

A RESOLUTION

Authorizing the Chairman of the Ways and Means Committee, on behalf of and in the name of Congress, to initiate a lawsuit, in the national courts, seeking a declaration as to the respective powers of the Executive Branch and the Legislative Branch with respect to the establishment of a method for dividing Compact monies with the states.

1           WHEREAS, the amended Compact of Free Association requires the  
2 National Government of the FSM to annually submit, on behalf of  
3 itself and the states, a Plan for the Division of Annual Economic  
4 Assistance (a "Compact Budget Request") with respect to funds  
5 available to the FSM under the amended Compact; and

6           WHEREAS, the President of the Federated States of Micronesia  
7 entered into an agreement with the states establishing a formula  
8 for the division of Compact monies for the purpose of the Compact  
9 Budget Request for the fiscal years 2005 and 2006, and did not  
10 submit said agreement for the approval of Congress; and

11           WHEREAS, The Thirteenth Congress, in its Fourth Regular  
12 Session passed C.A. No. 13-85 which, among other things, would  
13 have required Congressional approval of any agreement among the  
14 National Government and the states setting the National  
15 Government's share of Compact funds at a level under 10 percent;  
16 and

17           WHEREAS, the Committee on Ways and Means, in its committee  
18 report regarding C.A. No. 13-85, stated that, in its opinion, the  
19 Constitution of the Federated States of Micronesia requires  
20 approval by Congress of any agreement between the National

1 Government and the states dividing Compact monies; and

2 WHEREAS, the President, through Presidential Communication  
3 No. 13-247, vetoed C.A. No. 13-85 and took the position that,  
4 under the Constitution, the division of Compact funds with the  
5 states is the sole prerogative of the President; and

6 WHEREAS, there is a disagreement between the Executive Branch  
7 and the Legislative Branch with respect to their respective  
8 Constitutional powers in relation to Compact funds, and attempts  
9 to negotiate a resolution have not been successful; and

10 WHEREAS, it is in the best interests of the nation that this  
11 disagreement be resolved as soon as reasonably possible; now,  
12 therefore,

13 BE IT RESOLVED by the Thirteenth Congress of the Federated  
14 States of Micronesia, Fifth Regular Session, 2005, that the  
15 Chairman of the Committee on Ways and Means of the FSM Congress is  
16 hereby authorized to initiate, in the name and on behalf of the  
17 Congress, a declaratory judgment action in the national courts,  
18 seeking a ruling on the respective Constitutional powers of the  
19 Executive and Legislative Branches in respect of establishing a  
20 division of Compact funds with the states for the purposes of the  
21 annual Compact Budget Request;

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24 BE IT FURTHER RESOLVED that certified copies of this  
25 resolution be transmitted to the President of the Federated States

1 of Micronesia, and the Governor of each State.

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3 Date: 1/23/05

Introduced by: /s/ Henry C. Asugar

Henry C. Asugar  
(by request)

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