May 8, 2015

The Honorable Dohsis Halbert  
Speaker  
18th FSM Congress  
Palikir, Pohnpei FM 96941

Dear Speaker Halbert:

I am transmitting the following Congressional Act, which I have signed to become Public Law No. 18-124:

Congressional Act No. 18-126, entitled: "AN ACT TO AMEND SECTIONS 402, 403, 404, 406, 407, 408, 409, 420, 422, 423, 424 AND 425 OF TITLE 30 OF THE CODE OF THE FEDERATED STATES OF MICRONESIA (ANNOTATED), AS AUTHORIZED BY PUBLIC LAW NO. 18-96, BY INCREASING THE PERCENTAGE OF CORPORATE INCOME TAX ABOVE A CERTAIN LEVEL TO BE INVESTED IN A FSM VENTURE FUND, ACCELERATING REDEMPTION PAYMENTS WHILE ELIMINATING INTEREST PAYMENTS, PROVIDING FOR A FUND MANAGEMENT FEE, ALLOWING SUBSEQUENT CONTRIBUTIONS TO THE VENTURE FUND FOR AN EXTENDED THREE YEAR PERIOD, AND FOR OTHER PURPOSES."

I am pleased that Congress is taking action on this important matter, which is designed to bring additional revenue to this Nation. The fiscal challenges we are facing as a result of the impending expiration of the financial assistance under the Amended Compact demands our mutual diligence in searching for any potential alternative revenue source. For this purpose, the Venture Funds in my view constitutes a potential revenue source that the FSM urgently needs.

Once again, I thank the 18th Congress for taking immediate action on this legislation.

Sincerely,

Manny Mori
President

xc:  Acting Chief Justice, FSM Supreme Court  
Secretary, Department of Justice  
Director, Office of SBOC  
Legislative Counsel, CFSM  
Library, CFSM  
PIO, FSM
April 21, 2015

His Excellency Manny Mori  
President  
Federated States of Micronesia  
Palikir, Pohnpei FM 96941

Dear President Mori:

I have the honor to transmit herewith Congressional Act No. 18-126, "AN ACT TO AMEND SECTIONS 402, 403, 404, 406, 407, 408, 409, 420, 422, 423, 424 AND 425 OF TITLE 30 OF THE CODE OF THE FEDERATED STATES OF MICRONESIA (ANNOTATED), AS AUTHORIZED BY PUBLIC LAW NO. 18-96, BY INCREASING THE PERCENTAGE OF CORPORATE INCOME TAX ABOVE A CERTAIN LEVEL TO BE INVESTED IN A FSM VENTURE FUND, ACCELERATING REDEMPTION PAYMENTS WHILE ELIMINATING INTEREST PAYMENTS, PROVIDING FOR A FUND MANAGEMENT FEE, ALLOWING SUBSEQUENT CONTRIBUTIONS TO THE VENTURE FUND FOR AN EXTENDED THREE YEAR PERIOD, AND FOR OTHER PURPOSES.", which was passed by the Eighteenth Congress of the Federated States of Micronesia, Seventh Special Session, 2015, by a two-thirds vote of all the State delegations as required and as duly certified.

Sincerely yours,

Liwiana Ramon Ioanis  
Chief Clerk, Congress of the  
Federated States of Micronesia

Enclosures
An Act

TO AMEND SECTIONS 402, 403, 404, 406, 407, 408, 409, 420, 422, 423, 424 AND 425 OF TITLE 30 OF THE CODE OF THE FEDERATED STATES OF MICRONESIA (ANNOTATED), AS AUTHORIZED BY PUBLIC LAW NO. 18-96, BY INCREASING THE PERCENTAGE OF CORPORATE INCOME TAX ABOVE A CERTAIN LEVEL TO BE INVESTED IN A FSM VENTURE FUND, ACCELERATING REDEMPTION PAYMENTS WHILE ELIMINATING INTEREST PAYMENTS, PROVIDING FOR A FUND MANAGEMENT FEE, ALLOWING SUBSEQUENT CONTRIBUTIONS TO THE VENTURE FUND FOR AN EXTENDED THREE YEAR PERIOD, AND FOR OTHER PURPOSES.

INTRODUCED BY SENATOR: DAVID W. PANUELO

DATE: APRIL 14, 2015

REFERRED TO: COMMITTEE ON RESOURCES AND DEVELOPMENT
FIRST READING: APRIL 15, 2015
SECOND READING: APRIL 16, 2015

Liwiana Ramon Ioanis
Chief Clerk, FSM Congress
ACT NO. 18-126

(CONGRESSIONAL BILL NO. 18-274, C.D.1, C.D.2)

We hereby certify that on April 16 the foregoing act passed Second and Final Reading of the Eighteenth Congress of the Federated States of Micronesia, Seventh Special Session, 2015, by a two-thirds vote of all the State delegations as required under article IX, section 20, of the Constitution of the Federated States of Micronesia.

Dohsis Habbert
Speaker
Congress of the Federated States of Micronesia

Liwiana Ramon Ioanis
Chief Clerk
Congress of the Federated States of Micronesia
AN ACT

To amend sections 402, 403, 404, 406, 407, 408, 420, 422, 423, 424 and 425 of title 30 of the Code of the Federated States of Micronesia (Annotated), as authorized by Public Law No. 18-96, by increasing the percentage of corporate income tax above a certain level to be invested in a FSM venture fund, accelerating redemption payments while eliminating interest payments, providing for a fund management fee, allowing subsequent contributions to the venture fund for an extended three year period, and for other purposes.

BE IT ENACTED BY THE CONGRESS OF THE FEDERATED STATES OF MICRONESIA:

1 Section 1. Section 402 of title 30 of the Code of the
2 Federated States of Micronesia (Annotated), as authorized by
3 Public Law No. 18-96, is hereby amended to read as follows:
4 “Section 402. Purpose. The purpose of this act is to
5 encourage the establishment of Venture Funds in the
6 Federated States of Micronesia, hereinafter referred to
7 as ‘FSM’, and to provide an incentive for large foreign-
8 owned companies to register Major Corporations in the
9 FSM. The Congress finds it desirable and necessary to
10 promote the continued expansion of the tax base of the
11 nation. The Congress believes that agreeing to invest a
12 portion of large corporate income tax payments by Major
13 Corporations in Venture Funds, to be managed by parents
14 or affiliates of such Major Corporations, would attract
15 large foreign-owned enterprises to more seriously
16 consider registering Major Corporations in the FSM and

CBL 18-295
directing larger amounts of profitable business through such Major Corporations. Such new FSM corporations with intellectual property could continue to generate income over the coming years and decades. The government will be able to then tax these incomes, thus expanding the tax base that is needed by the government to provide the services that the citizens and residents of the FSM demand. It is recognized that the nation currently does not have the resources to make investments in these new industries and that a private-public partnership is needed to finance and grow these industries. Therefore, it is in the best interests of the FSM and its people that incentives are provided for Major Corporations to establish professionally managed funds that will consider new business opportunities and make wise investments."

Section 2. Section 403 of title 30 of the Code of the Federated States of Micronesia (Annotated), as authorized by Public Law No. 18-96, is hereby amended to read as follows:

"Section 403. Creation.

(1) Any Major Corporation that pays corporate income tax to the FSM exceeding $100,000,000 but not exceeding $500,000,000 in any one calendar year may require that an amount equivalent to up to fifty percent (50%) of the amount of income taxes it paid will be invested by the
FSM into a FSM Venture Fund, and that the Major Corporation may also select the Fund Manager for this Fund.

(2) Any Major Corporation that pays corporate income tax to the FSM exceeding $500,000,000 in any one calendar year may require that an amount equivalent to up to 50% of $500,000,000 and up to 100% of the amount in excess of $500,000,000 of income taxes it paid will be invested by the FSM into a FSM Venture Fund, and that the Major Corporation may also select the Fund Manager for this Fund.

(3) If a Major Corporation has paid corporate income tax to the FSM in any one calendar year so that a Fund has consequently been established pursuant to paragraph (1) or (2) above, and such Major Corporation thereafter pays corporate income tax exceeding $100,000,000 to the FSM in any subsequent calendar year during the term of the Fund, then the Major Corporation may require that an amount equivalent to up to fifty percent (50%) of the amount of income tax it paid in such subsequent calendar year be invested by the FSM into the existing Fund, until the Major Corporation has paid an aggregate amount of corporate income tax to the FSM equal to $500,000,000. Seventy-five percent (75%) of the remaining tax payment made in the first calendar year
after the establishment of the Fund, exclusive of fees, shall be deposited to the Trust Fund established under the Trust Fund Agreement between the Government of the United States and the Government of the Federated States of Micronesia implementing sections 215 and 216 of the Compact of Free Association, as amended. After the Major Corporation has paid an aggregate amount of corporate income tax to the FSM in excess of $500,000,000, then the Major Corporation may require that an amount equivalent to up to one-hundred percent (100%) of the amount of income tax it paid in such subsequent calendar year be invested by the FSM into the Fund. The number of Fund ownership interests received by the Fund Investors in connection with such subsequent investments will be calculated based on the net asset value per Fund ownership interest in effect in the date of each such subsequent investment. For the purposes, the aggregate amount of corporate income tax paid by the Major Corporation to the FSM will include the income taxes paid in the initial calendar year in respect of which the Fund was originally established and in all subsequent calendar years.

(4) The FSM may designate any other investor that is authorized to invest pursuant to section 408 (such designated investor, together with the FSM, “Fund
Investors") to provide a portion of the amounts required
to be invested into the Fund by the FSM pursuant to
paragraph (2) or (3) above.

(5) For the purposes of calculating the corporate
income tax paid by a Major Corporation under paragraphs
(1), (2) or (3) above, corporate income taxes paid to
the FSM by any other entity that directly or indirectly
controls, is controlled by, or is under common control
with, the Major Corporation will be deemed paid by such
Major Corporation.

(6) Within 30 days of the date of the letter
described in section 404, (i) the Secretary of Finance
and Administration shall authorize the establishment of
each FSM Venture Fund, hereinafter referred to as a
‘Fund’, and (ii) the Fund Manager shall establish the
Fund in a jurisdiction selected by it.

(7) In order to effectuate the FSM Venture Fund under
this section, the investment by the FSM shall be deemed
appropriated from the General Fund as if set forth in an
appropriation act.”

Section 3. Section 404 of title 30 of the Code of the
Federated States of Micronesia (Annotated), as authorized by
Public Law No. 18-96, is hereby amended to read as follows:

“Section 404. Letter of intent. Each of the Major
Corporation that intends to establish a Fund must
deliver a letter to the President of the Federated States of Micronesia Development Bank, between 60 days and 90 days after the delivery of its payment of corporate income tax to the FSM, signed by a director of the Major Corporation, (i) stating that it intends to establish a Fund, (ii) specifying the amount of investment, being the capital amount pursuant to section 403, in that Fund at the initial closing of such Fund, and (iii) selecting the Fund Manager of the Fund. The letter will also describe the Designated Entity for the Fund, give evidence that the Designated Entity meets the requirements listed in section 409 below, and describe the mechanism by which the Designated Entity elects to meet its obligations under section 409. Attached to this letter must be an Investment Statement that describes the qualifications, capabilities, and experience of the Fund Manager, the general strategy of the Fund along with the projected allocation of the investments by industry, stage of development, and country."

Section 4. Section 406 of title 30 of the Code of the Federated States of Micronesia (Annotated), as authorized by Public Law No. 18-96, is hereby amended to read as follows:

"Section 406. Deadline for depositing funds. All Fund Investors must have deposited their monies into the Fund
no later than the end of the 60th day after publication of the notice described in section 405. The President of the Federated States of Micronesia Development Bank will ensure that the government and all other investors have their funds deposited into the Fund by this date. The Secretary of Finance and Administration is authorized and required to deposit into the Fund such tax revenue as may be required pursuant to sections 403 and 404 of this Chapter."

Section 5. Section 407 of title 30 of the Code of the Federated States of Micronesia (Annotated), as authorized by Public Law No. 18-96, is hereby amended to read as follows:

"Section 407. Duration of funds. Settlement; capital return; management fee. The term of each Fund will be as specified by the Fund Manager, but no Fund may have a term beyond September 30, 2043. For any Fund with a term beyond September 30, 2033, the Secretary of Finance and Administration will have the option to end such term on September 30, 2033 by delivering a notice thereof to the Fund Manager at least three years in advance. At the end of the life of a Fund, the following amounts must be paid to each investor: (1) the capital amounts invested in the Fund by that investor, net of all amounts of invested capital previously returned to that investor; and (2) with respect to any amount remaining
in the Fund after repayment of the invested capital
amounts under the preceding clause (1), net of
withholdings for taxes due upon, and costs and expenses
of, liquidation (such remaining amount hereinafter
referred to as the "Net Gain"), a pro-rata portion of
an amount equal to twenty percent (20%) of the first
$100,000,000 of Net Gain, plus a pro-rata portion of an
amount equal to ten percent (10%) of any Net Gain in
excess of $100,000,000. Each investor's pro-rata
portion of the Net Gain will be in proportion to such
investor's Fund ownership interests. Any remaining Net
Gain not paid to the investors under clause (2) above
will be paid to the Fund Manager. Notwithstanding the
preceding paragraph, in fiscal year 2023 each Fund must
return to the investors in aggregate an amount equal to
twenty percent (20%) of the net asset value of the Fund
as of the end of the preceding fiscal year (in addition
to the previous returns of invested capital to the
investors made pursuant to the following paragraph of
this section 407). Such amount will be paid to the
investors within 120 days of the beginning of fiscal
year 2023. With respect to each fiscal year during the
term of the Fund, an annual partial return of invested
capital equal to two percent (2%) of the greater of
(a) the net asset value of the Fund as of the end of the
preceding FSM National Government fiscal year and
(b) the capital amounts invested in the Fund by the
investors will also be paid to the investors in
aggregate within 120 days after the beginning of the
fiscal year, except that (i) the initial partial return
of invested capital will be based on the amounts
deposited in the Fund by the deadline specified in
section 406 of this chapter; (ii) payment in respect of
the final fiscal year of the Fund may be made on or
prior to the Fund’s liquidation; and (iii) Fund
ownership interests received by the Fund Investors
pursuant to section 403(3) of this chapter will instead
be entitled to an annual partial return of invested
capital so payable to the Fund Investors at the rate of
three percent (3%) per annum. Notwithstanding the
preceding sentence, if, with respect to any fiscal year
during the term of the Fund, any partial return of
invested capital payable to the investors pursuant to
the foregoing provisions would result in the investors
receiving in aggregate, including all prior partial
returns of invested capital paid to the investors, an
amount greater than if in each year the investors had
received two percent (2%) or three percent (3%), as
applicable, of the capital amounts invested in the Fund
by the investors, then the Fund Manager shall be
entitled to pay to the investors, in respect of such fiscal year, such amount so that the partial returns of capital paid to the investors each year, in aggregate, do not exceed two percent (2%) or three percent (3%), as applicable, of the capital amounts invested in the Fund by the investors. Furthermore, with respect to each fiscal year during the term of the Fund, the Fund Manager may require that the Fund pay an annual management fee equal to up to two percent (2%) of the net asset value of the Fund as of the end of the preceding fiscal year to the Fund Manager within 120 days after the beginning of the fiscal year, except that (i) the initial management fee will be based on the amounts deposited in the Fund by the deadline specified in section 406 of this chapter and (ii) payment of the management fee owed with respect to the final fiscal year of the Fund may be made on or prior to the Fund's liquidation."

Section 6. Section 408 of title 30 of the Code of the Federated States of Micronesia (Annotated), as authorized by Public Law No. 18–96, is hereby amended to read as follows:

"Section 408. Investment in Venture Funds by Federated States of Micronesia citizens and corporations. As provided in this Chapter, citizens and corporations of the Federated States of Micronesia may invest in a Fund
any time that the FSM is required to invest in such Fund pursuant to section 403. The minimum investment shall be $100,000."

Section 7. Section 409 of title 30 of the Code of the Federated States of Micronesia (Annotated), as authorized by Public Law No. 18-96, is hereby amended to read as follows:

"Section 409. Repayment of capital amounts. If at the liquidation of a Fund the amounts payable to the Fund Investors, together with all amounts of invested capital previously returned to the Fund Investors, would not be sufficient to return to the Fund Investors in aggregate an amount equal to the aggregate capital amount invested in the Fund by the Fund Investors, then the Fund Manager shall return to the Fund Investors such portion of the aggregate management fees paid to it to remedy such capital shortfall. In addition, upon establishment of a Fund the Designated Entity will, at its option, either guarantee the repayment to Fund Investors of the capital amounts invested in a Fund by the Fund Investors at the end of the life of the Fund or commit to provide supplemental capital to remedy any such capital shortfall. "Designated Entity" means the Fund Manager, its parent organization or an unrelated party. The Designated Entity must be rated at least investment grade rated by Moody's or Standard and Poor's or Fitch.
or a national rating organization acceptable to the
President of the Federated States of Micronesia
Development Bank, or it must have a net worth of least
ten times the original capital of the Fund. The
President of the Federated States of Micronesia
Development Bank will ensure that the Designated Entity
meets the criteria set out in this section.”

Section 8. Section 420 of title 30 of the Code of the
Federated States of Micronesia (Annotated), as authorized by
Public Law No. 18-96, is hereby amended to read as follows:

“Section 420. Payment of partial capital
returns. The provisions of section 409 will also apply
with respect to the payment of partial capital returns
to the Fund Investors each fiscal year during the life
of the Fund under section 407 of this Chapter.”

Section 9. Section 422 of title 30 of the Code of the
Federated States of Micronesia (Annotated), as authorized by
Public Law No. 18-96, is hereby amended to read as follows:

“Section 422. Reports. Within 90 days after the end of
each fiscal year during the term of the Fund, the Fund
Manager will issue a report to the Advisory Board
stating new investments, sales or other dispositions of
investments, the rationale for new investments and
dispositions of investments, the rationale for each
current holding, the net asset value of the Fund as of
the end of such fiscal year, the estimate of the value of each investment as of the end of such fiscal year, and the resulting gain or loss during such fiscal year and since the inception of the Fund. The net asset value of the Fund as of the end of each fiscal year as well as the estimate of the value of each investment as of the end of such fiscal year, and the resulting gain or loss during such fiscal year and since the inception of the Fund, must be approved by the Fund's auditor or another independent appraiser."

Section 10. Section 423 of title 30 of the Code of the Federated States of Micronesia (Annotated), as authorized by Public Law No. 18-96, is hereby amended to read as follows:

"Section 423. Appraiser. Ninety days before the end of the term of the Fund, an independent appraiser qualified in the valuation of companies, appointed by the Fund Manager and reasonably acceptable to the Advisory Board, will value each of the holdings in the Fund, and the overall Fund. The appraiser will issue a report detailing the current value of each investment, and the methodology for determining each investment's valuation. The report will be signed by the appraiser and sent to the Advisory Board 30 days before the end of the term of the Fund. The cost of the appraiser will be an appropriate expense of the Fund."
Section 11. Section 424 of title 30 of the Code of the Federated States of Micronesia (Annotated), as authorized by Public Law No. 18-96, is hereby amended to read as follows:

"Section 424. Advisory Board. Each Fund shall have an Advisory Board that shall give advice to the Fund Manager. The Board shall consist of at least 5 people that are selected by the President of the Federated States of Micronesia, with the advice and consent of the Congress; provided, that each investor that invests in aggregate $10,000,000 or more but less than $20,000,000 in the Fund shall be entitled to a representative in the Advisory Board, and each investor that invests in aggregate $20,000,000 or more in the Fund shall be entitled to two representatives in the Advisory Board. The Board shall meet at least once a year in person at the headquarters of the Fund Manager and shall give advice to the Fund Manager. The costs of the Advisory Board shall be an appropriate expense of the Fund."

Section 12. Section 425 of title 30 of the Code of the Federated States of Micronesia (Annotated), as authorized by Public Law No. 18-96, is hereby amended to read as follows:

"Section 425. Expiration date. No new Fund may be created pursuant to section 403 of this chapter, on or after April 1, 2028, unless extended by law."
Section 13. This act shall become law upon approval by the President of the Federated States of Micronesia or upon its becoming law without such approval.

May 8, 2015

Manny Mori
President
Federated States of Micronesia