



The President
Palikir, Pohnpei
Federated States of Micronesia

October 4, 2023



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

PRESIDENTIAL COMM. NO. 23-19
FSM CONGRESS

Dear Speaker Moses,

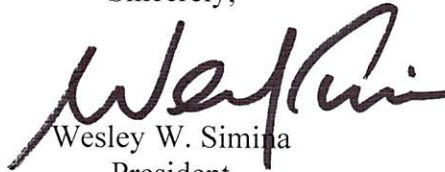
I hereby return the following Congressional act, which was repassed and became Public Law No.23-30:

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 (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."

I respect the decision of the FSM Congress given that it is clearly a legislative prerogative to repass any congressional act that I vetoed. Nonetheless, I would reiterate my desire that we revisit this matter in the near future.

The outcome of the CEC + Presiding Officers meeting in Yap, which included a consensus on the distribution formula deserves some recognition and collective respect. The Arngel Formula manifests the importance of our working together towards a stronger national unity. Thank you.

Sincerely,


Wesley W. Simina
President

xc: Chief Justice, FSM Supreme Court



Office of the Chief Clerk

CONGRESS OF THE FEDERATED STATES OF MICRONESIA

P.O. Box PS 3

Palikir, Sokehs Pohnpei State, FM 96941

Tel: (691) 320-2324 / 2338 Fax: (691) 320-5122

PRESIDENTIAL COMM. NO. 23-19
FSM CONGRESS

October 03, 2023

His Excellency Wesley W. Simina
President
P.O. Box PS 53
Federated States of Micronesia
Palikir, Pohnpei FM 96941

RECEIVED
OCT 3 2023
Office of the
President FSM

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 repassed on September 30, by the Twenty-Third Congress of the Federated States of Micronesia, Second Regular Session, 2023, by a three-fourths vote of all the State delegations as required and as duly certified.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Jessicalynn Reyes", with a large, stylized flourish at the end.

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

Enclosures



PRESIDENTIAL COMM. NO. 23-14
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 23, 2023

REPASSED: – SEPTEMBER 30, 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. 23-156
FSM CONGRESS

ACT NO. 23-19

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

I hereby certify that on September 30 the foregoing act was repassed by the Twenty-Third Congress of the Federated States of Micronesia, Second Regular Session, 2023, by a three-fourths vote of all the State delegations as required under article IX, section 2(q), of the Constitution of the Federated States of Micronesia.

A handwritten signature in black ink, appearing to read "Esmond B. Moses".

Esmond B. Moses

Speaker

23rd Congress of the

Federated States of Micronesia

TWENTY-THIRD CONGRESS OF THE FEDERATED STATES OF MICRONESIA

SECOND REGULAR SESSION, 2023

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

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.

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

25 Centralization of the Infrastructure Sector Funds

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

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

24 This means that each State Government's planned budget for
 25 infrastructure each year will be held by the National Government

1 and released to the State Government as Compact requirements are
2 satisfied.

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

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

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

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

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

22 (2) For Fiscal Years 2007 to 2013, the chief
23 executives of the National Government and each of the State
24 Governments shall have the authority to enter, from time to
25 time, into one or more agreements setting forth the

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

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

Chuuk	40.11%
Kosrae	11.50
Pohnpei	26.72
Yap	16.67
National Government	5.00

(4) The Compact Budget Requests for Fiscal Year 2015 to 2023 of the National Government and of each State Government under section 305 of this chapter shall be based

on a division of Compact funds in the following proportions,
except Supplemental Education Grants under section 105 of the
Amended Compact:

Chuuk	42.22%
Kosrae	12.10
Pohnpei	28.13
Yap	17.55
National Government	0.00

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

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

effective when signed by the chief executive of each and every Government.

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

Chuuk	38.00
Kosrae	10.89
Pohnpei	25.31
Yap	15.80
National Government	10.00

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

(7) For Fiscal Years 2024 and thereafter, the chief executives of the National Government and each of the State Governments shall have the authority to enter into one or more agreements setting forth the proportionate amounts of Compact funds that shall be the basis of each Government's Compact Budget Request under sections 305

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

Section 3. Section 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, is hereby further amended, to read as follows:

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

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

(2) The President shall make no modification to a State's Compact Budget Request in the consolidation process, EXCEPT THAT each State Government's budget for the infrastructure sector shall be moved to, and consolidated with the National Government's budget for those purposes. The Secretary of Transportation,

Communications and Infrastructure is hereby authorized to, and shall within thirty (30 days) of this Act becoming law, issue and promulgate rules and regulations implementing the process under which the National Government will make Sub-Grants of infrastructure sector Compact funds to the State Governments, and upon approval by the President, these rules and regulations shall have the force and effect of law.

(3) No other modification to a State's Compact Budget Request, than as described in subsection (2) is permitted without the prior consent of the relevant State Government, except to the extent that such Compact Budget Request exceeds the estimated levels of Compact funding available to that State Government pursuant to Section 304 of this chapter.

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

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

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

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

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

(3) The National Government and State Governments shall then each submit their revised Compact Budget Requests as described in Section 305 to the President within 30 days of receiving the Compact Planning Estimate under paragraph (2) of this section (this is

usually done by May 15 of the year prior to the Fiscal Year for which budgets are being prepared).

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

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

_____, 2023

Govide
Sept. 30, 2023

Wesley W. Simina
President
Federated States of Micronesia

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