

A BILL FOR AN ACT

To further amend sections 303 and 306 of title 55 of the Code of the Federated States of Micronesia, as enacted by Public Law No. 13-72 and amended by Public Laws Nos. 13-93, 18-12, 18-25 and 18-57, to modify the distribution formula for Compact funds to allow the National Government a 12% share of the distribution, to insert a new section 306A of Title 55 of the Code of the Federated States of Micronesia containing transitional provisions for Fiscal Year 2024, to centralize the Compact infrastructure sector grants within the Department of Transportation, Communications and Infrastructure, and for other purposes.

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

1 Section 1. Purpose. The purpose of this act is to increase
2 the National Government share of Compact Funds, from zero percent
3 (0%) to twelve percent (12%) and to centralize the infrastructure
4 sector funds of the National and the four State Governments within
5 the Department of Transportation, Communications and
6 Infrastructure (TC&I).

7 Increase the National Government's Share of Compact Funds

8 Historically, the distribution formula provided the following
9 percentages of Compact funds to the National Government:

- 10 for fiscal years 2005 and 2006 (2 years)..... 8.65%
- 11 for fiscal years 2007 to 2013 (7 years).....10.00%
- 12 for fiscal year 2014 (1 year) 5.00%
- 13 for fiscal year 2015 to current (excluding
- 14 the amount of Supplemental Education Grants
- 15 under Section 105 of the Amended Compact,
- 16 which are provided by the National Government

1 to the College of Micronesia) (9 years)..... 0.00%

2 This amendment is necessitated by the new Constitutional
3 amendment requirement that the National Government retain only 50%
4 of the local revenue from fishing agreements. The other 50% of
5 these local revenues is to be provided to, and divided among, the
6 States.

7 Local revenue from fishing agreements has historically been
8 for the use of the National Government, to fund the operations of
9 the Executive branch, the Judicial branch, the Legislative branch,
10 as well as to fund the National Public Auditor, agencies, boards,
11 authorities and commissions and to provide grants, subsidies and
12 contributions and contribute to capital and human resource
13 development needs of the whole of the Federated States of
14 Micronesia.

15 A significant portion of the appropriations made by the FSM
16 Congress directly or indirectly contribute to the well being of
17 the States and the citizens and residents of each State. Many of
18 the appropriations by the FSM Congress have as allottees (charged
19 with responsibility for ensuring the proper use of the funds
20 appropriated) the Governors of the States, the Chief Justices of
21 the State Supreme Courts, or the Public Utility Corporations of
22 the States.

23 The current distribution formula (in place since FY2015),
24 excluding Supplemental Education Grants under Section 105 of the
25 Amended Compact (which the National Government provided directly

1 to the College of Micronesia), is:

2	Chuuk	42.22%
3	Kosrae	12.10
4	Pohnpei	28.13%
5	Yap	17.55%
6	National Government	0%

7 With half of the local revenue from fishing agreements
 8 removed from the revenues available for appropriation by the
 9 National Government, the National Government will no longer be
 10 able to insure the functioning of the three branches of National
 11 government or assist the programs and functions that have come
 12 to rely on funding from the National Government. It is
 13 therefore necessary to increase the National Government share of
 14 available Compact funds from zero percent (0%) to a modest 12%.

15 In the past, the total Compact funds were reduced by the
 16 amount of the Supplemental Education Grant under Section 105 of
 17 the Amended Compact before the distribution formula was applied.
 18 Because this assistance is no longer specified separately under
 19 the 2023 Amended Compact, the value of the grant in Fiscal Year
 20 2023 will hereafter be known as the College of Micronesia (COM)
 21 Funding, and will be deducted from the total Compact funds prior
 22 to application of the amended distribution formula.

23 Centralization of the Infrastructure Sector Funds

24 The 2023 Amended Compact contains a generally more
 25 deferential approach to the allocation of sector grants and

1 allows the FSM more control and flexibility, provided the FSM
2 remains current on all reporting requirements. The 2023 Amended
3 Compact requires the FSM to hire a third-party to assist in the
4 preparation of the annual performance and financial reports. The
5 reporting requirements will fall, for the most part, on the
6 National Government, which will need to compile and consolidate
7 information from the State Governments and National Government
8 to satisfy the reporting requirements.

9 The 2023 Amended Compact requires the FSM as a whole to
10 allocate to the public infrastructure sector not less than 25%
11 of the annual Compact funds (on a three-year moving average).
12 To manage compliance with this requirement, and the other
13 requirements of the 2023 Amended Compact relating to
14 infrastructure projects, the infrastructure sector Compact funds
15 shall be retained by the National Government and managed by the
16 Department of TC&I, and released as Sub-Grants to the States on
17 a project by project basis, as each project satisfies the
18 requirements of the 2023 Amended Compact with respect to the
19 infrastructure sector. The details of how this procedure will
20 work will be published to the National and State Governments by
21 the President.

22 This means that each State Government's planned budget for
23 infrastructure each year will be held by the National Government
24 and released to the State Government as Compact requirements are
25 satisfied.

1 The amendments below would effectuate these changes, while
 2 maintaining much of the existing procedure (even though the 2023
 3 Amended Compact no longer requires some of these procedures).

4 Section 2. Section 303 of Title 55 of the Code of the
 5 Federated States of Micronesia, as enacted by Public Law No.
 6 13-72, and as amended by Public Laws Nos. 13-93, 18-12, 18-25
 7 and 18-57, is hereby further amended, to read as follows:

8 "Section 303. Division of Compact Funds among National and
 9 State Governments.

10 (1) The Compact Budget Requests for Fiscal Years 2005
 11 and 2006 of the National Government and of each State
 12 Government under section 305 of this chapter shall be based
 13 upon a division of Compact funds in the following
 14 proportions:

15	Chuuk	38.57%
16	Kosrae	11.06
17	Pohnpei	25.69
18	Yap	16.03
19	National Government	8.65

20 (2) For Fiscal Years 2007 to 2013, the chief
 21 executives of the National Government and each of the State
 22 Governments shall have the authority to enter, from time to
 23 time, into one or more agreements setting forth the
 24 proportionate amounts of Compact funds that shall be the
 25 basis of each Government's Compact Budget Request under

1 sections 305 and 306 of this chapter, provided that the
 2 National Government's proportionate amount of Compact funds
 3 for each Fiscal Year shall be ten percent (10%) of the
 4 estimated level of Compact funding for that year. An
 5 agreement regarding the division of Compact funds, other than
 6 the National Government's ten percent (10%) share, may be
 7 limited to a specified period of time and shall only be
 8 effective when signed by the chief executive of each and
 9 every Government.

10 (3) The Compact Budget Requests for Fiscal Year[~~§~~]
 11 2014 of the National Government and of each State Government
 12 under section 305 of this chapter shall be based upon a
 13 division of Compact funds in the following proportions,
 14 except for Supplemental Education Grants under section 105 of
 15 the Amended Compact:

16	Chuuk	40.11%
17	Kosrae	11.50
18	Pohnpei	26.72
19	Yap	16.67
20	National Government	5.00

21 (4) The Compact Budget Requests for Fiscal Year[~~§~~]
 22 2015 [~~and thereafter~~] of the National Government and of each
 23 State Government under section 305 of this chapter shall be
 24 based on a division of Compact funds in the following
 25 proportions, except Supplemental Education Grants under

1 section 105 of the Amended Compact:

2	Chuuk	42.22%
3	Kosrae	12.10
4	Pohnpei	28.13
5	Yap	17.55
6	National Government	0.00

7 The above formula applies after JEMCO funds the College of
8 Micronesia.

9 (5) For Fiscal Years 2016 and thereafter, the chief
10 executives of the National Government and each of the State
11 Governments shall have the authority to enter, from time to
12 time, into one or more agreements setting forth the
13 proportionate amounts of Compact funds that shall be the
14 basis of each Government's Compact Budget Request under
15 sections 305 and 306 of this chapter, provided that the
16 National Government's proportionate amount of Compact funds
17 for each Fiscal Year, after funding the College of
18 Micronesia, shall be zero percent (0%) of the estimated level
19 of Compact funding for that year, excepting Supplemental
20 Education Grants under Section 105 of the Amended Compact.
21 An agreement regarding the division of Compact funds, other
22 than the National Government's zero percent (0%) share, may
23 be limited to a specified period of time and shall only be
24 effective when signed by the chief executive of each and
25 every Government.

1 (6) For Fiscal Year 2024 and thereafter, the
 2 estimated available Compact funds for each State Government
 3 and the National Government shall be determined by the
 4 President, by first deducting from the total Compact funds
 5 for the Fiscal Year, the amount of Compact funding under
 6 Education Grants received by the College of Micronesia in the
 7 Fiscal Year 2023 (this amount will be know as the "COM
 8 Funding"), and then applying the distribution formula.

9 (7) For Fiscal Year 2024 and thereafter, the
 10 distribution formula shall be:

11	<u>Chuuk</u>	<u>36.9</u>
12	<u>Kosrae</u>	<u>10.4</u>
13	<u>Pohnpei</u>	<u>25.5</u>
14	<u>Yap</u>	<u>15.2</u>
15	<u>National Government</u>	<u>12.0"</u>

16 Section 3. Section 306 of Title 55 of the Code of the
 17 Federated States of Micronesia, as enacted by Public Law No.
 18 13-72, and as amended by Public Laws Nos. 13-93, 18-12, 18-25
 19 and 18-57, is hereby further amended, to read as follows:

20 "Section 306. Plan For the Division of Annual Economic
 21 Assistance:

22 (1) The President shall consolidate the Compact
 23 Budget Requests of all of the States and the National
 24 Government[~~Compact Budget Request~~], conforming with
 25 the requirements of [§]Section 103 of this title, into

1 the Plan for the Division of Annual Economic
2 Assistance. [~~The National Government Compact Budget
3 Request included in the Plan for Division of Annual
4 Economic Assistance shall constitute, for Fiscal Year
5 2007 and each fiscal year thereafter, ten percent (10%)
6 of the estimated level of Compact funding for that
7 year. For Fiscal Year 2014, the National Government
8 Compact Budget Request included in the Plan for the
9 Division of Annual Economic Assistance shall constitute
10 five percent (5%) of the estimated level of Compact
11 funding for that year, except Supplemental Education
12 Grants under Section 105 of the Amended Compact. For
13 Fiscal Year 2015 and each fiscal year thereafter, after
14 funding the College of Micronesia, the National
15 Government Compact Budget request included in the plan
16 for the Division of Annual Economic Assistance shall
17 constitute zero percent (0%) of the estimated level of
18 Compact funding for that year, except Supplemental
19 Education Grants under Section 105 of the Amended
20 Compact.]~~

21 (2) The President shall make n[N]o modification to a
22 State's Compact Budget Request [shall be made] in the
23 consolidation process, EXCEPT THAT each State
24 Government's budget for the infrastructure sector shall
25 be moved to, and consolidated with the National

1 Government's budget for those purposes. The Secretary
2 of Transportation, Communications and Infrastructure is
3 hereby authorized to, and shall within thirty (30 days)
4 of this act becoming law, issue and promulgate rules
5 and regulations implementing the process under which
6 the National Government will make Sub-Grants of
7 infrastructure sector Compact funds to the State
8 Governments, and upon approval by the President, these
9 rules and regulations shall have the force and effect
10 of law.

11 (3) No other modification to a State's Compact
12 Budget Request, than as described in subsection (2) is
13 permitted without the prior consent of the relevant
14 State Government, except to the extent that such
15 Compact Budget Request exceeds the estimated levels of
16 Compact funding [~~provided~~] available to that State
17 Government pursuant to [~~§~~] Section 304 of this chapter.

18 ~~[(2)]~~ (4) No later than July 3 of the year
19 preceding a given Fiscal Year, the President shall
20 ~~[submit the Plan for the Division of Annual Economic~~
21 ~~Assistance to the Government of the United States and~~
22 ~~shall]~~ transmit [~~a copy~~] to Congress and each State
23 Government its Plan for the Division of Annual Economic
24 Assistance."

25 Section 4. Title 55 of the Code of the Federated States of

1 Micronesia (Annotated), as amended, is hereby further amended by
2 adding a new section 306A, to read as follows:

3 "Section 306A. Transitional Provisions for the Fiscal
4 Year 2024.

5 (1) The President shall make a request to JEMCO
6 that for Fiscal Year 2024, the due date for its Annual
7 Implementation Plan under the 2023 Amended Compact be
8 deferred to 31 January 2024 and request that JEMCO
9 waive the requirements for sector allocations to be
10 tied to specific purposes in the Strategic Development
11 Plan for Fiscal Year 2023.

12 (2) The President shall recalculate, for Fiscal
13 Year 2024, the Compact Planning Estimates under Section
14 304 of this chapter available to each State Government
15 and the National Government by applying the revised
16 distribution formula contained in the amended Section
17 303 of this chapter to the estimated available Compact
18 funds (less the COM Funding). The President shall
19 transmit to the National Government and the State
20 Governments the revised Compact Planning Estimates by
21 September 1, 2023 (this is usually done by November 15
22 of the year prior to the Fiscal Year for which budgets
23 are being prepared).

24 (2) The National Government and State Governments
25 shall then each submit their revised Compact Budget

1 Requests as described in Section 305 to the President
2 by September 15, 2023 (this is usually done by May 15
3 of the year prior to the Fiscal Year for which budgets
4 are being prepared).

5 (3) Upon receipt of the revised Compact Budget
6 Requests, the President shall consolidate the Requests
7 as set out in the amended Section 306, and transmit a
8 revised Plan for Division of Annual Economic Assistance
9 to Congress and each State Government, by September 25,
10 2023 (this is usually don't by July 3 of the year prior
11 to the Fiscal Year for which budgets are being
12 prepared)."

13 Section 5. This act shall become law upon approval by the
14 President of the Federated States of Micronesia or upon its
15 becoming law without such approval.

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17 Date: 7/25/23

Introduced by: /s/ Isaac V. Figir
Isaac V. Figir

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