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 the National Government share of Compact Funds, from zero percent (0%) to twelve percent (12%) and to centralize the infrastructure sector funds of the National and the four State Governments within the Department of Transportation, Communications and Infrastructure (TC&I).

Increase the National Government’s Share of Compact Funds

Historically, the distribution formula provided the following 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 the amount of Supplemental Education Grants
15 under Section 105 of the Amended Compact,
16 which are provided by the National Government
to the College of Micronesia) (9 years)..... 0.00%

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

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

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

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

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

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

Centralization of the Infrastructure Sector Funds

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

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

This means that each State Government’s planned budget for infrastructure each year will be held by the National Government and released to the State Government as Compact requirements are satisfied.
The amendments below would effectuate these changes, while maintaining much of the existing procedure (even though the 2023 Amended Compact no longer requires some of these procedures).

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

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

(1) The Compact Budget Requests for Fiscal Years 2005 and 2006 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:

Chuuk 38.57%
Kosrae 11.06
Pohnpei 25.69
Yap 16.03
National Government 8.65

(2) For Fiscal Years 2007 to 2013, 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 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[s] 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:

<table>
<thead>
<tr>
<th>State</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chuuk</td>
<td>40.11%</td>
</tr>
<tr>
<td>Kosrae</td>
<td>11.50</td>
</tr>
<tr>
<td>Pohnpei</td>
<td>26.72</td>
</tr>
<tr>
<td>Yap</td>
<td>16.67</td>
</tr>
<tr>
<td>National Government</td>
<td>5.00</td>
</tr>
</tbody>
</table>

(4) The Compact Budget Requests for Fiscal Year[s] 2015 [and thereafter] 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:

<table>
<thead>
<tr>
<th>State</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chuuk</td>
<td>42.22%</td>
</tr>
<tr>
<td>Kosrae</td>
<td>12.10%</td>
</tr>
<tr>
<td>Pohnpei</td>
<td>28.13%</td>
</tr>
<tr>
<td>Yap</td>
<td>17.55%</td>
</tr>
<tr>
<td>National Government</td>
<td>0.00%</td>
</tr>
</tbody>
</table>

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

(5) For Fiscal Years 2016 and thereafter, 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) For Fiscal Year 2024 and thereafter, the estimated available Compact funds for each State Government and the National Government shall be determined by the President, by first deducting from the total Compact funds for the Fiscal Year, the amount of Compact funding under Education Grants received by the College of Micronesia in the Fiscal Year 2023 (this amount will be know as the “COM Funding”), and then applying the distribution formula.

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

- Chuuk ........................................... 36.9
- Kosrae ........................................... 10.4
- Pohnpei .......................................... 25.5
- Yap ............................................... 15.2
- National Government ...................... 12.0

Section 3. Section 306 of Title 55 of the Code of the Federated States of Micronesia, as enacted by Public Law No. 13-72, and as amended by Public Laws Nos. 13-93, 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[Compact Budget Request], conforming with the requirements of [Section 103 of this title, into
the Plan for the Division of Annual Economic Assistance. [The National Government Compact Budget Request included in the Plan for Division of Annual Economic Assistance shall constitute, for Fiscal Year 2007 and each fiscal year thereafter, ten percent (10%) of the estimated level of Compact funding for that year. For Fiscal Year 2014, the National Government Compact Budget Request included in the Plan for the Division of Annual Economic Assistance shall constitute five percent (5%) of the estimated level of Compact funding for that year, except Supplemental Education Grants under Section 105 of the Amended Compact. For Fiscal Year 2015 and each fiscal year thereafter, after funding the College of Micronesia, the National Government Compact Budget request included in the plan for the Division of Annual Economic Assistance shall constitute zero percent (0%) of the estimated level of Compact funding for that year, except Supplemental Education Grants under Section 105 of the Amended Compact.]

(2) The President shall make no modification to a State’s Compact Budget Request [shall be made] 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 provided 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 submit the Plan for the Division of Annual Economic Assistance to the Government of the United States and shall transmit a copy to Congress and each State Government its Plan for the Division of Annual Economic Assistance.”
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 (this is usually done by November 15 of the year prior to the Fiscal Year for which budgets are being prepared).

(2) The National Government and State Governments shall then each submit their revised Compact Budget
Requests as described in Section 305 to the President by September 15, 2023 (this is usually done by May 15 of the year prior to the Fiscal Year for which budgets are being prepared).

(3) 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, by September 25, 2023 (this is usually done 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.

Date: 7/25/23
Introduced by: /s/ Isaac V. Figir
Isaac V. Figir