A BILL FOR AN ACT

To provide funding for various National Fisheries Corporation purchases, projects and joint venture participation by appropriating the sum of $5,554,160 and such other amount as is required from the General Fund of the Federated States of Micronesia for the fiscal year ending September 30, 1990, for the purpose of providing an operating subsidy to the National Fisheries Corporation and providing for the initial capitalization of the National Fisheries Corporation; by authorizing the National Government of the Federated States of Micronesia to participate in a borrowing under the Compact Funds Financing Act for the purpose of promoting fisheries development in the Federated States of Micronesia by making a loan to a particular joint venture under certain conditions; by further amending title 55 of the Code of the Federated States of Micronesia, as amended, by adding a new section 310A for the purpose of authorizing the payment of expenses associated with Compact Financial Assistance Fund accounts and borrowing under the Compact Funds Financing Act; by appropriating the sum of $40,000 from the General Fund of the Federated States of Micronesia for the fiscal year ending September 30, 1990, for the purpose of obtaining a reliable appraisal or appraisals of fishing boats to be acquired by a joint venture in which the National Fisheries Corporation is a partner; and for other purposes.

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

Section 1. This act may be cited as the "NFC Act of 1990."

Section 2. As used in this act:

(1) Terms shall have the same definitions as are contained in section 512 of title 58 of the Code of the Federated States of Micronesia;

(2) "National Government" means the National Government of the Federated States of Micronesia; and

(3) "Medium-Term Note Program" means the program by such title that has been or will be negotiated by the National Government pursuant to the Compact Funds Financing Act.

Section 3. The sum of $5,554,160 and such other amount as is required is hereby appropriated from the General Fund of the Federated States of Micronesia for the fiscal year ending September 30, 1990, for the purpose of providing an operating subsidy to the National Fisheries Corporation and providing for the initial capitalization of the National Fisheries Corporation.

Section 4. The sum appropriated under section 3 of this act shall be apportioned as follows:

(1) The sum of $54,160 is appropriated for the purpose of providing an operating subsidy to the National Fisheries Corporation during the fiscal year ending September 30, 1990.

(2) The sum of $5,500,000 is appropriated for the purpose of providing initial capitalization for, or an operating subsidy to, the National Fisheries Corporation, PROVIDED that no such funds shall be made available to the National Fisheries Corporation except to support its purchases, projects or joint venture participation, pursuant to a valid agreement or contract, or to provide an operating
subsidy of $250,000 or less in any fiscal year beginning with the

(3) Such amount as is equal to the amount of funds for
which the authority of the National Fisheries Corporation to obligate
lapses pursuant to section 5 of this act is appropriated for the
purpose of providing an additional operating subsidy to the National
Fisheries Corporation during the fiscal year ending September 30,
1990, PROVIDED that such operating subsidy shall not be made
available to the National Fisheries Corporation prior to March 1,
1990.

Section 5. The authority of the National Fisheries Corporation
to obligate funds appropriated by Public Law No. 6-10 shall lapse as

Section 6. The National Government is hereby authorized to
participate in a borrowing under the Medium-Term Note Program
pursuant to the Compact Funds Financing Act, PROVIDED that such
borrowing is done pursuant to the conditions in this act.

Section 7. The President, the Secretary of Finance, the
Attorney General and any other officials designated by the President
are authorized to perform the functions and duties described in the
Compact Funds Financing Act and such other duties and functions as
may be necessary to lawfully accomplish the purposes of such Act and
of this act, including in the case of the Attorney General providing
the legal opinion described in such Act and in the case of the
President authorizing the pledge of security necessary to secure the
1 borrowing, to satisfy any financial obligations attributable to the
2 National Government related to or resulting from such borrowing,
3 and also to pledge or provide such additional security as may be
4 necessary to protect any non-participating State against any loss
5 arising in connection with the National Government's participation
6 and to secure payment of all financial obligations related to or
7 resulting from the borrowing including costs and expenses, and the
8 President is further authorized to cause all necessary payments to be
9 made to satisfy all financial obligations attributable to the
10 National Government's participation in the borrowing, PROVIDED that
11 such National Government officials may take such actions only with
12 respect to specific amounts authorized by this act and such
13 additional security as is so required.
14 Section 8. In order to secure such borrowing, the President is
15 authorized to make an irrevocable pledge of up to $3,600,000 in
16 future Compact Funds and any investment earnings thereon that would
17 otherwise be payable to the National Government, PROVIDED that he
18 must follow the procedures contained in the Compact Funds Financing
19 Act, and PROVIDED FURTHER that the amount of such pledge shall not
20 exceed the following amounts and the investment earnings thereon from
21 the National Government's share of funds under the Compact of Free
22 Association:

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Source</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1991</td>
<td>Section 211(a)</td>
<td>$1,200,00</td>
</tr>
<tr>
<td></td>
<td>Capital Account</td>
<td></td>
</tr>
</tbody>
</table>
1992 Section 211(a) $1,200,000
Capital Account
1993 Section 211(a) $1,200,000
Capital Account

and PROVIDED FURTHER that the President may not pledge any such funds
until and unless he makes the certification to the Congress of the
Federated States of Micronesia described in section 9 of this act.

Section 9. The President may not make a pledge of funds
pursuant to section 8 until and unless he certifies in writing to the
Congress of the Federated States of Micronesia that, with respect to
the joint venture described in section 10:

(1) A reliable appraisal or appraisals demonstrate a
fair market value of any vessels to be purchased of at least the
amount of the purchase price;

(2) The private joint venturer has demonstrated
creditworthiness or has otherwise provided loan guarantees or other
security for its share of the liability on any loan made to the joint
venture from said $3,000,000, having reference to generally acceptable
commercial banking standards;

(3) The joint venture has entered into a loan agreement
with the National Government, PROVIDED, however, that no loan of any
portion of said $3,000,000 will be made to the joint venture on other
than generally acceptable commercial banking terms, unless necessary
and only to the extent necessary to induce the private joint venturer
to enter into the joint venture, or to create a commercially viable
1 joint venture;
2 (4) The terms of the joint venture agreement and all
3 related agreements are fair and evenly balanced, having reference to
4 generally accepted commercial joint venture standards; and
5 (5) The joint venture agreement contains reasonable
6 provisions designed to ensure that the joint venture undertake
7 commercially viable shorebased value-adding activities in at least
8 one State of the Federated States of Micronesia as soon as
9 commercially feasible.
10 Section 10. Proceeds from the borrowing authorized in section 6
11 may be used only for the purpose of promoting fisheries development
12 in the Federated States of Micronesia by making a loan of up to
13 $3,000,000 to a joint venture in which the partners include the
14 National Fisheries Corporation, one or more States of the Federated
15 States of Micronesia and a private entity incorporated in Australia.
16 Such loan shall not be subject to the provisions of the Financial
18 Section 11. Notwithstanding any other provision of law, the
19 President or his designee is authorized to enter into an agreement
20 with the Federated States of Micronesia Development Bank for it to
21 administer and service such loan on behalf of the National Government.
22 Section 12. The President or his designee is authorized to
23 disburse the proceeds of the borrowing as necessary to accomplish the
24 purposes of this act.
25 Section 13. Upon actual or constructive receipt of proceeds
from the borrowing, the National Government consents to and
authorizes a reduction in the amount of Compact Funds received or to
be received through the Compact Financial Assistance Fund on behalf
of the National Government, with such reduction being commensurate
with the amount of Pledged Compact Funds pledged by the National
Government, and the National Government irrevocably waives all rights
to the receipt of such Pledged Compact Funds, PROVIDED, however, that
the amounts to be pledged and waived may not exceed the amount
provided in section 8 of this act.

Section 14. The National Government waives its sovereign
immunity to the extent necessary to permit any State of the Federated
States of Micronesia to bring an action and execute a judgment as to
assets of the National Government based on any loss arising in
connection with the National Government's participation in the
Medium-Term Note Program.

Section 15. After the issuance of any Bonds, the National
Government will not limit or alter, or seek to limit or alter the
rights thereby vested and vested pursuant to the Indenture including,
without limitation, the irrevocable pledge by the President of
Pledged Compact Funds, until the Bonds, together with interest and
premium thereon, if any, are fully paid and discharged, PROVIDED that
nothing herein contained shall preclude such limitation or alteration
if and when adequate provision shall be made in accordance with the
terms of the Indenture for protection of the holders of the Bonds.

Section 16. The sum of $40,000, or so much thereof as is
necessary, is hereby appropriated from the General Fund of the
Federated States of Micronesia for the fiscal year ending September
30, 1990, for the purpose of obtaining a reliable appraisal or
appraisals of any vessels to be purchased by the joint venture
described in section 10 of this act.

Section 17. All funds appropriated by this act shall be
allotted, managed, administered, and accounted for in accordance with
applicable law, including, but not limited to, the Financial
Management Act of 1979. The President or his designee shall be the
allottee and shall be responsible for ensuring that these funds, or
so much thereof as may be necessary, are used solely for the purposes
specified in this act, and that no obligations are incurred in excess
of the sum appropriated. The authority of the allottee to obligate
or disburse funds appropriated by this act shall lapse as of
September 30, 1990, except that the authority to obligate or disburse
funds pursuant to subsection (2) of section 4 of this act
shall not lapse. Notwithstanding any other provision of this act or
any other law of the Federated States of Micronesia, with respect to
the funds appropriated by this act, the National Fisheries
Corporation shall be deemed to be a subsidy recipient and neither an
allottee nor suballottee of such funds nor a National Government
agency for any purposes, including for purposes of the Public
Contracts Act, chapter 4 of title 55 of the Code of the Federated
States of Micronesia. With respect to funds obligated prior to
February 28, 1990, the National Fisheries Corporation shall continue
to be deemed to be a National Government agency.

Section 18. Title 55 of Code of the Federated States of Micronesia is hereby further amended by adding a new section 310A to read as follows:

"Section 310A. Authorization to debit certain expenses. Without further authorization or appropriation, any appropriate Compact Financial Assistance Fund account of the FSM National Government or a State government may be debited for expenses, including trustee fees, associated with such government's Compact Financial Assistance Fund accounts or with such government's borrowing under the Compact Funds Financial Act."

Section 19. 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: 1-31-90

Introduced by: [Signature]

(by request)