

STANDING COMMITTEE REPORT NO. 13-107

RE: C.B. NO. 13-80/W&M

SUBJECT: BUDGET PROCEDURES

MAY 11, 2004

The Honorable Peter M. Christian
Speaker, Thirteenth Congress
Federated States of Micronesia
Fourth Special Session, 2004

Dear Mr. Speaker:

Your Committee on Ways and Means, to which was referred C.B. No. 13-80, entitled:

C.B. No. 13-80, "A BILL FOR AN ACT TO FURTHER AMEND TITLE 55 OF THE CODE OF THE FEDERATED STATES OF MICRONESIA, AS AMENDED, BY REPEALING CHAPTER 3 IN ITS ENTIRETY AND ENACTING A NEW CHAPTER 3 TO BRING THE FSM'S INTERNAL BUDGET AND FINANCE PROCEDURES INTO COMPLIANCE WITH THE AMENDED COMPACT, AND FOR OTHER PURPOSES.",

begs leave to report as follows:

The intent and purpose of the bill are expressed in its title.

The subject bill would repeal the existing chapter 3 of title 55 of the FSM Code and enact a new chapter 3 that would harmonize certain aspects of the FSM's internal budget procedures with the requirements of the Compact, as amended, and the Fiscal Procedures Agreement executed in connection therewith.

On March 26, 2004, your committee held a hearing on C.B. No. 13-80 at which members had an opportunity to hear from the Department of Finance, the Attorney General's Office and the Joint Committee on Negotiations concerning this proposed legislation.

Your committee recognizes that the procedures mandated by the existing chapter 3 are not compatible with the requirements of Compact II and should be amended. There are other provisions of title 55 that will also require amending in order that the FSM's budgeting procedures be entirely consistent with the Compact. Your committee understands that a bill will be introduced in this session to amend chapter 1 of title 55 for that purpose.

Although agreeing with the general purpose and intent of C.B. 13-80, your committee submits that it should be amended in two respects:

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(1) Compact II and the Fiscal Procedures Agreement require that the FSM, in advance of each fiscal year, submit a Compact Budget Request to the Joint Economic Management Committee ("JEMCO"). This Request is to include the requests, for the upcoming fiscal year, of the National Government and each of the state governments for sector grant funds under the Compact. The request of each of the governments must be limited so that the total of all requests does not exceed the total funds available under the Compact for the fiscal year in question. C.B. 13-80 would empower the President to enter agreements with the states on how Compact funds are to be divided among the various governments for the purpose of preparing the Compact Budget Request. The bill does **not** require Congressional review or approval of any such agreement.

Your committee submits that any agreement with the States that could have a material effect on funds available to the National Government, or on relations between the National Government and the States, is of sufficient importance that it should be subject to review and approval by Congress, rather than being left in the sole discretion of the President. Further, your committee is of the opinion that C.B. No. 13-80, in its present form, is inconsistent with the FSM Constitution. Article XII, section 2(a) of the Constitution provides, in pertinent part,

The President shall submit an annual budget to Congress at a time prescribed by statute. The budget shall contain a complete plan of proposed expenditures, anticipated revenues, and other money available to the national government for the next fiscal yearThe Congress may alter the budget in any respect.

Your committee submits that C.B. No. 13-80, in empowering the President, without Congressional approval, to enter into agreements with the states significantly changing the amount of funds available for appropriation by Congress would abrogate Congress' constitutional power to "alter the [President's] budget in any respect."

Accordingly, your committee recommends that C.B. No. 13-80 be amended to require Congressional approval of any agreement with respect to the division of Compact funds between the National Government and the states.

(2) C.B. No. 13-80 acknowledges that the National Government

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would have the power to reject any Compact sector grant, but is silent on where the authority to make that decision resides. Although it is doubtful that the FSM would ever elect to reject a sector grant under the Compact, your committee believes that the Code should set out a procedure by which the decision to accept or reject a grant could be made. Recognizing that, under current FSM law, Congressional approval is generally required for the acceptance of foreign financial assistance, your committee is of the opinion that C.B. No. 13-80 should be amended so as to expressly provide that the rejection of a sector grant requires Congressional action.

Specifically, your committee recommends the following amendments:

1. Delete page 5, line 21, beginning with "The chief executives", through page 6, line 5 and insert the following in lieu thereof:

"(1) The Compact Budget Request of the National Government and of each State Government under Section 305 of this chapter shall be based upon a division of Compact funds in the following proportions unless all of the Governments agree to a different division as provided in subsection (2), below:

Chuuk	38.2%
Kosrae	11.0
Pohnpei	25.0
Yap	15.8
National Government	10.0

(2). The National Government and the State Governments may, from time to time, enter into one or more agreements setting forth a division of Compact funds, different from that set forth in subsection (1) of this section, that shall be the basis of each Government's Compact Budget Request under section 305 of this chapter. Any such agreement regarding the division of Compact funds may be limited to a specified period of time and shall only be effective when approved by Congress by resolution and signed by the chief executive of each and every Government."

2. Page 6, lines 18-- following "303" insert "(2)".

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3. Page 6, line 19 - following "Year", insert ", or if no such agreement is effective for the relevant Fiscal Year, in accordance with the provisions of section 303(1) of this chapter,".
4. Page 7, line 9--delete "and the Secretary".
5. Page 7, line 21--following "Requests" insert "of all of the States and the National Government Compact Budget Request, conforming with the requirements of section 103 of this title,".
6. Page 8, line 17--delete "The National Government or any" and insert "Any" in lieu thereof.
7. Page 8, line--preceding "Written", insert "Congress may reject, by resolution, all or any portion of the National Government's share of an approved Sector Grant allocation for the upcoming Fiscal Year."
8. Page 19, line 24---following "President." insert "Within twenty (20) days of the end of each fiscal quarter, the President shall notify Congress of any reprogramming that he has approved during that quarter with respect to Sector Grant funds received or to be received by the National Government."

With the foregoing amendments, your Committee on Ways and Means is in accord with the intent and purpose of C.B. No. 13-80 and recommends its passage on First Reading, and that it be placed on the Calendar for Second and Final Reading in the form attached hereto as C.B. No. 13-80, C.D.1.

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Respectfully submitted,

/s/ Sabino S. Asor
Sabino S. Asor, chairman

/s/ Roosevelt D. Kansou
Roosevelt D. Kansou, vice
chairman

/s/ Henry C. Asugar
Henry C. Asugar, member

/s/ Peter M. Christian
Peter M. Christian, member

/s/ Isaac V. Figir
Isaac V. Figir, member
w/ RERSERVATIONS!!

Dohsis Halbert, member

/s/ Claude H. Phillip
Claude H. Phillip, member
N/R