Sector Capacity Building
Sector Grant – Fiscal Year 2010. The sum appropriated
by this section shall be apportioned as follows:

(1) Office of the President.

\$648,888 or so much thereof as may be necessary, for the
operations of the Office of the President during the
fiscal year 2010. The sum appropriated herein shall be
apportioned as follows:

Personnel	\$	264,612
Travel		118,176
Contractual Services.....		161,000
OCE		100,100
Fixed Assets		5,000

(2) Department of Foreign Affairs.

\$3,652,310 or so much thereof as may be necessary, for
the operations of the Department of Foreign Affairs
during the fiscal year 2010. The sum appropriated
herein shall be apportioned as follows:

Personnel	\$	1,172,616
Travel		163,391
Contractual Services		1,893,330
OCE.....		304,054
Fixed Assets		118,919

(3) Department of Finance and Administration.

\$1,864,628 or so much thereof as may be necessary, for

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the operations of the Department of Finance and Administration during the fiscal year 2010. Of the total amount of funds appropriated herein, \$81,750 shall be deemed to come from funds available under the amended Compact from the capacity building sector. The sum appropriated herein shall be apportioned as follows:

Personnel	\$ 1,273,385
Travel	141,914
Contractual Services.....	214,756
OCE	212,073
Fixed Assets	22,500

(4) Department of Resources and Development.

\$644,435 or so much thereof as may be necessary, for the operations of the Department of Resources and Development during the fiscal year 2010. The sum appropriated herein shall be apportioned as follows:

Personnel	\$ 490,049
Travel	60,000
Contractual Services.....	15,275
OCE	76,111
Fixed Assets	3,000

(5) Department of Transportation, Communication and Infrastructure.

\$1,980,717 or so much thereof as may be necessary, for the operations of the Department of

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Transportation, Communications and Infrastructure
during the fiscal year 2010. The sum appropriated
herein shall be apportioned as follows:

Personnel.....	\$	505,886
Travel		91,866
Contractual Services		1,298,965
OCE		84,000
Fixed Assets		-0-

(6) Department of Health and Social Affairs.

\$834,643 or so much thereof as may be necessary,
for the operations of the Department of Health and
Social Affairs during the fiscal year 2010. Of the
total amount of funds appropriated herein,
\$645,333 shall be deemed to come from funds
available under the amended Compact from the health
sector. The sum appropriated herein shall be
apportioned as follows:

Personnel	\$	446,519
Travel		65,848
Contractual Services.....		204,085
OCE		118,191
Fixed Assets		-0-

(7) Department of Education.

\$660,624 or so much thereof as may be necessary, for the
operations of the Department of Education during the

PUBLIC LAW No. 16-42

fiscal year 2010. Of the total amount of funds appropriated herein, \$603,240 shall be deemed to come from funds available under the FSM Education Sector Grant – Fiscal Year 2010 – Amendment 1; and \$-0- shall be deemed to come from funds available under the FSM Supplemental Education Grant – Fiscal Year 2009. The sum appropriated herein shall be apportioned as follows:

Personnel	\$ 198,273
Travel	18,000
Contractual Services.....	322,622
OCE	121,729
Fixed Assets	-0-

(8) Department of Justice.

\$3,409,271 or so much thereof as may be necessary, for the operations of the Department of Justice during the fiscal year 2010. The sum appropriated herein shall be apportioned as follows:

Personnel.....	\$ 2,285,473
Travel	90,014
Contractual Services....	111,664
OCE	902,620
Fixed Assets	19,500

(9) Office of the Public Defender.

\$783,162 or so much thereof as may be necessary, for the operations of the Office of the Public Defender

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during the fiscal year 2010. The sum appropriated
herein shall be apportioned as follows:

Personnel	\$	528,712
Travel		88,200
Contractual Services.....		108,150
OCE		43,100
Fixed Assets		15,000

(10) Office of Statistics, Budget, Overseas
Development Assistance and Compact Management.

\$1,009,918 or so much thereof as may be necessary,
for the operations of the Office of Statistics,
Budget, Overseas Development Assistance and
Compact Management during the fiscal year 2010.

The sum appropriated herein shall be apportioned as
follows:

Personnel	\$	606,345
Travel		94,733
Contractual Services		202,000
OCE		99,340
Fixed Assets		7,500

(11) Office of Environment and Emergency
Management.

\$204,496 or so much thereof as may be necessary,
for the operations of the Office of Environment and
Emergency Management during the fiscal year 2010.

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The sum appropriated herein shall be apportioned as follows:

Personnel	\$	126,758
Travel		59,162
Contractual Services.....		-0-
OCE		18,576
Fixed Assets		-0-

(12) Office of National Archives, Culture and Historic Preservation.

\$137,637 or so much thereof as may be necessary, for the operations of the Office of National Archives, Culture and Historic Preservation during the fiscal year 2010. The sum appropriated herein shall be apportioned as follows:

Personnel	\$	104,142
Travel		10,000
Contractual Services.....		10,000
OCE		10,000
Fixed Assets		3,495"

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Section 3. This act shall become law upon approval by
the President of the Federated States of Micronesia or upon
its becoming law without such approval.

09, 30, 2010


Manny Mori
President
Federated States of Micronesia