

A BILL FOR AN ACT

To authorize the President of the Federated States of Micronesia, or his designee, to execute a sovereign guarantee to secure an Asian Development Bank loan for the Yap Renewable Energy Development Project, and for other purposes.

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

1 Section 1. Purpose. The FSM National Energy Policy
2 seeks to prioritize the use of renewable energy. The
3 Asian Development Bank ("ADB") has proposed the Yap
4 Renewable Energy Development Project to reduce the
5 dependency on imported diesel fuels. The Yap Renewable
6 Energy Development Project will support development of
7 grid connected wind and solar power, will improve the
8 efficiency of diesel generation, and will build technical
9 capacity. The proposed cost of the project is \$11.16
10 million, to be funded with \$4.68 million from ADB's
11 Ordinary Capital Resources ("OCR") funds, \$4.38 million
12 from ADB's Asian Development Fund ("ADB"), and \$2.12
13 million from the State of Yap. As a condition of the loan
14 to the State of Yap, the Asian Development Bank requires a
15 sovereign guarantee that the loan will be repaid.

16 Section 2. Authorization to execute sovereign
17 guarantee. Pursuant to the authority to appropriate funds
18 and to borrow money on public credit under Article IX of
19 the FSM Constitution, Congress hereby authorizes the

1 President, or his designee, to execute a sovereign
2 guarantee with the State of Yap and the Asian Development
3 Bank guaranteeing repayment of the Yap Renewable Energy
4 Development Project loan.

5 Section 3. Authorization for appropriation. There
6 is hereby authorized to be appropriated out of the General
7 Fund of the Federated States of Micronesia the sum of not
8 more than \$9,600,000 to guarantee the repayment of the ADB
9 Yap Renewable Energy Development Project loan.

10 Section 4. Terms of the guarantee. The guarantee
11 shall be executed upon such terms as may be set by the
12 President of the Federated States of Micronesia consistent
13 with the provisions of this act to include the following
14 conditions:

15 a. The State of Yap is primarily responsible for
16 repayment of the Asian Development Bank loan.

17 b. FSM National Government's obligation as guarantor
18 extends only to disbursements of the Asian Development
19 Bank Renewable Energy Development loan after execution of
20 an appropriate guarantee agreement.

21 c. FSM National Government's obligation applies only
22 if the State of Yap is in default of its repayment
23 obligations.

24 d. The State of Yap pledges its state revenues in the
25 event of default by the State of Yap.

1 e. The State of Yap provides full indemnity to the
2 FSM National Government to indemnify the FSM National
3 Government whenever the latter becomes obligated to pay
4 under the guarantee.

5 f. FSM National Government shall have subrogation
6 rights in the event it becomes liable under its guarantee.

7 Section 5. Duties of the Secretary of Finance. Upon
8 default of the State of Yap on its repayment obligations
9 to the Asian Development Bank, the Secretary of Finance
10 and Administration shall submit to the President an
11 appropriation bill for consideration of Congress of the
12 Federated States of Micronesia for fulfilment of the
13 sovereign guarantee.

14 Section 6. Effective date. This act shall become
15 law upon approval by the President of the Federated States
16 of Micronesia or upon its becoming law without such
17 approval.

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19 Date: 9/25/12

Introduced: /s/ Florencio S. Harper
Florencio S. Harper
(by request)

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