

SJRES 16

Compact of Free Association Amendments Act of 2003

Congress: 108 (2003–2005, Ended)

Chamber: Senate

Policy Area: International Affairs

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Sponsor

Name: Sen. Domenici, Pete V. [R-NM]

Party: Republican • **State:** NM • **Chamber:** Senate

Cosponsors (3 total)

Cosponsor	Party / State	Role	Date Joined
Sen. Akaka, Daniel K. [D-HI]	D · HI		Jul 14, 2003
Sen. Bingaman, Jeff [D-NM]	D · NM		Jul 14, 2003
Sen. Craig, Larry E. [R-ID]	R · ID		Jul 14, 2003

Committee Activity

Committee	Chamber	Activity	Date
Energy and Natural Resources Committee	Senate	Reported By	Oct 1, 2003

Subjects & Policy Tags

Policy Area:

International Affairs

Related Bills

Bill	Relationship	Last Action
108 HJRES 63	Identical bill	Dec 17, 2003: Became Public Law No: 108-188.

Compact of Free Association Amendments Act of 2003 - Title I: Approval of U.S.-FSM Compact and U.S.-RMI Compact; Interpretation Of, and U.S. Policies Regarding, U.S.-FSM Compact and U.S.-RMI Compact; Supplemental Provisions - (Sec. 101) Grants congressional approval to the "Compact of Free Association, as amended between the Government of the United States of America and the Government of the Federated States of Micronesia" (U.S.-FSM Compact) and the "Compact of Free Association, as amended between the Government of the United States of America and the Government of the Republic of the Marshall Islands" (U.S.-RMI Compact), as well as specified subsidiary agreements and amended subsidiary agreements.

(Sec. 102) Directs the United States to provide non-reimbursable technical and training assistance, including training and equipment for postal inspection of illicit drugs and other contraband, to enable the Government of the Federated States of Micronesia (FSM) to develop and adequately enforce its laws and to cooperate with the United States in the enforcement of U.S. criminal laws. Declares that certain funds appropriated under this title may be used to reimburse State or local agencies providing such assistance.

Specifies the auditing authorities of the Comptroller General under the U.S.-FSM Compact.

(Sec. 103) Directs the United States to provide the same non-reimbursable technical and training assistance to the Government of the Republic of the Marshall Islands (RMI), with the same authority to use certain funds appropriated under this title to reimburse State or local agencies providing such assistance.

Cites the Compact of Free Association Act of 1985 (Public Law 99-239), which granted congressional approval of the Compact of Free Association between the United States, the Marshall Islands, and the Federated States of Micronesia to recount provisions regarding: (1) the continued availability of certain lands on Ejit to the people of Bikini; (2) the "Section 177 Agreement" on U.S. compensation to citizens of the Marshall Islands, or the FSM, or Palau for loss or damage to property or person resulting from the U.S. nuclear testing program between June 30, 1946, and August 18, 1958; (3) additional specified amounts payable to the peoples of Bikini, Enewetak, Rongelap, and Utrik who were affected by the U.S. nuclear weapons testing program; (4) ratification and approval of the Section 177 Agreement as full and final settlement of all compensation claims relating to nuclear testing; (5) the Four Atoll Health Care Program; (6) the Enjebi Community Trust Fund and resettlement of the people of Enjebi on Enjebi or elsewhere if Enjebi exceeds radiation standards; and (7) funding of the Bikini Atoll Cleanup.

Requires the President, upon request by the RMI Government, to continue to provide special medical care and related logistical support for the remaining members of the population of Rongelap and Utrik who were exposed to radiation resulting from the 1954 U.S. thermonuclear "Bravo" test.

Makes appropriations: (1) for FY 2004 through 2023 to carry out the planting and agricultural maintenance program on Enewetak; and (2) for FY 2005 as the final contribution of the United States to the Rongelap Resettlement Trust Fund, for purposes of establishing a food importation program.

Grants all necessary authorities to the Comptroller General to audit assistance programs under the Compacts.

Directs the United States to initiate certain procedures under the U.S.-RMI Compact to resolve expeditiously such nonpayment if the RMI Government fails to pay certain funds to the landowners of Kwajalein Atoll in accordance with the land use agreement dated October 19, 1982. Requires payment by the RMI Government into an interest-bearing escrow account in a U.S. financial institution of any amounts paid to it by the United States in excess of the amounts required to

be paid to the Kwajalein landowners, until such time as the RMI Government and the landowners conclude an agreement amending or superseding the existing one. Requires payment of such escrow funds and interest to the landowners whenever a new land use agreement is concluded. Authorizes the President to make loans and grants to the RMI Government to address the special needs of the community at Ebeye, Kwajalein Atoll, and other Marshallese communities within the Kwajalein Atoll pursuant to certain development plans.

(Sec. 104) Requires the Secretary of State to include in the annual reports on the status of internationally recognized human rights in foreign countries a full and complete report regarding the status of such rights in the FSM and the RMI.

Declares that the rights of a bona fide naturalized citizen of the FSM or the RMI to enter the United States, to lawfully engage in occupations there, and to establish nonimmigrant residence shall not be deemed to extend to any such naturalized citizen about whom U.S. officials may reasonably infer that the citizen acquired such status primarily in order to obtain such rights.

Declares the sense of Congress that: (1) up to certain amounts of grant assistance to the FSM and the RMI, if mutually agreed between the U.S., FSM, and RMI Governments, be used for the purpose of increasing the machine-readability and security of passports issued by such jurisdictions; and (2) such funds be obligated by September 30, 2004, and in the amount and manner specified by the Secretary of State. Authorizes the U.S. Government to require that passports used for the purpose of seeking admission into the United States under the U.S.-FSM Compact and the U.S.-RMI Compact contain the security enhancements funded by such assistance.

Declares the sense of Congress that the FSM and RMI Governments develop, before October 1, 2004, the capability to provide reliable and timely information as may reasonably be required by the U.S. Government in enforcing criminal and security-related grounds of inadmissibility and deportability under the Immigration and Nationality Act.

Endorses and encourages the maintenance of the policies of the FSM and RMI Governments to regulate, in accordance with their Constitutions and laws, the alienation of permanent interests in real property so as to restrict the acquisition of such interests to persons of FSM and RMI citizenship, respectively.

Declares that, in approving the U.S.-FSM Compact and the U.S.-RMI Compact, Congress understands that the FSM and RMI Governments will not permit any other government or any nongovernmental party to conduct, in the RMI or in the FSM, any nuclear waste disposal activities specified in the U.S.-FSM Compact and the U.S.-RMI Compact.

Authorizes appropriations for FY 2004 through 2023 for grants to American Samoa, Guam, the Commonwealth of the Mariana Islands, and Hawaii (affected jurisdictions) to aid in defraying costs of services to qualified nonimmigrants from RMI, FSM, or the Republic of Palau. Directs the Secretary of the Interior to conduct periodic enumerations of qualified nonimmigrants in each affected jurisdiction. Authorizes appropriations to the Secretary to reimburse health care institutions in the affected jurisdictions for costs resulting from the migration of RMI, FSM, and Palau citizens as a result of the implementation of the Compact of Free Association.

Directs the Secretary of Defense to make available, on a space available and reimbursable basis, the Department of Defense medical facilities for use by FSM, RMI, and Palau citizens. Directs the Secretary of Health and Human Services to continue to make the services of the National Health Service Corps available to FSM and RMI residents to the same extent and for so long as they are authorized for persons residing in any other areas within or outside the United States. Authorizes appropriations.

Requires the Governor of an affected jurisdiction to report annually to the Secretary of the Interior on any adverse

consequences from implementation of the Compacts.

Authorizes the President, in order to address previously accrued and unreimbursed impact expenses, at the request of the Governor of Guam or the Governor of the Commonwealth of the Northern Mariana Islands, and subject to notification of Congress, to reduce, release, or waive all or part of any amounts owed by such Governments (or either government's autonomous agencies or instrumentalities), respectively, to any U.S. department, agency, independent agency, office, or instrumentality. Requires both Governors to report to the Secretary of the Interior substantiating unreimbursed impact expenses claimed for the period from January 14, 1986, through September 30, 2003.

Reaffirms the U.S. position that the U.S. Government is not responsible for foreign loans or debt obtained by the FSM and RMI Governments.

Declares the sense of Congress that at least 30 percent of the U.S. annual grant assistance provided under the U.S.-FSM Compact, at least 30 percent of the total amount of similar funds allocated to each of the States of the FSM, and at least 30 percent of the U.S. annual grant assistance provided under the U.S.-RMI Compact shall be invested in infrastructure improvements and maintenance.

Requires the President to report annually to Congress on the FSM and the RMI, and the Comptroller General to report to Congress on them every five years. Requires the U.S., FSM, and RMI Governments to review every five years the overall political, economic, and security aspects of their relationship, as well as progress in meeting objectives in their respective development plans.

Declares that specified provisions of the U.S.-FSM Compact and the U.S.-RMI Compact regarding U.S. regulations under the Immigration and Nationality Act, as amended, which would define the terms of admission into the United States of FSM and RMI citizens as nonimmigrant aliens, shall be construed as though any such regulations that would have a significant effect on the admission, stay, and employment privileges shall not become effective until 90 days after their transmission to specified congressional committees.

Declares that a specified provision of the U.S.-FSM Compact regarding annual Sector Grant Funding shall be construed as though \$16.81 million is added to the amount of Annual Grants for each year.

Declares that a specified provision of the U.S.-RMI Compact regarding annual Sector Grant Funding shall be construed as though \$6.35 million is added to the amount of Annual Grants for each year.

Increases from two-thirds to 100 percent of the change in U.S. Gross Domestic Product Implicit Price Deflator the inflation adjustment factor for Sector Grant Funding and Trust Fund Contributions as of FY 2015, if the Deflator average for FY 2009 through 2014 is greater than the Deflator average for FY 2004 through 2008.

Directs the U.S., FSM, and RMI Governments to cooperate with each other in the development of telecommunications infrastructure that is mutually beneficial and improves the telecommunications connectivity and interoperability among the United States, Micronesia, and the Marshall Islands. Declares that, for the purpose of carrying out the FSM and RMI Federal Programs and Services Agreements, the United States Department of the Army shall serve as the Executive Agent for the Department of Defense in promoting and coordinating such telecommunication initiatives with the Governments of the Republic of the Marshall Islands and the Federated States of Micronesia.

Declares the sense of Congress that, to facilitate eligibility of FSM and RMI secondary school students to qualify for voluntary service in the U.S. Armed Forces, the Department of Defense may extend the Armed Services Vocational

Aptitude Battery (ASVAB) Student Testing Program (STP) and the ASVAB Career Exploration Program to selected secondary Schools in the FSM and the RMI to the extent such programs are available to Department of Defense Dependent Schools located in foreign jurisdictions.

(Sec. 105) Declares that, except as otherwise provided in this joint resolution, all U.S. Federal programs and services extended to or operated in the FSM or the RMI are and shall remain subject to all applicable criteria, standards, reporting requirements, auditing procedures, and other rules and regulations applicable to such programs when operating in the United States (including its territories and commonwealths).

Prescribes requirements for appropriations to the Secretary of the Interior and other specified Federal agencies for Grant Assistance and Services and Program Assistance under the U.S.-FSM Compact and the U.S.-RMI Compact.

Authorizes the President to appoint an Interagency Group on Freely Associated States' Affairs to provide policy guidance and recommendations on implementation of the U.S.-FSM Compact and the U.S.-RMI Compact to Federal departments and agencies.

Declares the sense of Congress that the Secretary of State and the Secretary of the Interior shall be represented on the Interagency Group.

Requires the three U.S. appointees (U.S. chair plus two members) to the Joint Economic Management Committee (JEMC) provided for in the U.S.-FSM Compact and the U.S.-FSM Fiscal Procedures Agreement to be U.S. Government officers or employees. Declares the sense of Congress that the appointees should be designated from the Department of State and the Department of the Interior, and that U.S. officials of the Asian Development Bank shall be consulted in order to properly coordinate U.S. and Asian Development Bank financial, program, and technical assistance.

Requires the section of the U.S.-FSM Compact regarding the annual JEMC evaluation of FSM progress in meeting the objectives in its Sector Grant assistance plan to be construed to read as though the JEMC is required to give particular focus to the implementation of economic policy reforms to encourage investment and to achieve self-sufficient tax rates.

Requires the three U.S. appointees (U.S. chair plus two members) to the Joint Economic Management and Financial Accountability Committee (JEMFAC) provided for in the U.S.-RMI Compact and the U.S.-RMI Fiscal Procedures Agreement to be U.S. Government officers or employees. Declares the sense of Congress that the appointees should be designated from the Department of State and the Department of the Interior, and that U.S. officials of the Asian Development Bank shall be consulted in order to properly coordinate U.S. and Asian Development Bank financial, program, and technical assistance.

Requires the section of the U.S.-RMI Compact regarding the annual JEMFAC evaluation of RMI progress in meeting the objectives in its Sector Grant assistance plan to be construed to read as though the JEMFAC is required to give particular focus to the implementation of economic policy reforms to encourage investment and to achieve self-sufficient tax rates.

Declares the sense of Congress that the Secretary of State and the Secretary of the Interior shall ensure that there are personnel resources committed in the appropriate numbers and locations to ensure effective oversight of U.S. assistance, and effective coordination of assistance among U.S. agencies and with other international donors such as the Asian Development Bank.

Requires the three U.S. voting members (U.S. chair plus two members) of each of the Trust Fund Committees appointed by the U.S. Government under the U.S.-FSM Compact and the U.S.-RMI Compact to be U.S. Government officers or

employees. Declares the sense of Congress that the appointees should be designated from the Department of State, the Department of the Interior, and the Department of the Treasury.

Declares that such Trust Fund Committees shall be nonprofit corporations incorporated under the laws of the District of Columbia.

Continues the authorization for the civil administration of the Trust Territory of the Pacific Islands after the effective date of the U.S.-FSM Compact and the U.S.-RMI Compact for specified limited transition purposes.

Expresses the understanding of Congress that the FSM and the RMI Governments will not act in a manner incompatible with the authority and responsibility of the United States for security and defense matters in or related to the FSM or the RMI under their respective Compacts, including specified mutual security agreements. Expresses the intention of Congress that any such act on the part of either such Government will be viewed by the United States as a material breach of the U.S.-FSM Compact or U.S.-RMI Compact. Declares that the U.S. Government reserves the right in the event of such a material breach to take action, including (but not limited to) the suspension in whole or in part of the obligations of the U.S. Government to that Government.

Makes available to the FSM and RMI the programs and services of: (1) the Department of Homeland Security, Federal Emergency Management Agency to the same extent as such programs and services were available in FY 2003; (2) the Department of Education with respect to eligible individuals under the Individuals with Disabilities Education Act (IDEA Grants), and Pell Grants under the Higher Education Act of 1965 to the extent that they continue to be available to institutions and students in the United States; (3) the Legal Services Corporation; (4) the Public Health Service; and (5) the Rural Housing Service (formerly, the Farmers Home Administration)

Declares that the FSM and the RMI Governments shall receive specified amounts supplementary to their education sector grants in lieu of formula grants under the Head Start Act or any formula grant program administered by the Secretary of Education.

Declares that the FSM and the RMI Governments shall continue to be eligible for competitive grants administered by the Secretary of Education to the extent that such grants continue to be available to State and local governments in the United States.

Declares that, in lieu of continuation of the Rural Housing Service program in the FSM, the President may agree to transfer to the FSM Government without cost the portfolio of the Rural Housing Service applicable to the FSM and provide any requested technical assistance in management of the portfolio.

Applies the provisions of the U.S.-FSM Compact and the U.S.-RMI Compact regarding settlement and payment of tort claims (except those relating to security and defense) to employees and contractors of any Federal agency of the U.S. Government which provides any service or carries out any other function pursuant to or in furtherance of any provisions of the U.S.-FSM Compact or the U.S.-RMI Compact or this joint resolution in such area to which such Agreement formerly applied.

Declares that the programs and services of the Environmental Protection Agency regarding PCBs shall, to the extent applicable, be construed to be made available to such islands for the cleanup of PCBs imported prior to 1987.

Declares that the College of Micronesia shall retain its status as a land-grant institution and its eligibility for all benefits and programs available to such institutions.

Declares that neither the FSM Government nor the RMI Government shall be required to pay to any department, agency, independent agency, office, or instrumentality of the United States any amounts owed to it by the Government of the Trust Territory of the Pacific Islands as of the effective date of the Compact. Authorizes appropriations.

Directs the Secretary of the Interior to provide annually specified additional funds for the training of judges and officials of the FSM and RMI judiciaries in cooperation with the Pacific Islands Committee of the Ninth Circuit Judicial Council and in accordance with and to the extent provided in the Federal Programs and Services Agreement. Authorizes and makes appropriations to the Secretary of the Interior, to remain available until expended, for each fiscal year from 2004 through 2023.

Authorizes technical assistance to the FSM and RMI Governments by Federal agencies and institutions of the U.S. Government to the extent it may be provided to States, territories, or units of local government. Requires such assistance by the Forest Service, the Natural Resources Conservation Service (acting through the Resource Conservation and Development Program), the Fish and Wildlife Service, the National Marine Fisheries Service, the United States Coast Guard, and the Advisory Council on Historic Preservation, the Department of the Interior, and other agencies providing assistance under the National Historic Preservation Act to be on a nonreimbursable basis.

Declares that persons who on January 1, 1985, were eligible to receive payment under the Prior Service Benefits Program established within the Social Security System of the Trust Territory of the Pacific Islands because of their services performed before July 1, 1968, for the U.S. Navy or the Government of the Trust Territory of the Pacific Islands shall continue to receive such payments on and after the effective date of the Compact.

Authorizes appropriations to complete repayment by the United States of any debts owed for the use of various lands in the FSM and the Marshall Islands before January 1, 1985.

Authorizes appropriations for grants to the FSM and RMI Governments and the governments of the affected jurisdictions to establish or continue programs for the control and prevention of communicable diseases, including (but not limited to) cholera, tuberculosis, and Hansen's Disease.

Makes any person in the FSM or the RMI liable for user fees, if any, for services provided in the FSM or the RMI by the U.S. Government to the same extent as any person in the United States would be liable for such fees in the United States.

Declares that no judgment of the courts of FSM, RMI, or the Republic of Palau against the United States shall be honored or recognized by the United States unless it is consistent with U.S. interpretation of international agreements relevant to the judgment. Adds that, in determining the consistency of a judgment with an international agreement, due regard shall be given to assurances made by the Executive Branch to the U.S. Congress regarding the proper interpretation of the international agreement.

Authorizes establishment of a trust fund under either of the Trust Fund Agreements executed pursuant to the U.S.-FSM Compact and the U.S.-RMI Compact by: (1) creating a new legal entity to constitute the trust fund; or (2) assuming control of an existing legal entity including, without limitation, a trust fund or other legal entity established by or at the direction of the U.S. Government or the FSM or the RMI Government for the purpose of facilitating or expediting the establishment of the trust fund pursuant to the applicable Trust Fund Agreement.

Authorizes but does not obligate such a trust fund to assume any obligations of an existing legal entity and take assignment of any contract or other agreement to which the existing legal entity is party.

Authorizes but does not obligate the U.S. Government to provide financial, technical, or other assistance directly or indirectly to the FSM or the RMI Government for the purpose of establishing and operating a trust fund or other legal entity that will solicit bids from, and enter into contracts with, parties willing to serve in such capacities as trustee, depository, money manager, or investment advisor, with the intention that the contracts will ultimately be assumed by and assigned to a trust fund established pursuant to a Trust Fund Agreement.

(Sec. 106) Directs the U.S. Government to consult with the FSM and RMI Governments with respect to any contracts with private sector firms for construction or major repair of capital infrastructure within the FSM or the RMI, and enter into agreements with such firms whereby they will: (1) employ FSM and RMI citizens to the maximum extent possible; (2) provide such citizens with on the job training, with particular emphasis on the development of skills relating to operation of machinery and routine and preventative maintenance of machinery and other facilities; and (3) provide specific training or other assistance in order to enable the Government to engage in long-term maintenance of infrastructure.

Limits training assistance by such firms to 20 percent of the contract amount, and makes such training funds available only to U.S. firms. Authorizes appropriations to cover any additional costs incurred by the FSM or RMI Government if such Governments, pursuant to an agreement entered into with the United States, apply a preference on the award of contracts to U.S. firms, provided that the amount of such preference does not exceed ten percent of the amount of the lowest qualified bid from a non-U.S. firm for such contract.

(Sec. 107) Applies in full the bribery, graft, and conflict of interest prohibitions of the Federal criminal code to any individual who has served as the U.S. negotiator of amendments to the Compact or its subsidiary agreements or of related agreements or who is or was an officer or employee of the Office in the Department of State responsible for negotiating amendments to the Compact or its subsidiary agreements or who is or was assigned or detailed to that Office or who served on the interagency group coordinating U.S. policy on the Compact negotiations.

(Sec. 108) Makes available to the FSM and RMI the services and programs of the Small Business Administration, the Economic Development Administration, the Rural Utilities Services (formerly Rural Electrification Administration), the programs and services of the Department of Labor under the Workforce Investment Act of 1998, and the programs and services of the Department of Commerce relating to tourism and to marine resource development.

Authorizes the FSM and RMI Governments each to submit only one report or request, no later than September 30, 2009, for further compensatory adjustments for the adverse economic impact of certain trade and tariff requirements of the Compact of Free Association Act of 1985. Limits consideration for such compensation only to adverse economic effects occurring during the initial 15-year term of the Compact.

(Sec. 109) Authorizes and makes appropriations to the Department of the Interior, and authorizes appropriations to other specified Federal agencies, to carry out certain purposes of the U.S.-FSM Compact and the U.S.-RMI Compact.

(Sec. 110) Amends the Treasury and General Government Appropriations Act, 2002 to provide for payment of FSM, RMI, and Palau citizens employed by the U.S. Government in the continental United States.

Title II: Compacts of Free Association with the Federated States of Micronesia and the Republic of the Marshall Islands - Recites the U.S.-FSM Compact and the U.S.-RMI Compact.

Actions Timeline

- **Oct 1, 2003:** Committee on Energy and Natural Resources. Reported by Senator Domenici with amendments and with an amended preamble. With written report No. 108-159.
- **Oct 1, 2003:** Placed on Senate Legislative Calendar under General Orders. Calendar No. 299.
- **Sep 17, 2003:** Committee on Energy and Natural Resources. Ordered to be reported with an amendment favorably.
- **Jul 15, 2003:** Committee on Energy and Natural Resources. Hearings held.
- **Jul 14, 2003:** Introduced in Senate
- **Jul 14, 2003:** Sponsor introductory remarks on measure. (CR S9338)
- **Jul 14, 2003:** Read twice and referred to the Committee on Energy and Natural Resources.

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