

STANDING COMMITTEE REPORT NO. 13-210

RE: PRESIDENTIAL COMMUNICATION NO. 13-242/J&GO

SUBJECT: VETO OF ACT CREATING A COMPACT MANAGEMENT  
BOARD AND OFFICE OF COMPACT MANAGEMENT

JANUARY 21, 2005

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

Dear Mr. Speaker:

Your Committee on Judiciary and Governmental Operations, to which was referred Presidential Communication No. 13-242 conveying the President's veto of C.A. No. 13-88, entitled:

"AN ACT TO FURTHER AMEND TITLE 55 OF THE CODE OF THE FEDERATED STATES OF MICRONESIA, AS AMENDED, BY ENACTING A NEW CHAPTER 15 THEREOF FOR THE PURPOSE OF ESTABLISHING A COMPACT MANAGEMENT BOARD AND TO AMEND SECTION 204 OF TITLE 2 OF THE CODE OF THE FEDERATED STATES OF MICRONESIA FOR THE PURPOSE OF CREATING AN OFFICE OF COMPACT MANAGEMENT, AND FOR OTHER PURPOSES.",

begs leave to report as follows:

Congress passed C.A. No. 13-88 (C.B. No. 13-147, CD3) during the Fourth Regular Session of the Thirteenth Congress. Through Presidential Communication No. 13-242, dated December 16, 2004, the President advised Congress that he had vetoed this act. A copy of C.A. No. 13-88 is attached.

As indicated by its title, C.A. No. 13-88 would amend title 54 of the FSM Code to create a Compact Management Board (the "Board") and amend section 204 of Title 2 of the Code of the Federated States of Micronesia to create an Office of Compact Management (the "Office").

Your committee's observations and recommendations regarding C.B. No. 13-147 were set forth in SCR No. 13-191. Your committee wishes to reiterate the urgency expressed in the above report for establishing such a Board and Office, and further refer to the JEMCO request calling for the FSM to establish a point of contact for Compact related communications with the USA, which still does not exist. Your

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committee observes that the speculative concerns expressed in Presidential Communication No. 13-242 about the functionality of the Board and Office, can be addressed by future legislation if such concerns are realized, and any other concerns that may arise, and may be better resolved once those difficulties are known. However, given the urgent need for this bill, your committee believes that C.A. No. 13-88 should be repassed.

This report will directly address the points made by the President in the order presented in Presidential Communication No. 13-242.

1. Congress recognizes the President's concern that matters of foreign affairs be assigned to the Department of Foreign Affairs. In the proposed bill, however, the Board is authorized in respect to matters of management and implementation of the Compact within the Federated States of Micronesia. Your committee believes that since the Compact has been finalized, the implementation of the provisions of the Compact are not matters strictly falling under the purview of foreign affairs but are matters affecting each and every department of the National Government and each of the States as well. The Board is a mechanism that recognizes the multiple responsibilities created by the Compact and allows the President to appoint, on advice and consent of Congress, two National Government representatives, from any of his Departments or anyone outside of his Departments for that matter, as well as, allowing each of the States to participate in the Compact management process. Since many of the programs created by the Compact will be implemented at the State-level, your committee believes that State participation in the management of the Compact is desirable.

In respect to the coordination of communications with foreign powers, the proposed bill does not empower the Board to communicate with the United States of America or any other foreign power but rather places such responsibility in the hands of the Office, which is clearly deferential to the President. Your committee notes that there is nothing in the proposed bill that prevents the coordination between the Department of Foreign Affairs and the Office in communications with foreign powers or in any other respect. Your committee also notes that in the President's proposed reorganization of the Departments and Offices of the executive branch of the National Government, that compact management matters were to be handled by the proposed Division of Compact Management within the proposed Office of Economic

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Management and Statistics not the Department of Foreign Affairs. The proposed bill merely elevates this proposed Division of Compact Management to the status of an Office.

In respect to the authority granted to the JEMCO representatives, your committee notes that such authority is granted by the Compact itself and not by the proposed bill and that the proposed bill authorizes the President to appoint both of the Federated States of Micronesia's JEMCO representatives. Your committee firmly believes that such an arrangement does not violate the Constitution of the Federated of States of Micronesia nor Title 10 of the FSMC.

2. Your committee believes that each State should be able to choose the process for appointing its member to the Board that best suits the considerations of that State.

3. The scope of the Board in the proposed bill is limited to oversight of the implementation of the Compact provisions. Its role is to ensure that each of the governmental departments and agencies is respecting the terms of the Compact. Considering the level of assistance to be provided by the Office envisioned in the proposed bill, your committee does not believe that the Board is ill-equipped to meet this function. Nonetheless, your committee notes that new legislation can always be adopted if such problems do arise.

4. Your committee believes that the President's and the Board interests are the same and they can effectively direct the Office without conflict. Your committee recognizes that there may be a potential conflict in the area of time management of the Office but your committee believes that efficiencies can be gained by allowing the Office to serve the dual role envisioned by the proposed bill far outweigh this risk. Your committee also notes that such an arrangement is not new to the National Government of the FSM. The Department of Economic Affairs has such a dual role with the President and EPIC. Your committee also refers to its general comment that if the system does not work effectively, amendments can be always adopted. Finally, your committee wants to repeat the comments of the President recognizing the collaborative effort between the legislative and executive branches in preparing this bill and hopes that such collaborative efforts will continue in improving the proposed bill if difficulties are encountered.

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For the reasons stated above, your Committee on Judiciary and Governmental Operations recommends that the President's veto, of C.A. No. 13-88, as conveyed by Presidential Communication No. 13-242, be overridden.

Respectfully submitted,

/s/ Dohsis Halbert  
Dohsis Halbert, chairman

Roosevelt D. Kansou, vice  
chairman

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

Peter M. Christian, member

/s/ Ramon Peyal  
Ramon Peyal, member

Manny Mori, member

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