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A BILL FOR AN ACT

To further amend title 30 of the Code of the Federated States of Micronesia, as amended by Public Law No. 5-122, by amending section 122, as established by Public Law No. 5-122, to appropriate the sum of \$8,000,000 from the General Fund of the Federated States of Micronesia for the fiscal year ending September 30, 1990, for the purpose of further capitalizing the Investment Development Fund; to further amend Public Law No. 5-122, as amended by Public Law No. 6-21, by amending sections 4, 8, 10, 12, and 17, for the purpose of authorizing the Federated Development Authority to make final approval decisions with respect to private-sector reserve applications, for the purpose of placing the additional \$8,000,000 in the private-sector reserve, and for the purpose of authorizing public corporations to apply for private-sector reserve funds; to repeal section 11 of Public Law No. 5-122; and for other purposes.

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

1 Section 1. Section 122 of title 30 of the Code of the Federated
2 States of Micronesia, as established by Public Law No. 5-122, is
3 hereby amended to read as follows:

4 "Section 122. Investment Development Fund.

5 (1) There is hereby created the Investment Development
6 Fund (hereinafter, the 'Fund') separate from the General
7 Fund and other funds.

8 (2) The sum of \$12,000,000 received from the United
9 States as grant funds pursuant to section 111 of United
10 States Public Law 99-239, or so much thereof as may be
11 necessary, together with any and all investment earnings
12 accrued thereon since the date of receipt by the National
13 Government and the date such sum is transferred to the
14 Fund, is hereby appropriated from the General Fund of the
15 Federated States of Micronesia for the fiscal year ending
16 September 30, 1989, for the purpose of capitalizing the
17 Investment Development Fund. The sum of \$8,000,000
18 received from the United States as grant funds pursuant to
19 section 111 of United States Public Law 99-239, or so much
20 thereof as may be necessary, together with any and all
21 investment earnings accrued thereon since the date of
22 receipt by the National Government and the date such sum is
23 transferred to the Fund, is hereby appropriated from the
24 General Fund of the Federated States of Micronesia for the
25 fiscal year ending September 30, 1990, for the purpose of

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1 further capitalizing the Investment Development Fund. In
2 addition, all earnings accrued on investment of the Fund,
3 all repayments of principal and interest and penalties on
4 loans made from the Fund, all cash assets recovered on
5 loans made from the Fund, and all fees, charges, and
6 penalties collected in relation to administration of the
7 Fund shall be deposited into the Fund.

8 (3) The Fund created by this section shall be
9 allotted, disbursed, managed, administered, and accounted
10 for in accordance with this section, with the 'Agreement
11 Between the Government of the United States and the
12 Government of the Federated States of Micronesia Regarding
13 the Investment Development Fund of the Federated States of
14 Micronesia Concluded Pursuant to Section 111(c) of United
15 States Public Law 99-239,' with the Investment Development
16 Act of 1988 and other applicable laws, and with such
17 guidelines, policies, and procedures as may be established
18 by the Federated Development Authority. The Chairman of
19 the Federated Development Authority or his designee shall
20 be the allottee and shall be responsible for ensuring that
21 these funds, or so much thereof as may be necessary, are
22 used solely for the purpose specified in this act, and that
23 no obligations are incurred in excess of the sums
24 appropriated. The authority of the allottee to obligate
25 funds appropriated by this act shall not lapse.

1 (4) Any unexpended money in the Fund shall not revert
2 to the General Fund or lapse at the end of a fiscal year."

3 Section 2. Section 4 of Public Law No. 5-122 is hereby amended
4 to read as follows:

5 "Section 4. Administration of the Investment Development
6 Fund.

7 (1) The Federated Development Authority shall be
8 responsible for administering the Investment Development
9 Fund subject to the advice and guidance of the Board of
10 Advisors, in accordance with the provisions of this act and
11 other applicable laws, the Investment Development Fund
12 Agreement, and section 122 of title 30 of the Code of the
13 Federated States of Micronesia.

14 (2) The Federated Development Authority shall have
15 the power and authority to do all such things as may be
16 necessary to administer the Investment Development Fund,
17 including, but not limited to, establishing guidelines,
18 policies, and procedures for administration of the
19 Investment Development Fund; establishing general terms and
20 conditions for financing of projects from the Fund,
21 including qualifications for prospective borrowers and
22 maximum and minimum loan amounts; establishing guidelines
23 for applications; establishing application, loan guarantee,
24 and other fees and charges; and determining interest rates,
25 repayment schedules, security requirements, and other

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1 specific terms and conditions for financings within the
2 limits established by section 16 of this act; PROVIDED
3 that, prior to establishing such guidelines, policies and
4 procedures, and general terms and conditions, the Federated
5 Development Authority shall afford the Board of Advisors
6 and the Development Bank an adequate opportunity to comment
7 on such matters; PROVIDED FURTHER, however, that no change
8 in guidelines, policies, and procedures, and general terms
9 and conditions, shall apply to any application for
10 financing pending on the date the change is adopted, if the
11 effect of applying it shall adversely affect, in a material
12 way, the approval of the financing sought.

13 (3) The Federated Development Authority shall be
14 responsible for:

15 (a) Approving financing for the projects
16 submitted for funding pursuant to sections 10 and 11 of
17 this act;

18 (b) Approving the actions by the Development
19 Bank taken pursuant to subsection (5) of this section as
20 the Federated Development Authority deems appropriate.

21 (4) In exercising its authority under subsection (2)
22 above, the Federated Development Authority shall request
23 technical assistance from the Development Bank.

24 (5) The Development Bank, pursuant to the direction
25 of the Federated Development Authority, shall be

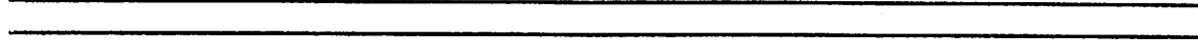
1 responsible for administering all loans, loan guarantees,
2 lease and sale-leaseback arrangements, and other similar
3 financings, including the maintenance of all files on such
4 financings, the monitoring of the progress of projects
5 funded from such financings, collecting any repayments of
6 such financings (including resort to property hypothecated
7 to secure payments due under a financing, or legal action
8 to enforce payment obligations), and, only with specific
9 approval from the Federated Development Authority on a
10 case-by-case basis, renegotiating the terms of such
11 financing. Except as otherwise provided in this act, the
12 authority and responsibilities of the Development Bank,
13 with respect to the administration of the Fund, shall be
14 executed by the President of the Development Bank pursuant
15 to the guidelines, policies, and procedures, and general
16 terms and conditions, prescribed by the Federated
17 Development Authority and this act, and the Board of
18 Directors of the Development Bank shall have no authority
19 or responsibility with respect to the administration of the
20 Fund."

21 Section 3. Section 8 of Public Law No. 5-122 is hereby amended
22 to read as follows:

23 "Section 8. Review and comment.

24 (1) The Board of Advisors, ~~and~~ the Department of
25 Resources and Development of the Federated States of

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1 Micronesia, and the Development Bank shall have up to 45
 2 days from the time the application is transmitted from the
 3 Development Bank upon completion of the review required by
 4 section 7 of this act to review and comment upon such
 5 application. Any comments shall be submitted to the
 6 sponsoring State or National Government, the applicant, and
 7 *whichever of the Development Bank or the Federated*
 8 *Development Authority has authority under this act to*
 9 *approve the financing sought by the applicant.*

10 *(2) For all projects to be funded from the*
 11 *private-sector reserve of the Fund created pursuant to*
 12 *section 17 of this act, the Development Bank shall have up*
 13 *to 60 days, calculated from the day the application is, or*
 14 *the last day the application should have been, submitted to*
 15 *the Board of Advisors and the Department of Resources and*
 16 *Development of the Federated States of Micronesia for*
 17 *review and comment, in which to approve or disapprove the*
 18 *application pursuant to section 11 of this act."*

19 Section 4. Section 10 of Public Law No. 5-122 is hereby amended
 20 to read as follows:

21 "Section 10. Federated Development Authority approval. No
 22 financing shall be funded from the State-earmarked
 23 subaccounts or the private-sector reserve created pursuant
 24 to section 17 of this act without written approval from the
 25 Federated Development Authority. In reviewing each

1 application for financing, the Federated Development
 2 Authority shall consider the contents of the application
 3 and the comments, if any, of the sponsoring State, the
 4 Development Bank, the Board of Advisors and the Department
 5 of Resources and Development of the Federated States of
 6 Micronesia. If the Federated Development Authority denies
 7 the financing sought in an application, it may at the same
 8 time approve a lesser or alternative financing, or approve
 9 a financing upon condition that the project proposal be
 10 amended in some respect. The financing approval shall
 11 specify the type of financing approved, the rate of
 12 interest, if any, and the length of payment grace periods,
 13 if any, and the property to be hypothecated to secure
 14 repayment of the financing. In each case, the approval is
 15 conditioned upon the recipient's execution of definitive
 16 legal documentation of the financing, in form and substance
 17 acceptable to the Development Bank."

18 Section 5. Section 11 of Public Law No. 5-122 is hereby
 19 repealed in its entirety.

20 Section 6. Section 12 of Public Law No. 5-122 is hereby amended
 21 to read as follows:

22 "Section 12. Required permits. Prior to approving any
 23 application for financing a project, in whole or in part,
 24 from the Investment Development Fund which will involve a
 25 financial interest or other participation by a person who

1 is not a citizen of the Federated States of Micronesia or
2 by a partnership, corporation, or other business entity in
3 which any interest is owned by a person who is not a
4 citizen of the Federated States of Micronesia, the
5 Federated Development Authority ~~or Development Bank,~~
6 ~~whichever has authority to approve the application,~~ shall
7 ascertain that such person or entity possesses all
8 necessary business licenses and foreign investment permits;
9 PROVIDED that, in appropriate circumstances, the Federated
10 Development Authority ~~or Development Bank, as the case may~~
11 ~~be,~~ may approve the application with release of financing
12 conditioned on ~~issuance~~ issuance of the necessary licenses
13 and permits; PROVIDED FURTHER, that any project financed
14 through the Investment Development Fund must comply with
15 the terms and conditions of all required licenses and
16 permits."

17 Section 7. Section 17 of Public Law No. 5-122 is hereby amended
18 to read as follows:

19 "Section 17. Allocations to the States; Private-sector
20 reserve.

21 (1) With respect to the amounts to be provided
22 pursuant to section 111(b)(1)(i) of United States Public
23 Law 99-239 and article II, paragraphs 2(a) and (b) of the
24 Investment Development Fund Agreement, \$3,000,000 shall be
25 placed in subaccounts within the Fund for each of the

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1 States of Pohnpei and Truk, and \$2,000,000 shall be
2 placed in subaccounts within the Fund for each of the
3 States of Kosrae and Yap. The funds in the State-earmarked
4 subaccounts shall be available only to qualified recipients
5 whose application for financing is sponsored by the State
6 from whose earmarked subaccount the financing shall be
7 funded. An additional ~~\$2,000,000~~ 10,000,000 shall be
8 placed in a private-sector reserve, which shall be
9 available for financing to qualified recipients which are
10 not State or National Governments, *public corporations*
11 *thereof*, or business associations in which a government *or*
12 *public corporation* has a financial interest, for projects
13 whose total financing from the Fund shall equal or exceed
14 \$500,000, or when the balance of the private-sector reserve
15 should fall below \$500,000, a lesser amount. *The remaining*
16 Any additional such amounts provided by the United States
17 shall be retained in the Fund and invested in accordance
18 with section 18 of this act, but shall not be disbursed
19 except when authorized by subsequent legislation.

20 (2) All repayments of principal and interest and
21 penalties on loans made from a State's earmarked subaccount
22 of the Fund and all cash assets recovered on such loans
23 shall be credited to that State's earmarked subaccount.
24 All other repayment of principal and interest and
25 penalties, cash assets recovered, and other fees, charges,

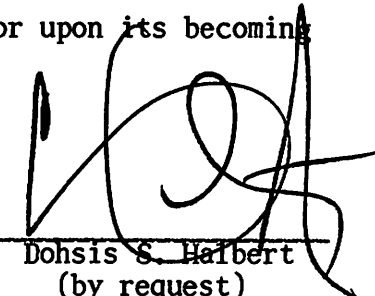
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1 and penalties shall be credited to the private-sector
2 reserve."

3 Section 8. This act shall become law upon approval by the
4 President of the Federated States of Micronesia or upon its becoming
5 law without such approval.

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7 Date: 5-25-90

Introduced by: 
Dohsis S. Halbert
(by request)

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