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

Dear Speaker Moses,  

I regret to return the following act, which I have vetoed for the reasons stated in this transmittal:  


As you are well aware, the outcome of the CEC + Presiding Officers meeting in Yap recently concluded a consensus among the membership concerning the distribution formula that gave the FSM National Government 8% of Compact funds. That decision was not lightly made; but rather, it was a result of fair and democratic process giving each government the opportunity to contribute ideas and recommendations. It is important that we respect the Arngel Formula for the sake of our fragile national unity. Having agreed to support the National Government at this critical juncture, all the FSM States deserve our collective appreciation for their generosity and willingness to help the National Government secure a share of Compact funds.

On this note, I take the opportunity to encourage you, Speaker Moses, and your esteemed Members of the 23rd FSM Congress to reconsider Congress’ position on the matter. I would also recommend that we revisit this issue at a later time should you deem it necessary. Thank you.

Sincerely,  

[Signature]
Wesley W. Simina  
President
September 20, 2023

His Excellency Wesley W. Simina
President
Federated States of Micronesia
Palikir, Pohnpei FM 96941

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 passed by the Twenty-Third Congress of the Federated States of Micronesia, Second Regular Session, 2023, by a two-thirds vote of all the State delegations as required and as duly certified.

Sincerely yours,

[Signature]

Jessica Lynn Reyes
Chief Clerk, Congress of the Federated States of Micronesia

Enclosures
An Act


INTRODUCED BY SENATOR: ISAAC V. FIGIR
DATE: JULY 25, 2023

REFERRED TO: WAYS AND MEANS COMMITTEE
S.C.R. NO. 23-15 – SEPTEMBER 19, 2023
FIRST READING: SEPTEMBER 19, 2023
SECOND READING: SEPTEMBER 20, 2023

Jessicalynn Reyes
Chief Clerk, FSM Congress
ACT NO. 23-19

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

We hereby certify that on September 20 the foregoing act passed Second and Final Reading of the Twenty-Third Congress of the Federated States of Micronesia, Second Regular Session, 2023, 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.

Esmond B. Moses
Speaker
Congress of the Federated States of Micronesia

Jessicalynn Reyes
Chief Clerk
Congress of the Federated States of Micronesia
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 the National Government share of Compact Funds, from zero percent (0%) to ten percent (10%) 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 (excluding the amount of Supplemental Education Grants under Section 105 of the Amended Compact) (1 year) ......... 5.00%
14. for fiscal year 2015 to current (excluding the amount of Supplemental Education Grants under Section 105
of the Amended Compact, and after JEMCO funds 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 wellbeing 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 and applied after JEMCO funds the College of Micronesia, is:

Chuuk ....................... 42.22%
Kosrae ....................... 12.10
Pohnpei ...................... 28.13%
Yap .......................... 17.55%
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 ten percent (10%).

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

The 2023 Amended Compact contains a generally more
deferralional 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 (Annotated), as amended by Public Laws Nos. 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:

<table>
<thead>
<tr>
<th>Island</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chuuk</td>
<td>38.57%</td>
</tr>
<tr>
<td>Kosrae</td>
<td>11.06%</td>
</tr>
<tr>
<td>Pohnpei</td>
<td>25.69%</td>
</tr>
<tr>
<td>Yap</td>
<td>16.03%</td>
</tr>
<tr>
<td>National</td>
<td>8.65%</td>
</tr>
</tbody>
</table>

(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 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 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 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.

_________________________, 2023

Disapproved

9.28.23

Wesley W. Simina
President
Federated States of Micronesia