A BILL FOR AN ACT

To further amend sections 1214, 1216, and 1217 of title 55 of the Code of the Federated States of Micronesia (Annotated), as amended by Public Laws Nos. 18-74, 19-67, and 20-174, to amend the date when funds from the FSM Trust Fund may be distributed to a State or the National Government, or withdrawn by a State, to October 1, 2030, to amend the miscellaneous restrictions on the FSM Trust Fund, and for other purposes.

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

1 Section 1. Section 1214 of title 55 of the Code of the Federated States of Micronesia (Annotated), as amended by Public Laws Nos. 19-67 and 20-174, is hereby further 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, [2024] 2030.

(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 2. Section 1216 of title 55 of the Code of the Federated States of Micronesia (Annotated), as amended by Public Law No. 19-67, is hereby further 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 50 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 3. Section 1217 of title 55 of the Code of the Federated States of Micronesia (Annotated), as amended by Public Laws Nos. 18-74, 19-67, and 20-174, is hereby further amended to read as follows:

"Section 1217. Other participating government accounts.

(1) There are hereby-created State Sub-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-Account or Sub-Accounts.

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

(4) Contributions to a State Sub-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 Account B. Contributions made by the National Government to a State Sub-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-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-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, [2024] 2030.

(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-Account B beginning October 1, [2024] 2030. Fund expenses shall be prorated between the accounts of different governments in proportion to their relative share of the total Fund.”

Section 4. 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: 5/6/19

Introduced by: /s/ Wesley W. Simina

Wesley W. Simina