

STANDING COMMITTEE REPORT NO. 13-243

RE: C.B. NO. 13-223/W&M

SUBJECT: COMPACT DIVISION FORMULA

MARCH 29, 2005

The Honorable Peter M. Christian  
Speaker, Thirteenth Congress  
Federated States of Micronesia  
Seventh Special Session, 2005

Dear Mr. Speaker:

Your Committee on Ways and Means to which was referred C.B. No. 13-223 entitled:

"A BILL FOR AN ACT TO FURTHER AMEND TITLE 55 OF THE CODE OF THE FEDERATED STATES OF MICRONESIA, AS AMENDED, BY AMENDING SECTIONS 303 AND 306 THEREOF TO MODIFY THE DIVISION FORMULA FOR COMPACT FUNDS, AND FOR OTHER PURPOSES.",

begs leave to report as follows:

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

The Thirteenth Congress in its Fifth Regular Session overrode the President's veto of C.A. No. 13-85 and thereby enacted Public Law No. 13-72, repealing the existing chapter 3 of title 55 of the FSM Code and creating a new chapter 3 in its place. This new chapter 3, among other things, addresses how, for the purposes of the annual Compact budget request to JEMCO, available Compact funds are to be divided among the national and state governments. Specifically, the new section 303 of title 55 provides that (a) for fiscal years 2005 and 2006, the division formula proposed by EPIC, setting the National Government share at 8.65 percent, shall be applied, and (b) beginning with FY 2007, the President and governors are authorized to agree upon a division formula, except that the share of the National Government may not be set below 10 percent without the approval of Congress. Section 303 further provides that, if the chief executives of the five governments do not reach agreement, the Compact I division formula, setting the National Government share at 13.3 percent, shall be used.

C.B. NO. 13-223 has the purpose of amending section 303 so as to provide that the National Government's share of the Compact budget request will be fixed at 10 percent, rather than, as in current law, being a subject for negotiation with the states, requiring Congressional approval if that share is to be reduced below 10 percent. The amendment also eliminates the Compact I division formula

STANDING COMMITTEE REPORT NO. 13-243

RE: C.B. NO. 13-223/W&M

SUBJECT: COMPACT DIVISION FORMULA

MARCH 29, 2005

as a default formula to be used in the event that the chief executives of the five governments cannot reach agreement. Section 306 of title 55 is amended to conform its language with the proposed amendment to section 303.

Your committee has considered the amendments proposed by C.B. No. 13-223 and has concluded that they represent an improvement of existing law. Under current law, the states cannot be certain whether the National Government will be content with 10 percent or instead be seeking to negotiate for a larger share of Compact funds. The states would approach the negotiations with the knowledge that, if they failed to reach agreement, the National Government's share would increase to 13.3 percent---its Compact I percentage. Your committee is of the opinion that setting the National Government's share at 10 percent will bring more certainty to the budgeting process and assist all five governments in their planning. Your committee also believes that 10 percent represents an appropriate share for the National Government. Although it is a somewhat higher figure than recommended by EPIC, your committee notes that the EPIC recommendation was tied to a commitment by the states to assume responsibility for a portion of the financing of the College of Micronesia-FSM and the FSM Games. The states have not, in fact, acted upon that commitment and it is therefore appropriate that the National Government's share of Compact funds be set at a somewhat higher figure. Your committee further notes that the National Government's share, at 10 percent, is fully 3.3 percent lower than under the Compact I formula and, as a result, represents a shift of more than \$2.5 million to the states, based upon current Compact funding levels.

C.B. No. 13-223 would, as mentioned, eliminate the default formula to be applied in the event the five governments are unable to agree on how the remaining 90 percent is to be divided among the states. In this regard, your committee observes that the amended Compact is an agreement exclusively between the National Government of the FSM and the United States; the states are not parties to the agreement. The amended Compact and the Fiscal Procedures Agreement require that the FSM annually submit its Compact budget request to JEMCO. Nothing in those documents requires that the request be based upon an agreement with the states as to how the funds are to be divided, or that a formula be established by law. Preparation of the Compact budget request is entirely an internal matter for the FSM and, ultimately, is the responsibility of the National Government. Your committee hopes

STANDING COMMITTEE REPORT NO. 13-243

RE: C.B. NO. 13-223/W&M

SUBJECT: COMPACT DIVISION FORMULA

MARCH 29, 2005

and anticipates that the state governments will prefer to agree on how 90 percent of available funds will be divided, rather than leaving that decision to the National Government, but believes that neither such an agreement nor a default formula is needed to obtain Compact funding. The purpose of C.B. No. 13-223 is to fix the National Government's share of the Compact budget request at 10 percent of available funds. The Compact I formula is not consistent with that purpose and, therefore, should no longer be used as a default formula.

Accordingly, your Committee on Ways and Means is in accord with the intent and purpose of C.B. No. 13-223 and recommends its passage on First Reading, and that it be placed on the Calendar for Second and Final Reading.

Respectfully submitted,

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

Roosevelt D. Kansou, vice  
chairman

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

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

Peter M. Christian, member

/s/ Dohsis Halbert  
Dohsis Halbert, member

/s/ Isaac V. Figir  
Isaac V. Figir, member  
W/Reservations