

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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18 OVERRIDE 9/30/23

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 Wesley W. Simina
 President
 Federated States of Micronesia

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