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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:

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

10           Section 2. Authorization to execute sovereign guarantee.  
11 Pursuant to the authority to appropriate funds and to borrow money  
12 on public credit under Article IX of the FSM Constitution, Congress  
13 hereby authorizes the President, or his designee, to execute a  
14 sovereign guarantee with the State of Pohnpei and the Asian  
15 Development Bank guaranteeing repayment of the Pohnpei Port  
16 Development Project loan.

17           Section 3. Authorization for appropriation. There is hereby  
18 authorized to be appropriated out of the General Fund of Federated

1 States of Micronesia the sum of not more than \$16,400,000 to  
2 guarantee the repayment of the Pohnpei Port Development Project  
3 loan.

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

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

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

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

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

22 (e) The State of Pohnpei provides full indemnity of  
23 the FSM National Government in order to indemnify the FSM National  
24 Government whenever the latter becomes obligated to pay under the  
25 guarantee.

1                   (f) The FSM National Government shall have  
2 subrogation rights in the event it becomes liable under its  
3 guarantee.

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

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

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

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20 Date: 7/16/15

Introduced by: /s/ Florencio S. Harper

Florencio S. Harper

(by request)

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