

A BILL FOR AN ACT

To authorize the FSM to borrow approximately \$12,000,000 from the Asian Development Bank and relend approximately \$8,250,000 to the States for the purpose of funding private sector development programs and projects; to authorize a future appropriation of up to \$12,000,000 for repaying the amounts borrowed; to transfer funds presently in the National Government Employee's Early Retirement Fund to the new External Debt Management Fund created by section 667 of title 55 of the Code of the FSM; and for other purposes.

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

1           Section 1. Definitions

2           As used in this act:

3           (1) "External Debt Management Fund" means the fund created by  
4 section 667 of title 55 of the Code of the Federated States of  
5 Micronesia ("FSM").

6           (2) "Trust Account" means the trust account created in the name  
7 of a State pursuant to the existing Financing Agreement between the  
8 National Government and the State with respect to the Public Sector  
9 Reform Program loan from the Asian Development Bank (the "Bank").

10          Section 2. Authorization. The President (the "President") of the  
11 Federated States of Micronesia (the "FSM") is hereby authorized to  
12 borrow money from the Bank and relend a portion thereof to the States  
13 as provided hereinafter. The borrowing shall be by way of two loans; a  
14 program loan and a project loan.

15          Section 3. Amounts.

16          (1) The total amount to be borrowed from the Bank is the

1 equivalent in SDRs (Special Drawing Rights) of the Bank, as of such  
 2 point in time as the Bank and the President shall agree, of up to  
 3 approximately \$12,017,158. Of that amount, \$4,000,000 shall be lent  
 4 under the program loan and \$8,017,158 shall be lent under the project  
 5 loan.

6 (2) From the proceeds of the program loan, the National  
 7 Government will relend to the State Governments, and/or retain for its  
 8 own use, the following approximate amounts, subject to the rate of  
 9 exchange of the SDRs at the time of disbursement:

	<u>1<sup>st</sup> Tranche</u>	<u>2<sup>nd</sup> Tranche</u>	<u>Total</u>
10 (a) Chuuk	\$500,000	\$500,000	\$1,000,000
11 (b) Kosrae	250,000	250,000	500,000
12 (c) Pohnpei	450,000	450,000	900,000
13 (d) Yap	300,000	300,000	600,000
14 (e) Natl. Gov.	500,000	500,000	1,000,000
15 (f) Total	2,000,000	2,000,000	4,000,000

16 (3) From the proceeds of the project loan, the National  
 17 Government will relend to the State Governments, or retain for its own  
 18 use, the following approximate amounts, subject to the rate of exchange  
 19 of the SDRs at the time of disbursement:

20 (a) Chuuk	\$ 1,779,920
21 (b) Kosrae	1,261,080
22 (c) Pohnpei	993,980
23 (d) Yap	1,203,540
24 (e) Natl. Gov.	\$2,778,638

1 (f) Total 8,017,158

2 Section 4. Financial terms.

3 (1) The program loan from the Bank and each of the loans  
4 thereunder by the National Government to the States shall:

5 (a) provide for disbursement in two separate drawdowns or  
6 "Tranches";

7 (b) have an eight (8) year grace period for the repayment  
8 of principal;

9 (c) bear interest at the rate of 1% per annum during the  
10 grace period and 1.5% per annum thereafter; and

11 (d) provide for the repayment of principal over a sixteen  
12 (16) year period commencing at the end of the grace period.

13 (2) The project loan from the Bank and each of the loans  
14 thereunder by the National Government to the States shall:

15 (a) have an eight (8) year grace period for the repayment  
16 of principal;

17 (b) bear interest at the rate of 1% per annum during the  
18 grace period and 1.5% per annum thereafter; and

19 (c) provide for the repayment of principal over a twenty-  
20 four (24) year period commencing at the end of the grace period.

21 Section 5. Use of proceeds. The proceeds of the loan will be  
22 used for the exclusive purpose of facilitating development of the  
23 private sector in the FSM, as more fully set forth in the loan  
24 agreement between the FSM and the Bank.

25 Section 6. Relending conditions.

1           (1) Relending of loan proceeds to a State shall be by way of  
2 Program and project Relending Agreements between the National  
3 Government and the State which, taken together shall:

4           (a) place the foreign exchange risk on the State until the  
5 estimation and transfer process called for in subsection (c) below, and  
6 on the National Government thereafter;

7           (b) amend provisions relating to the Trust Account so as to  
8 permit and require that Trust Account to be used, in conjunction with  
9 the External Debt Management Fund, for repayment of the Public Sector  
10 Reform Program Loan, the present program and project loans and possibly  
11 other loans to the State;

12           (c) provide for annual estimation of the amount  
13 conservatively estimated to be needed as a sinking fund for repayment  
14 of all loan proceeds advanced to the State since the last such  
15 estimate, followed by transfer of the amount so estimated from the  
16 Trust Account to the External Debt Management Fund;

17           (d) provide for disbursement to the State of funds  
18 remaining in the Trust Account after five years if and when all loans  
19 to be repaid from the Trust Account have been disbursed;

20           (e) provide that from, and after completion of, each annual  
21 estimation and transfer process called for in subsection (c) of this  
22 section, the National Government shall bear the risk that funds in the  
23 Trust Account and the External Debt Management Fund may not be  
24 sufficient to repay all the loans intended to be repaid therefrom and  
25 the State shall be released from liability for any such shortfall

1 except as otherwise expressly provided in the Relending Agreements;

2 (f) contain such other provisions as the President or the  
3 Bank may require; and

4 (g) are specifically and properly authorized by the  
5 Legislature of the State.

6 (2) Except as provided herein, or in the loan agreements with  
7 the Bank, the form of the Relending Agreement with respect to a  
8 particular loan from the Bank, shall be the same for all States so as  
9 to assure that no State receives preferential treatment over any other  
10 State.

11 Section 7. Delegations.

12 (1) While the President shall remain involved and informed, he  
13 may delegate:

14 (a) to the Secretary of Finance and Administration, the  
15 authority to negotiate the loan agreements with the Bank, the Relending  
16 Agreements with the States, and other relevant documents;

17 (b) to the Secretary of Finance and Administration, the  
18 authority, to sign any such documents on behalf of the National  
19 Government;

20 (c) to the FSM's representative on the Board of the Bank in  
21 Manila, the authority to sign agreements between the Bank and the  
22 National Government on behalf of the FSM; and

23 (d) to such officials as the President deems appropriate,  
24 the authority to administer various portions of the programs and  
25 projects funded by the loans from the Bank.

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1           (2) The right to delegate the performance of an act to a person  
2 includes the right to ratify the performance of that act by that person  
3 after the fact.

4           Section 8. Appropriation of loan proceeds.

5           (1) If and to the extent that such an appropriation is  
6 necessary, all sums directly or indirectly received as proceeds of the  
7 project loan from the Bank are hereby appropriated for the purpose of  
8 funding private sector development projects to the extent and in the  
9 manner specified in the project loan agreement. Such funds may not be  
10 obligated until received from or made available by the Bank.

11           (2) If and to the extent that such an appropriation is  
12 necessary, all sums directly or indirectly received as proceeds of the  
13 program loan from the Bank and intended for the use of a State are  
14 hereby appropriated for the purpose of funding programs or projects in  
15 that State to the extent and in the manner specified in the program  
16 loan agreement. Such funds may not be obligated until they have been  
17 received from or made available by the Bank and until their use has  
18 been further specified through appropriation legislation in the State.

19           (3) Proceeds of the program loan which are intended for the  
20 use of the National Government shall be subject to appropriation by the  
21 Congress of the FSM in one or more separate appropriation acts.

22           Section 9. Repayment authorization. The sum of up to \$12,000,000  
23 is hereby authorized to be appropriated in future years for repaying  
24 the loans from the Bank if and to the extent that the State Trust  
25 Accounts referred to in section 5 of this act and the External Debt

1 Management Fund are insufficient to repay the loan.

2 Section 10. Allotment and management of funds and lapse date.

3 (1) All funds appropriated by this act shall be allotted,  
4 managed, administered, and accounted for in accordance with applicable  
5 law, including, but not limited to, the Financial Management Act of  
6 1979. The allottee shall be responsible for ensuring that these funds,  
7 or so much thereof as may be necessary, are used solely for the purpose  
8 specified in this act and that no obligations are incurred in excess of  
9 the sum appropriated.

10 (2) The authority of the allottee to obligate funds appropriated  
11 by this act shall not lapse.

12 Section 11. This act shall become law upon approval of the  
13 President of the Federated States of Micronesia or upon its becoming  
14 law without such approval.

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17 Date: \_\_\_\_\_ Introduced by: \_\_\_\_\_

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Joseph J. Urusemal  
(by request)