



The President
Palikir, Pohnpei
Federated States of Micronesia

PRESIDENTIAL COMM. NO. 23-146
FSM CONGRESS



September 28, 2023

The Honorable Esmond B. Moses
Speaker
Twenty-third Congress
Federated States of Micronesia
Palikir, Pohnpei FM 96941

Dear Speaker Moses,

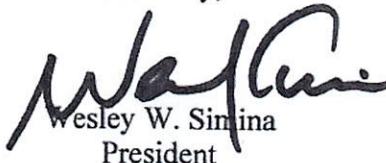
I regret to return the following act, which I have vetoed for the reasons stated in this transmittal:

Congressional Act No. 23-19, entitled: "AN ACT TO FURTHER AMEND SECTIONS 303 AND 306 OF TITLE 55 OF THE CODE OF THE FEDERATED STATES OF MICRONESIA (ANNOTATED), AS AMENDED BY PUBLIC LAWS NOS. 18-12, 18-25 AND 18-57, TO MODIFY THE DISTRIBUTION FORMULA FOR COMPACT FUNDS TO ALLOW THE NATIONAL GOVERNMENT A 10% 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."

As you are well aware, the outcome of the CEC + Presiding Officers meeting in Yap recently concluded a consensus among the membership concerning the distribution formula that gave the FSM National Government 8% of Compact funds. That decision was not lightly made; but rather, it was a result of fair and democratic process giving each government the opportunity to contribute ideas and recommendations. It is important that we respect the Arngel Formula for the sake of our fragile national unity. Having agreed to support the National Government at this critical juncture, all the FSM States deserve our collective appreciation for their generosity and willingness to help the National Government secure a share of Compact funds.

On this note, I take the opportunity to encourage you, Speaker Moses, and your esteemed Members of the 23rd FSM Congress to reconsider Congress' position on the matter. I would also recommend that we revisit this issue at a later time should you deem it necessary. Thank you.

Sincerely,


Wesley W. Simina
President



Office of the Chief Clerk

CONGRESS OF THE FEDERATED STATES OF MICRONESIA

P.O. Box PS 3
Palikir, Sokehs Pohnpei State, FM 96941
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PRESIDENTIAL COMM. NO. B-146
FSM CONGRESS

September 22, 2023

RECEIVED
SEP 22 2023
Office of the President FSM

His Excellency Wesley W. Simina
President
Federated States of Micronesia
Palikir, Pohnpei FM 96941

Dear President Simina:

I have the honor to transmit herewith Congressional Act No. 23-19, "AN ACT TO FURTHER AMEND SECTIONS 303 AND 306 OF TITLE 55 OF THE CODE OF THE FEDERATED STATES OF MICRONESIA (ANNOTATED), AS AMENDED BY PUBLIC LAWS NOS. 18-12, 18-25 AND 18-57, TO MODIFY THE DISTRIBUTION FORMULA FOR COMPACT FUNDS TO ALLOW THE NATIONAL GOVERNMENT A 10% SHARE OF THE DISTRIBUTION, TO INSERT A NEW SECTION 306A OF TITLE 55 OF THE CODE OF THE FEDERATED STATES OF MICRONESIA (ANNOTATED), 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", which was passed by the Twenty-Third Congress of the Federated States of Micronesia, Second Regular Session, 2023, by a two-thirds vote of all the State delegations as required and as duly certified.

Sincerely yours,

[Handwritten signature]

Jessicalynn Reyes
Chief Clerk, Congress of the
Federated States of Micronesia

Enclosures



PRESIDENTIAL COMM. NO. 23146
FSM CONGRESS

TWENTY-THIRD CONGRESS OF THE
FEDERATED STATES OF MICRONESIA
SECOND REGULAR SESSION
SEPTEMBER 12 – OCTOBER 1, 2023

An Act

TO FURTHER AMEND SECTIONS 303 AND 306 OF TITLE 55 OF THE CODE OF THE FEDERATED STATES OF MICRONESIA (ANNOTATED), AS AMENDED BY PUBLIC LAWS NOS. 18-12, 18-25 AND 18-57, TO MODIFY THE DISTRIBUTION FORMULA FOR COMPACT FUNDS TO ALLOW THE NATIONAL GOVERNMENT A 10% SHARE OF THE DISTRIBUTION, TO INSERT A NEW SECTION 306A OF TITLE 55 OF THE CODE OF THE FEDERATED STATES OF MICRONESIA (ANNOTATED), 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.

INTRODUCED BY SENATOR: ISAAC V. FIGIR

DATE: JULY 25, 2023

REFERRED TO: WAYS AND MEANS COMMITTEE
S.C.R. NO. 23-15 – SEPTEMBER 19, 2023

FIRST READING: SEPTEMBER 19, 2023

SECOND READING: SEPTEMBER 20, 2023

A handwritten signature in black ink, appearing to read "Jessicalynn Reyes", is written over a horizontal line.

Jessicalynn Reyes
Chief Clerk, FSM Congress



Office of the Speaker

CONGRESS OF THE FEDERATED STATES OF MICRONESIA

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PRESIDENTIAL COMM. NO. 23-146
FSM CONGRESS

ACT NO. 23-19

(CONGRESSIONAL BILL NO. 23-33, C.D.1)

We hereby certify that on September 20 the foregoing act passed Second and Final Reading of the Twenty-Third Congress of the Federated States of Micronesia, Second Regular Session, 2023, 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.

A blue ink signature of Esmond B. Moses, written in a cursive style.

Esmond B. Moses
Speaker
Congress of the
Federated States of Micronesia

A black ink signature of Jessicalynn Reyes, written in a cursive style.

Jessicalynn Reyes
Chief Clerk
Congress of the
Federated States of Micronesia

AN ACT

To further amend sections 303 and 306 of title 55 of the Code of the Federated States of Micronesia (Annotated), as amended by Public Laws Nos. 18-12, 18-25 and 18-57, to modify the distribution formula for Compact funds to allow the National Government a 10% share of the distribution, to insert a new section 306A of Title 55 of the Code of the Federated States of Micronesia (Annotated), 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 ten percent (10%) 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 (excluding the amount
- 13 of Supplemental Education Grants under
- 14 Section 105 of the Amended Compact) (1 year)..... 5.00%
- 15 for fiscal year 2015 to current (excluding
- 16 the amount of Supplemental Education Grants under Section 105

1 of the Amended Compact, and after JEMCO funds the College of
2 Micronesia) (9 years)..... 0.00%

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

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

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

24 The current distribution formula (in place since FY2015),
25 excluding Supplemental Education Grants under Section 105 of the

1 Amended Compact and applied after JEMCO funds the College of
 2 Micronesia, is:

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

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

17 Since fiscal year 2014, the distribution formula has not
 18 applied to Supplemental Education Grants under Section 105 of
 19 the Amended Compact. Additionally, since fiscal year 2015, the
 20 distribution formula has applied after JEMCO funds the College
 21 of Micronesia. Under the 2023 Amended Compact, funding
 22 previously provided by Supplemental Education Grants will now be
 23 included in the Compact Education Sector Grant; however, the
 24 distribution formula for fiscal year 2024 and thereafter will
 25 continue to apply after JEMCO funds the College of Micronesia.

1 Centralization of the Infrastructure Sector Funds.

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

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

25 This means that each State Government's planned budget for

1 infrastructure each year will be held by the National Government
2 and released to the State Government as Compact requirements are
3 satisfied.

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

7 Section 2. Section 303 of Title 55 of the Code of the
8 Federated States of Micronesia (Annotated), as amended by
9 Public Laws Nos. 18-12, 18-25 and 18-57, is hereby further
10 amended, to read as follows:

11 "Section 303. Division of Compact Funds among National and
12 State Governments.

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

18	Chuuk	38.57%
19	Kosrae	11.06
20	Pohnpei	25.69
21	Yap	16.03
22	National Government	8.65

23 (2) For Fiscal Years 2007 to 2013, the chief
24 executives of the National Government and each of the State
25 Governments shall have the authority to enter, from time to

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

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

19	Chuuk	40.11%
20	Kosrae	11.50
21	Pohnpei	26.72
22	Yap	16.67
23	National Government	5.00

24 (4) The Compact Budget Requests for Fiscal Year 2015
 25 to 2023 of the National Government and of each State

1 Government under section 305 of this chapter shall be based
 2 on a division of Compact funds in the following proportions,
 3 except Supplemental Education Grants under section 105 of the
 4 Amended Compact:

5	Chuuk	42.22%
6	Kosrae	12.10
7	Pohnpei	28.13
8	Yap	17.55
9	National Government	0.00

10 The above formula applies after JEMCO funds the College of
 11 Micronesia.

12 (5) For Fiscal Years 2016 to 2023, the chief
 13 executives of the National Government and each of the State
 14 Governments shall have the authority to enter, from time to
 15 time, into one or more agreements setting forth the
 16 proportionate amounts of Compact funds that shall be the
 17 basis of each Government's Compact Budget Request under
 18 sections 305 and 306 of this chapter, provided that the
 19 National Government's proportionate amount of Compact funds
 20 for each Fiscal Year, after funding the College of
 21 Micronesia, shall be zero percent (0%) of the estimated level
 22 of Compact funding for that year, excepting Supplemental
 23 Education Grants under Section 105 of the Amended Compact.
 24 An agreement regarding the division of Compact funds, other
 25 than the National Government's zero percent (0%) share, may

1 be limited to a specified period of time and shall only be
2 effective when signed by the chief executive of each and
3 every Government.

4 (6) The Compact Budget Requests for Fiscal Year 2024
5 and thereafter of the National Government and each State
6 Government under section 305 of this chapter shall be based
7 on the division of Compact funds in the following
8 proportions:

9	Chuuk	38.00
10	Kosrae	10.89
11	Pohnpei	25.31
12	Yap	15.80
13	National Government	10.00

14 The above formula applies after JEMCO funds the College
15 of Micronesia (hereinafter "COM Funding"); COM Funding
16 includes all funding received by the College of
17 Micronesia under the Education Compact Grant pursuant to
18 the 2023 Amended Compact, including funds previously
19 received under the Supplemental Education Grant under
20 Section 105 of the Amended Compact.

21 (7) For Fiscal Years 2024 and thereafter, the chief
22 executives of the National Government and each of the
23 State Governments shall have the authority to enter into
24 one or more agreements setting forth the proportionate
25 amounts of Compact funds that shall be the basis of each

1 Government's Compact Budget Request under sections 305
2 and 306 of this chapter, provided that the National
3 Government's proportionate amount of Compact funds for
4 each fiscal year, after funding the College of
5 Micronesia (COM funding), shall be 10% of the estimated
6 level of Compact funding for the year. An agreement
7 under this paragraph may be limited to a specified
8 period of time and shall only be effective when signed
9 by the chief executive of each and every government."

10 Section 3. Section 306 of Title 55 of the Code of the
11 Federated States of Micronesia (Annotated), as amended by Public
12 Laws Nos. 18-12, 18-25 and 18-57, is hereby further amended, to
13 read as follows:

14 "Section 306. Plan For the Division of Annual Economic
15 Assistance:

16 (1) The President shall consolidate the Compact
17 Budget Requests of all of the States and the National
18 Government, conforming with the requirements of Section
19 103 of this title, into the Plan for the Division of
20 Annual Economic Assistance.

21 (2) The President shall make no modification to a
22 State's Compact Budget Request in the consolidation
23 process, EXCEPT THAT each State Government's budget for
24 the infrastructure sector shall be moved to, and
25 consolidated with the National Government's budget for

1 those purposes. The Secretary of Transportation,
 2 Communications and Infrastructure is hereby authorized
 3 to, and shall within thirty (30 days) of this Act
 4 becoming law, issue and promulgate rules and
 5 regulations implementing the process under which the
 6 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 available to that State Government
 17 pursuant to Section 304 of this chapter.

18 (4) No later than July 3 of the year preceding a
 19 given Fiscal Year, the President shall transmit to
 20 Congress and each State Government its Plan for the
 21 Division of Annual Economic Assistance."

22 Section 4. Title 55 of the Code of the Federated States of
 23 Micronesia (Annotated), as amended, is hereby further amended by
 24 adding a new section 306A, to read as follows:

25 "Section 306A. Transitional Provisions for the Fiscal

1 Year 2024.

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

9 (2) The President shall recalculate, for Fiscal
10 Year 2024, the Compact Planning Estimates under Section
11 304 of this chapter available to each State Government
12 and the National Government by applying the revised
13 distribution formula contained in the amended Section
14 303 of this chapter to the estimated available Compact
15 funds (less the COM Funding). The President shall
16 transmit to the National Government and the State
17 Governments the revised Compact Planning Estimates by
18 September 1, 2023, or as soon as possible thereafter,
19 (this is usually done by November 15 of the year prior
20 to the Fiscal Year for which budgets are being
21 prepared).

22 (3) The National Government and State Governments
23 shall then each submit their revised Compact Budget
24 Requests as described in Section 305 to the President
25 within 30 days of receiving the Compact Planning

1 Estimate under paragraph (2) of this section (this is
2 usually done by May 15 of the year prior to the Fiscal
3 Year for which budgets are being prepared).

4 (4) Upon receipt of the revised Compact Budget
5 Requests, the President shall consolidate the Requests
6 as set out in the amended Section 306, and transmit a
7 revised Plan for Division of Annual Economic Assistance
8 to Congress and each State Government (this is usually
9 done by July 3 of the year prior to the Fiscal Year for
10 which budgets are being prepared)."

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

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_____, 2023

Wesley W. Simina
President
Federated States of Micronesia

Disapproved
9-28-23