

STANDING COMMITTEE REPORT NO. CC-SCR-04-03

DATE: March 02, 2020

RE: CC-PR-4-11

The Honorable Redley Killion  
President  
Fourth Constitutional Convention of the  
Federated States of Micronesia  
Palikir, Pohnpei FM 96941

Dear Mr. President:

Your Committee on Government Structure and Function, to which was referred Delegate Proposal No. CC-PR-4-11, entitled:

“A PROPOSAL TO AMEND ARTICLE IX, SECTION 2(q) OF THE CONSTITUTION OF THE FEDERATED STATES OF MICRONESIA TO PROVIDE FOR THE NUMBER OF VOTES REQUIRED TO OVERRIDE A PRESIDENTIAL VETO.”

begs leave to report as follows:

The intent and purpose of the proposal is to ensure proper checks and balances between the Executive and Legislative branches of the National Government of the Federated States of Micronesia. Given that currently the same number of votes for the Congress of the Federated States of Micronesia to pass bills is the same number of votes for Congress to override a Presidential veto of the same bills, an imbalance of power potentially exists between the Executive and Legislative branches.

Your Committee on Government Structure and Function has carefully reviewed the subject proposal and the written amendment to that proposal, both introduced by the Yap State Delegation. CC-PR-4-11, as amended in Committee, requires a 2/3 vote of all the members elected from congressional districts in each state, followed by a 3/4 vote of all members elected at-large to override a Presidential veto.

Article IX, section 2(q) of the Constitution currently reads that Congress has the authority: “to override a Presidential veto by not less than 3/4 vote of all the state delegations, each delegation casting one vote[.]”

To pass a bill on final reading, a 2/3 vote of the four State delegations in Congress is required, with each State delegation casting one vote. See FSM Constitution, Art. IX, Sect. 20. This equates to 3 of 4 votes. To override a veto, a 3/4 vote of the State delegations in Congress is presently required. See FSM Constitution, Art. IX, Sect. 2(q). This also equates to 3 of 4 votes.

This in effect renders the application of the veto power meaningless as the same three State delegations that pass a bill on the final reading can also override any veto of that bill.

As originally introduced, CC-PR-4-11 sought to change the veto process to two separate votes, requiring first a 2/3 vote by all of the members elected from districts in each state, followed by a unanimous vote of all members elected at large. There was some debate about whether requiring a unanimous vote by the at-large members created a threshold that was too high to override a veto.

After discussion, the Yap delegates submitted a written amendment to CC-PR-4-11, which amendment requires the votes of  $\frac{3}{4}$  of the members of Congress elected at-large to pass an override, instead of a unanimous vote. The Committee voted to pass the motion to amend the proposal. The result is that the affirmative vote of seven of the ten members elected from election districts, followed by a vote of three of the four at-large members would be needed to override a Presidential veto.

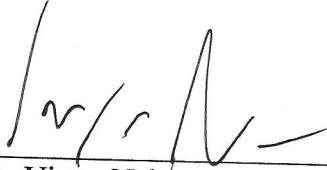
A Delegate expressed opposition to the proposal. He is of the belief that the current system addresses the problem the proposal aims to remedy. He contends that under the current system when a bill has been vetoed by the President, Congress meets informally to discuss whether there should be a veto-override. If the consensus is to proceed with a veto-override, each State Delegation meets to discuss its position. When the formal vote on the veto-override is taken, if the Chair of the State Delegation of a smaller state says something that was not agreed to, then the vote is changed. If the Chair of the State Delegation of a larger state says something that was not agreed to, then the members of the State Delegation are polled and the results of the poll control. It was noted by other Delegates that the votes taken during this informal process are not recorded, only the final vote is recorded; hence, the voters cannot hold individual elected officials accountable.

In response to the opposing view, another Delegate expounded that the issue is the Constitution, not the practice of Congress. He rationalized that there is no effective control by the Executive on the arbitrary exercise of power by Congress under the present structure of checks and balances. He continued on that it is important to make sure that we have a system of government with a structure of checks and balances that actually results in a balance of power between co-equal branches of government. He noted that the current system where only the 3 Delegation chairmen, who vote to pass a bill on final reading, can also vote to override a veto of that bill creates an imbalance of power that renders the Executive and Legislative branches of government unequal, and tilts the system of checks and balances in favor of Congress.

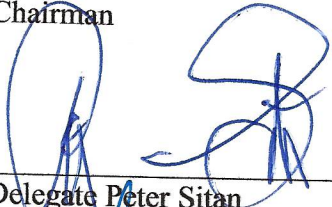
In light of the purpose of the Constitution to ensure proper checks and balances, your Committee on Government Structure and Function is in accord with the intent and purpose of the committee proposal attached hereto and recommends its passage on First Reading, and that it be placed on the Calendar for Second Reading for review by your Committee of the Whole, then placed on the Calendar for Final Reading after review by your Committee on Style and Arrangement.



Respectfully submitted,



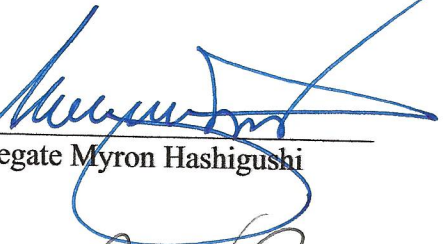
Delegate Victor Nabeyan  
Chairman



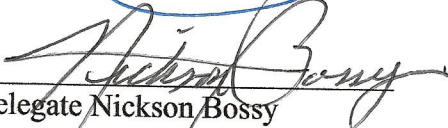
Delegate Peter Sitan



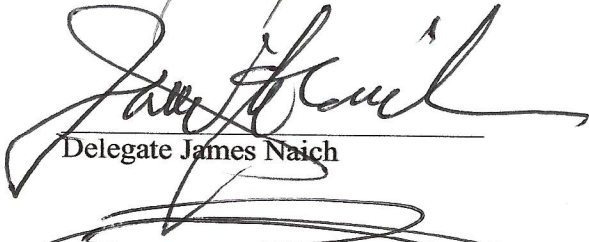
Delegate Marcus Samo



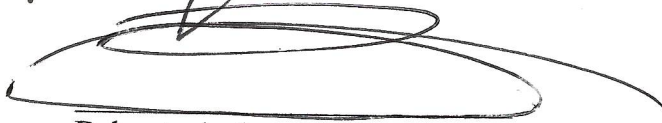
Delegate Myron Hashigushi



Delegate Nickson Bossy



Delegate James Naich



Delegate Andrew Yatilman



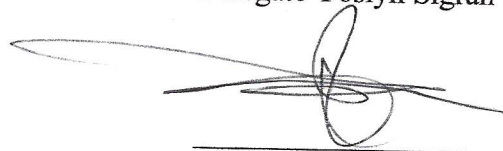
Akillino Susaia  
(Vice Chairman)



Delegate Canney Palsis



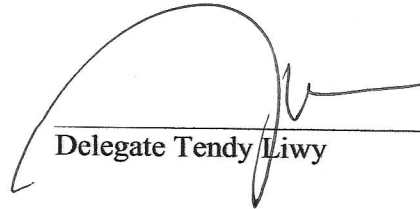
Delegate Yoslyn Sigrah



Delegate Ricky Cantero



Delegate Berney Martin



Delegate Tandy Liwy

Committee Proposal No. 4-11  
Committee on Government Structure and Functions  
Standing Committee Report No. CC-SCR-04-03

Relating to the votes required to override a Presidential veto.  
RESOLVED, that the following be agreed upon as an amendment to the Constitution:

#### ARTICLE IX

**Section 2.** The following powers are expressly delegated to Congress: . . .

(q) to override a Presidential veto by not less than a  $\frac{3}{4}$   $\frac{2}{3}$  vote of all the members elected from congressional districts in each state followed by a  $\frac{3}{4}$  vote of all the members elected at large state delegations, each delegation casting one vote; and . . .

Date: March 02, 2020

Offered by: Committee on Government Structure and  
Functions