



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

JUL 22 1975

Honorable Henry M. Jackson
Chairman, Committee on Interior
and Insular Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This letter is to inform you of the views of the Administration on H.J.Res. 549, a bill "To approve the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, and for other purposes."

We appreciate the prompt action taken by your Committee in calling a hearing to consider S.J.Res. 107, which is the Joint Resolution and the Covenant as transmitted by the President on July 1, 1975. In the Interior report provided to the House Interior Committee on Monday, July 14, the Department indicated the Administration was expediting its review of Sections 2 and 3 of H.J.Res. 549, which were introduced on July 10. Each of those sections is a separate and major legislative proposal. Review of those sections now has been completed. The Administration views on them are outlined below.

Section 2 of H.J.Res. 549 provides for the authorization of such amounts as may be necessary (in addition to amounts previously authorized for appropriation) for the purpose of making full payment of awards under Title II of the Micronesian Claims Act of 1971 (85 Stat. 92).

Title II claims are those filed by Micronesian inhabitants against the United States or the Government of the Trust Territory of the Pacific Islands as a result of events which occurred after the various islands were secured by the U.S. during World War II and prior to July 1, 1951, on account of

personal injury or death, or damage to, or loss or destruction of private property, both real and personal, including claims for a taking or for use or retention of such property where no payments or inadequate payments have been made for such taking, use, or retention where such damage, loss, or destruction was caused by the U.S. Army, Navy, Marine Corps, Coast Guard, or individual members thereof, including military personnel and U.S. Government employees, and including employees of the Trust Territory Government acting within the scope of their employment.

An appropriation of \$20 million out of funds in the U.S. Treasury was authorized under the Act for the payment of the post-secure claims under Title II.

During the congressional hearings on legislation which was later enacted as the Micronesian Claims Act of 1971, the sum of \$20 million for the Title II claims was believed to be sufficient to pay all those claims in full.

The total number of claims filed under the Act, however, far exceeded the 1,232 estimated to be outstanding during the congressional consideration of the legislation. In fact, 10,789 claims were filed under both Title I and Title II of the Act.

As of June 20, 1975, the amounts of awards granted under Title II of the Act totaled \$6,921,950. It is difficult to predict what the awards will total because about one-third of the claims remain to be adjudicated, many of which may be quite substantial. Since the Micronesian Claims Commission decisions through June 20, 1975, on the Title II claims for which awards have been made amounted only to about \$6.9 million, it is not certain that the remaining \$13.1 million of the existing authorization will be inadequate to compensate the claims remaining to be adjudicated. Therefore, we recommend that the existing \$20 million appropriation authorization ceiling for Title II claims not be amended to provide an unlimited authorization as Section 2 would provide. After the Micronesian Claims Commission has adjudicated the remaining Title II claims and has certified its awards to the Secretary of the Interior, if any additional appropriation authorization is necessary an Administration recommendation to amend the Title II authorization by a specific amount will be transmitted to the Congress.

Under Section 3 of H.J.Res. 549 the President is authorized to extend to Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the other districts of the Trust Territory of the Pacific Islands, all Federal programs providing grant, loan and loan guarantee or other assistance to the States, unless he determines that such extension is inconsistent with the purpose of the statute authorizing a program, or either House of Congress disapproves such extension.

Section 3 was reviewed by all Federal agencies which provide significant Federal assistance to the major territories and the Commonwealth of Puerto Rico. The following primary objections have been raised to enactment of Section 3:

1. The Federal Government already provides direct annual assistance to territorial governments through a combination of appropriations and the transfer of income and other taxes under existing statutes which provide that such tax revenues shall be available to the respective territorial governments. The existing proliferation of programs (now totaling around 300) under which territorial governments may be eligible for Federal assistance makes it difficult to determine the justifiable amount of direct budget support which should be provided through the Interior Department. Increasing the number of such sources of assistance as Section 3 contemplates would further complicate the existing situation by potentially adding as many as another 175 to 200 programs under which territories might receive some assistance. Finally, the proliferation of Federal programs each providing very small amounts of Federal assistance to territories is inefficient both because of the high cost to administer these special provisions and also because it increases the uncertainty among the territorial governments as to whether particular programs will provide assistance to them from year to year.
2. Questions were raised concerning the propriety of a blanket extension as Section 3 would indicate of applicable law which presently is limited to providing Federal assistance to State or local governments. The view was strongly expressed that issues surrounding the

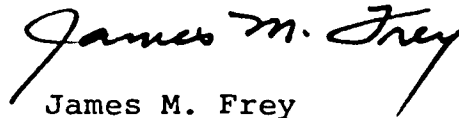
possible extension of any particular program to the territories should be considered and resolved in legislation making specific amendments to the existing program authorizations.

3. The potential budget impact of Section 3 based on a quick analysis is estimated to be in the range of \$100 M to \$300 M per year, if all Federal assistance programs not now providing aid to the territories but potentially available were to be extended to them. These amounts compare to the roughly \$250 million of outlays in fiscal 1974 for Federal assistance to the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands, from all major Federal domestic agencies, including appropriations to Interior and the transfers to them of tax revenues collected by the Treasury Department. This potentially very large increase in Federal assistance would benefit a total population of only about 300,000 people in all four major territories. The potential budget impact with regard to the Commonwealth of Puerto Rico is unclear.
4. Section 3(b) provides that a resolution enacted only by one House of the Congress opposing the extension by the President of a program to the territories would be sufficient to prevent the extension from occurring. This provision is identical to provisions in other legislation which the Executive Branch has opposed because the Department of Justice has consistently found that such provisions are unconstitutional. Justice has testified against such a provision as recently as May 15, 1975, before the Senate Judiciary Subcommittee on the Separation of Powers in a hearing concerning Executive Agreements.

For these reasons, the Administration is strongly opposed to the enactment of Section 3 of H.J. Res. 549. At the same time, if there are specific Federal programs which have not yet been but appropriately should be extended to provide assistance to territorial governments, proposals for such amendments to existing legislation should be handled through usual legislative procedures. In reviewing proposals for any such extensions, we believe that it is essential to consider the differences in cultural, economic and climatic conditions in a

territory which may be fundamentally different from those prevailing in most areas of the United States where such programs are providing Federal assistance.

Sincerely,

A handwritten signature in cursive script that reads "James M. Frey". The signature is written in dark ink and is positioned above the typed name and title.

James M. Frey
Assistant Director for
Legislative Reference