CONGRESS OF THE FEDERATED STATES OF MICRONESIA
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COMMITTEE ON
RESOURCES & DEVELOPMENT

STANDING COMMITTEE REPORT NO. 21-86

RE: C.B. NO. 21-288/R&D

SUBJECT: TO CLARIFY DUTIES OF THE VICE PRESIDENT OF THE BANK, TO PERMIT A DIRECTOR TO BORROW FROM THE BANK, AND TO PROVIDE PAYMENT OF HONORARIA TO ALL DIRECTORS

MAY 05, 2021

The Honorable Wesley W. Simina
Speaker, Twenty-First Congress
Federated States of Micronesia
Eleventh Special Session, 2021

Dear Mr. Speaker:

Your Committee on Resources and Development to which was referred Congressional Bill No. 21-288, entitled:

> "A BILL FOR AN ACT TO FURTHER AMEND TITLE 30 OF THE CODE OF THE FEDERATED STATES OF MICRONESIA (ANNOTATED), AS AMENDED, BY AMENDING SECTIONS 122, 125 AND 126 THEREIN, TO DESIGNATE THE MANAGEMENT AND OPERATION OF THE FSM DEVELOPMENT BANK, TO PERMIT DIRECTORS TO BORROW FROM THE BANK, TO PROVIDE PAYMENT OF HONORARIA TO ALL DIRECTORS, AND FOR OTHER PURPOSES.",

begs leave to report as follows:

The intent and purpose of this bill are expressed in its title.

Congressional Bill No. 21-288 was introduced during the Fifth Regular Session of the Twenty-First Congress of the Federated States of Micronesia.

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Historical Background
Sections 122, 125 and 126 of title 30 of the Code of the Federated States of Micronesia were enacted during the Eighth FSM Congress.

Proposed Section 122
Under the bill as introduced, the proposed amendment provides that in the absence of the President, the senior Vice President, or any other Vice President in the order specified in the bylaws, shall perform the duties assigned by the President, and when so acting shall perform only the assigned powers delegated by the President during the his or her absence.

The current law is NOT restrictive because during the actingship period of any senior Vice President or any other Vice President, he or she performs all the duties of the President.

Proposed Section 125
Under the bill as introduced, Board members would not be prohibited from borrowing from the Bank. They would, however, be prevented from voting on any loan in which they had an interest, as provided in this section 125 of title 30 of the FSM Code. For officers of the Bank, they are still prohibited from borrowing from the Bank.

This is a change from the current law, which forbids loans to Board members. The reason is that many qualified business people would not be willing to serve on the Board if that would make them ineligible to obtain a loan.

During the enactment of section 125 of title 30 of the FSM Code, the Committee on Resources and Development then was of the opinion that borrowing by Board members could lead to abuse, and could cause the public to lose confidence in

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the Bank. That is the reason why there was a restriction on borrowing by Board members.

Proposed Section 126
Under the bill as introduced in section 126, all Board members shall receive an honorarium of such sum as determined by the Board regardless whether you are a Government employee or not. As long as you are a Board member, you are eligible to receive an honorarium of such sum to be determined by the Board.

Your Committee wishes to offer a technical amendment to the bill as follows:

1. Page 1, line 14, delete "including", and insert "include" in lieu thereof.

CONCLUSION

Your Committee on Resources and Development is in accord with the intent and purpose of C.B. No. 21-288 and recommends its passage on First Reading and that it be placed on the Calendar for Second and Final Reading in the form attached hereto as C.B. No. 21-288, C.D.1.

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Respectfully submitted,

Dion G, Neth, chairman

Aren Palik, vice chairman

Tiwiter Aritos, member

Peter M. Christian, member

Isaac V. Figir, member

Victor V. Gouland, member

Derensio S. Konman, member

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TWENTY-FIRST CONGRESS OF THE FEDERATED STATES OF MICRONESIA

FIFTH REGULAR SESSION, 2020 C.B. NO. 21-288, C.D.1

A BILL FOR AN ACT

To further amend title 30 of the Code of the Federated States of Micronesia (Annotated), as amended, by amending sections 122, 125 and 126 therein, to designate the management and operation of the FSM Development Bank, to permit directors to borrow from the Bank, to provide payment of honoraria to all directors, and for other purposes.

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

Section 1. Title 30 of the Code of the Federated States of Micronesia (Annotated), as amended, is hereby amended by amending section 122, to read as follows:

"Section 122. Officers of the Bank.

The officers of the Bank shall consist of a President, a senior Vice President, a Secretary/Treasurer (or a Secretary and a Treasurer), and such other officers, including one or more junior Vice Presidents, as may be specified in the bylaws of the Bank. The President and senior Vice President shall be appointed by and serve at the pleasure of the Board. All other officers shall be appointed and serve for such terms as may be specified in the bylaws. The duties and responsibilities of the President and Vice President(s) [~~including~~] include, but are not limited to the following:

(1) President. Subject to the control of the Board, and to the extent delegated by the Board, the Chairman, the President shall be the chief executive officer of

the Bank and shall have the general supervision, direction and control of the business and officers of the Bank. The President shall be delegated the duties and responsibilities of the day-to-day management and operation of the Bank. The President shall be an *ex officio* member of the Board, with full voting and other rights, except that the President may not hold the office of Chairman or Vice Chairman. The President shall have the general powers and duties of management usually vested in the office of the President of a corporation engaged in the banking business.

(2) Vice President(s). In the absence of the President, the senior Vice President, or any other Vice President in the order specified in the bylaws, shall perform [~~all~~] the duties [~~of~~] assigned by the President [~~except that of ex officio director,~~] and when so acting shall have [~~all~~] the assigned powers of, and be subject to all the restrictions imposed upon, the President."

Section 2. Title 30 of the Code of the Federated States of Micronesia (Annotated), as amended, is hereby amended by amending section 125, to read as follows:

"Section 125. Acts affecting personal financial interest.

No director or officer of the Bank shall participate personally and substantially in the making of any

decision relating to any application for a loan or other commitment from or through the Bank in which, to his knowledge, he, his spouse, child, close relatives, partner, organization in which he or she is serving as officer, directors, trustee, partner, or employees, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment has a financial interest. No [~~director or~~] officer of the Bank shall be eligible to borrow money from or through the Bank, or to assume responsibility in whole or in part under a guarantee or indemnity or by the deposit of a security to the Bank in respect of a debt or obligation of a third party."

Section 3. Title 30 of the Code of the Federated State of Micronesia (Annotated), as amended, is hereby amended by amending section 126, to read as follows:

"Section 126. Expenses and honoraria.

Directors shall be entitled to necessary travel expenses while on the business of the Bank. All Directors [~~may~~] receive an honorarium of such amount as [~~may be~~] determined by the Board. [~~Government employees shall not be entitled to an honorarium for attending Board meetings during normal hours of employment.~~]"

Section 4. 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: 9/11/20

Introduced by: /s/ Dion G. Neth
Dion G. Neth