

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:

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

13 Section 2. Authorization. Pursuant to the authority to
14 appropriate funds to borrow money on public credit under article
15 IX of the Constitution, and on the basis of the inducements stated
16 in section 1 of the act, Congress hereby authorizes the President
17 to negotiate, on behalf of the National Government of the
18 Federated States of Micronesia, and to execute a loan agreement
19 with the Government of the People's Republic of China, in the
20 amount of up to \$22 million (USD) through a concessional loan

1 facility from the Government of the People's Republic of China,
2 under such terms and conditions as set forth in section 3 of this
3 act. The proceeds of the loan shall be utilized for a fisheries
4 rehabilitation project. The President shall take all steps
5 necessary to accomplish the objective stated in this act.

6 Section 3. Terms and conditions of the authorization.

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

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

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

19 (3) The parties to the loan agreement and all the
20 subsidiary agreements must accept the original and exclusive
21 jurisdiction of the Supreme Court of the Federated States of
22 Micronesia over any legal dispute arising from any matter in the
23 loan agreement and its subsidiary agreements. A waiver of
24 sovereign immunity and a full faith and credit guaranty executed
25 by both sovereign governments shall satisfy this condition.

1 (4) Any agreement executed pursuant to this act shall
2 not prejudice, impair, diminish or negate the rights and
3 obligations of the Government of the United States and the
4 Government of the Federated States of Micronesia pursuant to the
5 provisions of the amended Compact.

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

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

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

16 Section 4. Submission of negotiated agreements to Congress.

17 Prior to entering into a loan or guarantee agreement with the
18 Government of the People's Republic of China, or its designated
19 authority, the President shall submit to Congress the negotiated
20 text of the master agreement and subsidiary agreements for approval
21 by resolution. No such agreements shall be valid unless and until
22 approved by Congress.

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1 Section 5. Effective date. This act shall become law upon
2 approval by the President of the Federated States of Micronesia or
3 upon its becoming law without such approval.

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5 Date: 6/17/10

Introduced by: /s/ Joe N. Suka

Joe N. Suka

(by request)

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