A BILL FOR AN ACT

To authorize the President of the Federated States of Micronesia, or his designee, to executive a guaranty agreement, to secure the line of credit agreement between the FSM Development Bank and European Investment Bank, setting forth the mechanics for the implementation of the guaranty, to authorize the appropriation of the sum of not more than USD 5 million dollars to guarantee the line of credit extended by the European Investment Bank to the FSM Development Bank upon default of the latter, and for other purposes.

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

- 1 Section 1. <u>Purpose</u>. The FSM Development Bank (FSMDB) is a
- 2 public corporation established by Public Law No. 8-47. FSMDB
- 3 negotiated with the European Investment Bank (EIB) to obtain a
- 4 line of credit in the maximum amount of USD 5 million dollars,
- 5 maximum term of ten (10) years for relending by the FSMDB for
- 6 projects situated within the Federated States of Micronesia. The
- 7 European Investment Bank has offered to FSMDB a line of credit at
- 8 the prevailing market interest rate, plus additional 1.3% interest
- 9 for "risk spread", without a guaranty given by FSM National
- 10 Government, or alternatively at the prevailing market interest
- 11 rate, without the additional 1.3% interest for "risk spread" if
- 12 the line of credit is secured by a quaranty by the FSM National
- 13 Government. If the line of credit is obtained from the European
- 14 Investment Bank at the lower interest rate, said reduction in the
- 15 interest rate would be applied to the amountswhichare relent to
- 16 borrowers of the FSMDB. A lower interest rate on loans made by
- 17 the FSMDB would increase lending, assist borrowers and help
- 18 develop the economy throughout the Federated States of Micronesia.

- 1 Section 2. <u>Authorization to executive guaranty agreement</u>.
- 2 Pursuant to the authority to appropriate funds and to borrow money
- 3 on public credit under article IX of the FSM Constitution,
- 4 Congress hereby authorizes the President, or his designee, to
- 5 execute a guaranty agreement with the FSMDB and the European
- 6 Investment Bank, and waives the sovereign immunity of the FSM
- 7 National Governmentwith regard to any legal action arising from
- 8 the quaranty.
- 9 Section 3. <u>Authorization for appropriation</u>. There is hereby
- 10 authorized to be appropriated out of the General Fund of the
- 11 Federated States of Micronesia a sum of not more than USD 5
- 12 million dollars to guarantee the repayments of the line of credit
- 13 extended by the EuropeanInvestment Bank to the FSMDB, upon default
- 14 by the FSMDB of its repayment obligations.
- 15 Section 4. Terms of the quaranty. The quaranty shall be
- 16 executed upon such terms as may be set by the President consistent
- 17 with the provisions of this act to include the following
- 18 conditions:
- 19 a. FSMDB is primarily liable for the repayment under
- 20 the line of credit.
- b. FSM National Government' obligation as guarantor
- 22 extends only to disbursements made pursuant to the letter of
- 23 credit after execution of appropriate guaranty agreement.
- c. FSM National Government's obligation applies only
- 25 if the FSMDB is in default of its repayment obligations.

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d. FSMDB provides full indemnity to the FSM National
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- 2 Governmenttoindemnify FSM National Government whenever the latter
- 3 becomes obligated to pay under the guaranty.
- 4 e. FSM National Government shall have subrogation
- 5 rights in the event it becomes liable under its guaranty.
- 6 Section 5. <u>Duties of the Secretary of Finance</u>. Upon default
- 7 of the FSMDB on this repayment obligations to the European
- 8 Investment Bank, the Secretary of Finance shall submit to the
- 9 President an appropriation bill for consideration of Congress of
- 10 the Federated States of Micronesia to liquate FSMDB's indebtedness
- 11 created pursuant to the line of credit.
- 12 Section 6. <u>Duties of the FSMDB</u>. The FSMDB has the duty to
- 13 exercise due diligence to ensure timely repayments to the European
- 14 Investment Bank pursuant to the line of credit and to provide
- 15 prior notice to the FSM National Government of any risks, or
- 16 events, that will likely affect its ability to make timely
- 17 repayments.
- 18 Section 7. This act shall become law upon approval by the
- 19 President of the Federated States of Micronesia or upon its
- 20 becoming law without such approval.

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22 Date: 1/25/10 Introduced by: /s/ Joe N. Suka

Joe N. Suka

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