The Honorable Wesley W. Simina  
Speaker  
Nineteenth Congress of the Federated States of Micronesia  
Palikir, Pohnpei FM 96941  

Dear Speaker Simina:

I am pleased to transmit the enclosed act, which I approved to become Public Law No. 19-67, as follows:


I take this opportunity to express our appreciation to Congress for the passage of this act.

Sincerely,

[Signature]

Peter M. Christian  
President

Enclosures:

Xc: Chief Justice, FSM Supreme Court  
Secretary, Department of Justice  
Secretary, Department of Finance and Administration  
Legislative Council, CFSM  
Library, CFSM  
FSM PIO
February 08, 2016

His Excellency Peter M. Christian
President
Federated States of Micronesia
Palikir, Pohnpei FM 96941

Dear President Christian:

I have the honor to transmit herewith Congressional Act No. 19-59, "AN ACT TO AMEND SECTIONS 1202, 1204, 1211, 1213, 1214, 1215, 1216, 1217 AND 1222 OF TITLE 55 OF THE CODE OF THE FEDERATED STATES OF MICRONESIA (ANNOTATED), AS AMENDED BY PUBLIC LAWS NOS. 18-74 AND 18-119, TO UPDATE AND IMPROVE THE FUNCTIONALITY OF THE FSM TRUST FUND, AND FOR OTHER PURPOSES.", which was passed by the Nineteenth Congress of the Federated States of Micronesia, Third Regular Session, 2016, by a two-thirds vote of all the State delegations as required and as duly certified.

Sincerely yours,

Liwiana Ramon Ioahis
Chief Clerk, Congress of the Federated States of Micronesia

Enclosures
An Act

TO AMEND SECTIONS 1202, 1204, 1211, 1213, 1214, 1215, 1216, 1217 AND 1222 OF TITLE 55 OF THE CODE OF THE FEDERATED STATES OF MICRONESIA (ANNOTATED), AS AMENDED BY PUBLIC LAWS NOS. 18-74 AND 18-119, TO UPDATE AND IMPROVE THE FUNCTIONALITY OF THE FSM TRUST FUND, AND FOR OTHER PURPOSES.

INTRODUCED BY SENATOR: ISAAC V. FIGIR

DATE: JANUARY 08, 2016

REFERRED TO: COMMITTEE ON WAYS AND MEANS
   FIRST READING: FEBRUARY 02, 2016
   SECOND READING: FEBRUARY 03, 2016
ACT NO. 19-59

(CONGRESSIONAL BILL NO. 19-103)

We hereby certify that on February 03 the foregoing act passed Second and Final Reading of the Nineteenth Congress of the Federated States of Micronesia, Third Regular Session, 2016, 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.

Wesley W. Simina
Speaker
Congress of the Federated States of Micronesia

Liwiana Ramon Ioanis
Chief Clerk
Congress of the Federated States of Micronesia
AN ACT

To amend sections 1202, 1204, 1211, 1213, 1214, 1215, 1216, 1217 and 1222 of title 55 of the Code of the Federated States of Micronesia (Annotated), as amended by Public Laws Nos. 18-74 and 18-119, to update and improve the functionality of the FSM Trust Fund, and for other purposes.

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

1. Section 1. Section 1202 of title 55 of the Code of the Federated States of Micronesia (Annotated), as amended by Public Law No. 18-74, is hereby further amended to read as follows:

"Section 1202. Definitions. Unless otherwise specified or clear from the context, words and phrases used in this chapter shall have the following meanings:

(1) 'Baseline Funding' means the balance of the FSM Trust Fund on January 1, 2016 not including the balances of the State Sub-Accounts;

(2) 'Board' means the Board of Trustees of the Fund appointed pursuant to section 1208 of this title;

(3) 'Contributing government' means the government of any State of the FSM or the National Government once such government has made a contribution of funds to the State Sub-Account's;

(4) 'FSM' means the sovereign nation of the Federated States of Micronesia;"
(5) 'Financial year' means the fiscal year of the Fund, which shall be the twelve-month period ending on the last day of each December;

(6) 'Fiscal year' means the fiscal year of the National Government;

(7) 'Fund' means the FSM Trust Fund created by this chapter, including the accounts therein;

(8) 'Fund custodians' means the one or more firms selected by the Board to assume responsibility for the physical possession of the Fund assets or evidences of assets;

(9) 'Fund managers' means one or more firms selected by the Board to manage the investment and reinvestment of the Fund's resources;

(10) 'Fund returns' means the returns accruing to the Fund by way of income generated from the Fund's resources and the capital appreciation of those resources;

(11) 'General Fund' means the General Fund of the Federated States of Micronesia, into which all revenues raised pursuant to the tax laws and other revenue laws shall be deposited.

(12) 'National Government' means the National Government of the FSM;

(13) 'Other participating government' means a State
government of the FSM;

(14) 'Real value' means the value of contributions to the Fund adjusted annually at the beginning of the financial year in the same percentage as the United States Bureau of Labor Statistics Consumer Price Index for All Urban Consumers All Items, United States City Average of the previous 12 months; and

(15) 'Reinvestment' means the process whereby Fund returns, whether in the form of income or appreciation, become part of the capital of the Fund."

Section 2. Section 1204 of title 55 of the Code of the Federated States of Micronesia (Annotated), is hereby amended to read as follows:

"Section 1204. Purpose.

(1) The purpose of the Account A and Account B portion of the Fund is to create a disciplined approach to ensure the protection of the Fund's Real Value into perpetuity while providing a sustainable source to supplement the needs of the General Fund. Specifically, the accounts shall:

(a) assist the National Government and other participating governments to achieve greater financial autonomy in the management of their recurrent budgets;
(b) enable the FSM at all levels of government to meet long-term maintenance and operating costs of social and economic infrastructure; and

(c) enable the FSM at all levels of government to improve existing levels of social and economic infrastructure.

(2) The purpose of the State Sub-Account's A and B of the Fund are distinct and defined in section 1217 of this chapter."

Section 3. Section 1211 of title 55 of the Code of the Federated States of Micronesia (Annotated), is hereby amended to read as follows:

"Section 1211. Contributions to the Fund.

(1) Contributions to Account A.

(a) A contribution to the Fund may be in the form of a grant or, with the agreement of a majority of all trustees, in the form of an unsecured loan which bears interest (or its equivalent) at a rate no greater than three percent (3%) and is otherwise cost-free.

(b) The Fund may refuse a contribution if it considers that it would not be in the interest of the Fund or the FSM to accept it. The Fund shall notify Congress of the nature, amount, source and terms of any contribution that it has decided to accept or refuse, whereupon the Fund may conditionally accept or refuse
the contribution. Acceptance or refusal shall become
final no earlier than 180 days after notice to Congress,
unless Congress directs by law otherwise.

(c) The Fund shall not issue negotiable or
transferable obligations evidencing indebtedness for
any loan.

(d) Contributions shall be made for the
purpose of the Fund without further restriction as to
use, except such restrictions as Congress may provide by
law. Except for repayment of loans, contributions
shall not be refunded to contributors.

(e) A contribution to the Fund shall not in
and of itself constitute or imply any commitment by the
contributor to make any further contribution to the
Fund.

(2) Contributions to the State Sub-Account's A and B
of the Fund are outlined in section 1217 of this chapter
and excluded from the provisions above.”

Section 4. Section 1213 of title 55 of the Code of the
Federated States of Micronesia (Annotated), as amended by Public
Law No.18-119, is hereby further amended to read as follows:

"Section 1213. Accounts.

(1) The Fund shall be divided into Account A and
Account B.

(2) All contributions to the Fund shall be deposited
to Account A. Thereafter, the Board shall ensure that a portion of the Fund returns in each financial year is reinvested at the end of that financial year as capital of Account A, such portion being the amount necessary to maintain the opening balance of Account A's capital for the following financial year at the real value of all contributions to the Fund minus all principal repayments made on loans to the Fund.

(3) If shortfalls are incurred when the Fund's investment return net of expenses was insufficient to maintain Account A's Real Value, such shortfalls shall be made up via a transfer from Account B or via future withholdings of transfers into Account B. Transfers into Account B shall be suspended until such shortfalls are reduced to zero.

(4) All contributions to the Fund shall be deposited within 90 days from the date of appropriation. The Secretary of Finance and Administration shall submit proof of deposit and a balance statement to the Congress of the Federated States of Micronesia within the next 10 business days from the deposit.

(5) Repayment of loans to the Fund and payment of the expenses of the Fund shall be made from Account A. The amount, if any, of Fund returns in each financial year which remains after such repayment of loans and payment
of expenses, and after reinvestment in accordance with
subsection (2) of this section, shall be transferred to
Account B. Except as provided in this subsection or
upon termination of the Fund, no funds may ever be
removed from Account A.

(6) Account B shall consist of funds transferred from
Account A and the returns therefrom while in Account
B. Funds in Account B may be distributed to the
National Government in accordance with section 1214 of
this chapter or transferred to Account A in accordance
with section 1213 (3) and section 1215 of this
chapter. Except as provided in this subsection or upon
termination of the Fund, no funds may ever be removed
from Account B.

(7) It is anticipated that funds in Account A will be
placed in longer term, higher yielding investments than
are funds in Account B.”

Section 5. Section 1214 of title 55 of the Code of
the Federated States of Micronesia (Annotated), is hereby
amended to read as follows:

"Section 1214. Distributions to National Government.

(1) At the end of each financial year the Board
shall determine the maximum amount of funds available
for distribution to the National Government in the
following fiscal year. Such amount shall be the lesser
of 5 percent of the average total Fund balances of the 5
previous financial years (inclusive) or the entire
balances of Account B. For the years 2017, 2018, 2019,
2020, and 2021, the average shall be calculated with the
available number of years since 2016. For the purposes
of this calculation, the balances of the State Sub-
Accounts are calculated separately and subject to
provisions in section 1217 of this chapter.

(2) In order to enable the National Government to
prepare its annual budget and estimates for the next
fiscal year, by January 30 of each year the Board shall
inform the National Government of the maximum amount of
funds available for distribution in the next fiscal
year.

(3) The Board shall distribute to the National
Government each fiscal year the maximum amount of funds
available for distribution or such lesser amount as the
National Government may specify. The distribution shall
be made at such times and in such proportions as the
National Government and the Board agrees.

(4) Notwithstanding the foregoing, no funds shall be
distributed to the National Government prior to October
1, 2023.

(5) Funds distributed to the National Government
shall be deposited in the General Fund of the FSM for
appropriation and expenditure consistent with the purposes of the Fund. Such appropriation and expenditure may, but need not, include transfers to other levels of government in the FSM for their use in ways consistent with the purposes of the Fund.

(6) This section may apply to the State Sub-Account's A and B with additional provisions defined in section 1217 of this title."

Section 6. Section 1215 of title 55 of the Code of the Federated States of Micronesia (Annotated), is hereby amended to read as follows:

"Section 1215. Transfers to Account A.

(1) Transfers from Account B.

(a) The Board shall transfer funds from Account B to Account A to the extent necessary to make up any shortfall of funds in Account A needed for reinvestment, repayment of loans to the Fund, payment of the expenses of the Fund, and to maintain the Real Value of Account A, pursuant to section 1213 of this chapter.

(b) The Board may transfer to Account A any funds in Account B in excess of an amount equal to the sum of all funds transferred from Account A to Account B during the five most recent financial years. Such a transfer may only occur at the end of a financial year"
and after there have been at least five financial years
in which funds were in fact transferred from Account A
to Account B. Funds transferred to Account A pursuant
to this subsection shall be deemed to be additional
contributions to the Fund.

(2) State Sub-Account’s A and B of the Fund may
be subject to the provisions above after certain
conditions are met as defined in section 1217 of this
chapter.”

Section 7. Section 1216 of title 55 of the Code of the
Federated States of Micronesia (Annotated), is hereby amended to
read as follows:

“Section 1216. Miscellaneous restrictions.

(1) Except as provided in subsection 1211(a) of this
chapter, the Fund shall not borrow money.

(2) The Fund shall not be used to guaranty the debt
of another person or entity.

(3) The Fund shall not invest more than 40 percent
in non-U.S. securities or instruments denominated in
currencies other than the U.S. dollar except as prudent
and necessary to avoid exchange rate risks on loans
which must be repaid in a currency other than the US
dollar.”
Section 8. Section 1217 of title 55 of the Code of the 
Federated States of Micronesia (Annotated), as amended by Public 
Law No. 18-74, is hereby further amended to read as follows:

"Section 1217. Other participating government accounts. 

(1) There are hereby-created State Sub-A accounts, 
including A and B sub-accounts, for each of the States 
of the Federated States of Micronesia; with the 
condition that the State Sub-Account A for each 
individual state must meet an initial threshold balance 
of $2,000,000 USD, independent of the balance of the 
other state's Sub-Account A, before establishing a State 
Sub-Account B for that state. 

(2) Any donor, including the State and Foreign 
Governments may make contributions to a State Sub-A 
account or Sub-A accounts. 

(3) National Government contributions to State sub-
accounts shall only be to the long-term, Sub-A account A 
of that state or states. 

(4) Contributions to a State Sub-A account made by 
the National Government shall remain the property of the 
National Government unless conditions are met for 
transfers to Sub-Account B, with the relevant State 
being the beneficiary of the proceeds subject to the 
conditions of the A account B. Contributions made by the 
National Government to a State Sub-A account shall not
be withdrawn or disbursed except to cover the compensation and expenses of the Fund managers and custodians in carrying out their duties in administration of the Fund in accordance with sections 1212 and 1213.

(5) State Sub-A accounts shall be subject to this chapter and shall be managed and administered in the same manner as the National Government Accounts A and B except that distributable funds or assets shall be made available to the other participating governments rather than the National Government.

(6) States may withdraw their own contributions to their States Sub-A account A and contributions made on their behalf by NGO's and other donors if allowed under the terms of the contribution, beginning October 1, 2023.

(7) In the event that a state meets the initial threshold requirement to establish a State Sub-Account B under (1) above, States may withdraw from their State Sub-A account B beginning October 1, 2023. Fund expenses shall be prorated between the accounts of different governments in proportion to their relative share of the total Fund.
Section 9. Section 1222 of title 55 of the Code of the Federated States of Micronesia (Annotated), is hereby deleted in its entirety:

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

3/4, 2016

Peter M. Christian
President
Federated States of Micronesia