

A BILL FOR AN ACT

To appropriate the sum of \$2,000,000 from the General Fund of the Federated States of Micronesia for the fiscal year 2014, to fund the hiring of a law firm to investigate and arbitrate management issues with the Compact grants, and for other purposes.

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

1 Section 1. Purpose. The Congress of the Federated States of
2 Micronesia finds that over the years of the Compact of Free
3 Association, as amended, the management of the Compact financial
4 assistance grants by the grant managers at the Office of Insular
5 Affairs Compact Division, is sometimes based on personal ambitions
6 and grudges, and have often swayed from the letters and spirit of
7 the Compact Agreement which is based on mutual trust and respect
8 for the sovereignty of the compacting governments. This act is
9 therefore enacted to provide a means for the FSM Government to
10 seek remedies to such management issues arising from the grant
11 managers' own interpretations of the amended provisions of the
12 Compact which has given them unchecked powers over the grants to
13 the detriment of the sovereignty of the grant owners, the FSM
14 government entities.

15 Section 2. Appropriation. There is hereby appropriated the
16 sum of \$2,000,000, or so much thereof as may be necessary, from
17 the General Fund of the Federated States of Micronesia for the
18 fiscal year 2014, for the purpose of funding the employment of a
19 competent law firm to assist the FSM in investigating, arbitrating

1 and where appropriate, adjudicate issues with the management of
2 the Compact grants by the grant managers at the Compact Division
3 of the Office of Insular Affairs, U.S Department of the Interior.
4 This fund shall be allotted to the President of the Federated
5 States of Micronesia who shall administer the fund according to
6 the provisions of this act and in accordance with the FSM
7 Financial Management Act. The funds appropriated by this act
8 shall remain available until the expiration of the 2015 fiscal
9 year in September, 2015, or until the law firm has accomplished
10 its tasks under this act, whichever is earlier. The Congress of
11 the Federated States of Micronesia may extend the lapse date. The
12 President shall submit reports to the Congress on the status of
13 the funds at the end of each fiscal year that the fund is
14 available and is being administered. The Congress may appropriate
15 additional funding in the future if it deems necessary.

16 Section 3. Administration. Within one month after this act
17 has become law, the President shall direct the FSM Secretary of
18 Justice to advertise for interested law firms to be employed by
19 the FSM for the purpose of this act. Within a month after the
20 closing of the advertisement, the Secretary shall meet with and
21 review any and all applications with all the FSM State Attorney
22 Generals and decide which firm is to be hired. No firm or
23 attorney shall be hired that has done business or received Amended
24 Compact grants from the OIA Compact Division since the effective
25 date of the Amended Compact. The FSM and State Attorneys Generals

1 shall collaborate on negotiating and drafting the retainer
2 agreement with the law firm and shall review all billings from the
3 law firm before payments can be processed by the FSM Department of
4 Finance and Administration. All meeting expenses for the FSM and
5 State Attorney Generals may be made against this fund but in no
6 way shall such administrative costs exceed the total of \$100,000
7 of the total appropriation unless authorized by the Congress. The
8 FSM and State Attorney Generals may provide support to the law
9 firm in the execution of this act where necessary.

10 Section 4. Tasks and Deadlines. The FSM and State Attorney
11 Generals shall specifically specify in the retainer agreement with
12 the law firm the tasks to be pursued and performed by the law firm
13 include the following:

14 (1) What is the extent of the grant managers'
15 authority over the use of all "carried over funds" under the
16 Amended Compact and the right of any of the Governments to recover
17 any "carried over funds" mistakenly disbursed by the grant
18 managers?

19 (2) The right of the grant managers to demand "Burden
20 Sharing" by the Congress or Government of the FSM in the
21 administration of the Amended Compact grants; whether or not the
22 grant managers can properly deny a FSM government grant proposal
23 based on any burden sharing consideration?

24 (3) The basis and extent of the grant managers' or the
25 OIA's authority to approve part of the Amended Compact grants for

1 uses as "Compact Impact" funds for any of the U.S territories or
2 agencies or any other entities, and whether the FSM governments
3 can recover any such funds being so used?

4 (4) The propriety of the grant managers' ongoing
5 practice of awarding Compact grants to projects of their own
6 designs to consultants and contractors of their own choosing
7 without adhering to the bidding requirements of the Fiscal
8 Procedures Agreement and without consultation with the grantee
9 governments, including the practice of overriding the FSM
10 governments' bidding committees actions and decisions so as to
11 favor awarding project contracts to American companies or
12 entities affiliated with individual grant managers?

13 (5) Whether or not the United States may be required
14 to pay any unpaid obligations to the Compact Trust Fund, including
15 lost earnings due to such non-payments?

16 (6) Whether or not the "Strategic Denial Right"
17 accrued to the United States under the Compact of Free Association
18 may be terminable after the expiration of the original 50-year
19 Compact of Free Association since 1986?

20 (7) The FSM Government may add additional tasks to the
21 law firm where appropriate.

22 (8) The law firm and the FSM Attorney General shall
23 endeavor to resolve and arbitrate or adjudicate all the above
24 issues before the expiration or lapse date of this fund.

25 (9) The President will certify to the Congress and all

1 four FSM States all tasks completed or resolved pursuant to this
2 act.

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

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7 Date: 9/11/13

Introduced by: /s/ Victor Gouland
Victor Vicky Gouland

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