

STANDING COMMITTEE REPORT NO. 13-190

RE: C.B. NO. 13-152/JGO

SUBJECT: DUAL CITIZENSHIP

NOVEMBER 05, 2004

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

Dear Mr. Speaker:

Your Committee on Judiciary and Governmental Operations ("J&GO"), to which was referred C.B. No. 13-152 entitled:

"A BILL FOR AN ACT TO PROPOSE THE REPEAL OF ARTICLE III, SECTION 3 OF THE CONSTITUTION OF THE FEDERATED STATES OF MICRONESIA, FOR THE PURPOSE OF ENABLING CITIZENS OF THE FEDERATED STATES OF MICRONESIA TO RETAIN OR OBTAIN CITIZENSHIP OF ANOTHER STATE WITHOUT BEING REQUIRED TO RELINQUISH CITIZENSHIP OF THE FEDERATED STATES OF MICRONESIA, 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 proposes the repeal of article III, section 3 of the Constitution. Section 3 of article III contains the constitutional prohibition on FSM citizens over the age of 21 retaining dual citizenship.

If Congress passes the subject bill, the proposed repeal would then be put to a plebiscite in each of the states. The Constitution would not be amended unless and until the repeal of section 3 of article III received the support of three-quarters of the votes in three-quarters of the states.

Reasons for proposing this amendment

Your Committee is concerned that the operation of section 3 of article III of the Constitution may cause certain classes of FSM citizens undue hardship. For example, it may be necessary for Micronesians who serve in the United States armed forces to relinquish their FSM citizenship in order to be promoted, or to retain the US benefits and entitlements that accrue to them during their service.

The decision to relinquish FSM citizenship is particularly significant because, in accordance with section 4 of article XIII of the

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Constitution, non-citizens are not permitted to own land in the FSM.

The proposal

The proposed amendment to the Constitution would not involve any change to the existing citizenship and naturalization laws set out title 7 of the Code of the FSM. Rather, repealing section 3 of article III of the Constitution would simply enable Congress to determine whether, and if so, under what circumstances, dual citizenship would be permitted in the future. Any such changes would be effected by means of legislative amendments to title 7 of the Code of the FSM.

Repealing the constitutional prohibition on dual citizenship would allow Congress greater flexibility to devise legislative responses to citizenship issues as changing circumstances dictate.

Your Committee notes that a proposal to amend section 3 of article III of the Constitution was put forward at the Third Constitutional Convention. The proposed amendment, Committee Proposal No. 01-2, was more far reaching than the current proposal in that it would have entrenched a positive constitutional right for a citizen of the FSM to be a citizen of another country and to exercise the rights associated with that citizenship. This proposal did not receive the requisite support in the states.

Implications of the proposal for existing citizenship law

Your Committee wishes to emphasize that if the proposed amendment to the Constitution is passed, it would have no effect on existing citizenship and naturalization laws as set out in title 7 of the Code of the FSM. It would, however enable Congress to take such action as it deems appropriate with respect to these matters.

Your Committee has considered a variety of possible approaches to this issue, including permitting only particular classes of FSM citizens to retain dual citizenship. The form of any future amendments to existing citizenship and naturalization laws is not an issue to be determined by your Committee at this time. However, your Committee notes that having considered these options, it favors an approach that would accord all citizens of the FSM the same rights and entitlements in relation to dual citizenship.

Any future amendment to title 7 of the FSM Code to allow dual citizenship would necessitate consideration the following issues:

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- i. whether provision should be made to enable individuals who were required to relinquish their FSM citizenship under the current law to have it reinstated; and
- ii. whether the definition of who is an FSM citizen by birth should be reviewed.

It would be advisable to revisit these issues at the time that any amendments to the Code are contemplated.

In the view of your Committee it is desirable for Congress to have sufficient legislative flexibility to address citizenship issues as they arise and in light of changing circumstances. Your Committee considers that the subject bill would be the first step in achieving this.

Thus, your Committee on Judiciary and Governmental Operations is in accord with the intent and purpose of C.B. No. 13-152 and recommends its passage on First Reading, and that it be placed on the Calendar for Second and Final Reading.

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Respectfully submitted,

/s/ Dohsis Halbert
Dohsis Halbert, chairman

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

/s/ Alik L. Alik
Alik L. Alik, member

Henry C. Asugar, member

Peter M. Christian, member

/s/ Ramon Peyal
Ramon Peyal, member