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 Pohnpei Port Development Project, and for
other purposes.

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

Section 1. Purpose. The State of Pohnpei is proposing to
upgrade its port facilities in Dekehtik located in the Pohnpei
Transportation Zone. The facilities are managed and controlled by
the Pohnpei Port Authority (PPA) – a Pohnpei State agency. The
total project cost is $17.1 million proposed to be financed through
loans from the Asian Development Bank (ADB). Of the total project
cost, $4.5 million will be funded out of ADB’s Special Fund (ADF).
Pohnpei State will be required to fund the remaining portion of the
project cost.

Section 2. Authorization to execute sovereign guarantee.

Pursuant to the authority to appropriate funds and to borrow money
on public credit under Article IX of the FSM Constitution, Congress
hereby authorizes the President, or his designee, to execute a
sovereign guarantee with the State of Pohnpei and the Asian
Development Bank guaranteeing repayment of the Pohnpei Port
Development Project loan.

Section 3. Authorization for appropriation. There is hereby
authorized to be appropriated out of the General Fund of Federated
States of Micronesia the sum of not more than $16,400,000 to guarantee the repayment of the Pohnpei Port Development Project loan.

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

(a) The State of Pohnpei through the PPA is primarily responsible for the repayment of the Asian Development Bank loan.

(b) The FSM National Government’s obligation as guarantor extends only to the disbursements of the Asian Development Bank Pohnpei Port Development Project loan after execution of an appropriate guarantee agreement and such other documents in subsection (g) of this section.

(c) The FSM National Government’s obligation applies only if the PPA and the State of Pohnpei are in default of its repayment obligations.

(d) The State of Pohnpei pledges its state revenues and agrees to an offset of its revenue share in the event of default by the State of Pohnpei.

(e) The State of Pohnpei provides full indemnity of the FSM National Government in order to indemnify the FSM National Government whenever the latter becomes obligated to pay under the guarantee.
(f) The FSM National Government shall have subrogation rights in the event it becomes liable under its guarantee.

(g) The President shall require the execution of such agreements and security documents either individually or jointly with the State of Pohnpei, the PPA, and the Asian Development Bank to ensure that the rights and interest of the FSM National Government are adequately and fully protected.

Section 5. Duties of the Secretary of Finance and Administration. Upon the default of the PPA or the State of Pohnpei on its repayment obligations to the Asian Development Bank, the Secretary of Finance and Administration shall submit to the President an appropriation bill for consideration of Congress of the Federated States of Micronesia for fulfillment of the sovereign guarantee.

Section 6. 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: 7/16/15

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