A BILL FOR AN ACT

To authorize the President to execute on behalf of the National Government of the Federated States of Micronesia a concessional loan agreement with the Government of the People’s Republic of China and to set the terms and conditions thereof, and for other purposes.

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

Section 1. Inducements. The National Government received an indication from the Government of the People’s Republic of China indicating its willingness and ability to provide soft loan assistance to the Government of the Federated States of Micronesia for the rehabilitation of shore-side fisheries transshipment and processing infrastructure in the four States. It was further indicated by the Government of the People’s Republic of China that the soft loan assistance has a flexibility of being convertible into grant assistance if the fisheries project ultimately fails. The leadership of the National Government and the leadership of the four State Governments have indicated a desire to pursue a fisheries project in reliance of these inducements.

Section 2. Authorization. Pursuant to the authority to appropriate funds to borrow money on public credit under article IX of the Constitution, and on the basis of the inducements stated in section 1 of the act, Congress hereby authorizes the President to negotiate, on behalf of the National Government of the Federated States of Micronesia, and to execute a loan agreement with the Government of the People’s Republic of China, in the amount of up to $22 million (USD) through a concessional loan...
facility from the Government of the People’s Republic of China, under such terms and conditions as set forth in section 3 of this act. The proceeds of the loan shall be utilized for a fisheries rehabilitation project. The President shall take all steps necessary to accomplish the objective stated in this act.

Section 3. Terms and conditions of the authorization.

Pursuant to the authorization granted under section 2 of this act, the President shall enter into such agreements in accordance with the following terms and conditions.

(1) The recipients of the loan proceeds, the recipients of the procurements made out of the loan proceeds, and the operator of the fisheries facilities shall execute in favor of the National Government joint and several indemnity agreements for any loss and liability.

(2) Pursuant to the inducements on the soft loan facility, a written agreement must be executed indicating that the loan repayment is waived in the event the project fails or when the project operator is in default.

(3) The parties to the loan agreement and all the subsidiary agreements must accept the original and exclusive jurisdiction of the Supreme Court of the Federated States of Micronesia over any legal dispute arising from any matter in the loan agreement and its subsidiary agreements. A waiver of sovereign immunity and a full faith and credit guaranty executed by both sovereign governments shall satisfy this condition.
(4) Any agreement executed pursuant to this act shall not prejudice, impair, diminish or negate the rights and obligations of the Government of the United States and the Government of the Federated States of Micronesia pursuant to the provisions of the amended Compact.

(5) Nothing in the agreements shall impair the rights and obligations of the Federated States of Micronesia under the various international agreements and treaties.

(6) Agreements to which the National Government is a party must be reviewed by the Department of Justice as to legal sufficiency prior to their execution and shall be sought for hereunder.

(7) Due diligence must be conducted to address matters concerning fiscal, social and economic benefits, viability of the project, and tract record of operators.

Section 4. Submission of negotiated agreements to Congress.

Prior to entering into a loan or guarantee agreement with the Government of the People’s Republic of China, or its designated authority, the President shall submit to Congress the negotiated text of the master agreement and subsidiary agreements for approval by resolution. No such agreements shall be valid unless and until approved by Congress.
Section 5. **Effective date.** This act shall become law upon approval by the President of the Federated States of Micronesia or upon its becoming law without such approval.

Date: 6/17/10  
Introduced by: /s/ Joe N. Suka

Joe N. Suka
(by request)