

TWELFTH CONGRESS OF THE FEDERATED STATES OF MICRONESIA

FIRST SPECIAL SESSION, 2001

CONGRESSIONAL BILL NO. 12-35, C.D.1

AN ACT

To authorize the FSM to borrow approximately \$13,017,158 from the Asian Development Bank and relend approximately \$9,238,520 to the States for the purpose of funding private sector development programs and projects; to authorize a future appropriation of up to \$13,017,158 for repaying the amounts borrowed; to transfer funds presently in the National Government Employee's Early Retirement Fund to the new External Debt Management Fund created by section 667 of title 55 of the Code of the FSM; and for other purposes.

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

1 Section 1. Definitions.

2 As used in this act:

3 (1) "External Debt Management Fund" means the fund created by
4 section 667 of title 55 of the Code of the Federated States of
5 Micronesia ("FSM").

6 (2) "Trust Account" means the trust account created in the name
7 of a State pursuant to the existing Financing Agreement between the
8 National Government and the State with respect to the Public Sector
9 Reform Program loan from the Asian Development Bank (the "Bank").

10 Section 2. Authorization. The President (the "President") of the
11 Federated States of Micronesia (the "FSM") is hereby authorized to
12 borrow money from the Bank and relend a portion thereof to the States
13 as provided hereinafter. The borrowing shall be by way of two loans; a
14 program loan and a project loan.

15 Section 3. Amounts.

16 (1) The total amount to be borrowed from the Bank is the

1 equivalent in SDRs (Special Drawing Rights) of the Bank, as of such
2 point in time as the Bank and the President shall agree, of up to
3 approximately \$13,017,158. Of that amount, \$5,000,000 shall be lent
4 under the program loan and \$8,017,158 shall be lent under the project
5 loan.

6 (2) From the proceeds of the program loan, the National
7 Government may relend to the State Governments, and/or retain for its
8 own use, the following approximate amounts, subject to the rate of
9 exchange of the SDRs at the time of disbursement:

	<u>1st Tranche</u>	<u>2nd Tranche</u>	<u>Total</u>
11 (a) Chuuk	\$650,000	\$650,000	\$1,300,000
12 (b) Kosrae	400,000	400,000	800,000
13 (c) Pohnpei	550,000	550,000	1,100,000
14 (d) Yap	400,000	400,000	800,000
15 (e) Natl. Gov.	500,000	500,000	1,000,000
16 (f) Total	2,500,000	2,500,000	5,000,000

17 (3) From the proceeds of the project loan, the National
18 Government may relend to the State Governments, or retain for its own
19 use, the following approximate amounts, subject to the rate of exchange
20 of the SDRs at the time of disbursement:

21 (a) Chuuk.....	\$	1,779,920
22 (b) Kosrae.....		1,261,080
23 (c) Pohnpei.....		993,980
24 (d) Yap.....		1,203,540

1 (e) Natl. Gov..... \$ 2,778,638
2 (f) Total..... 8,017,158

3 Section 4. Financial terms.

4 (1) The program loan from the Bank and each of the loans
5 thereunder by the National Government to the States shall:

6 (a) provide for disbursement in two separate drawdowns or
7 "Tranches";

8 (b) have an eight (8) year grace period for the repayment
9 of principal;

10 (c) bear interest at the rate of 1% per annum during the
11 grace period and 1.5% per annum thereafter; and

12 (d) provide for the repayment of principal over a sixteen
13 (16) year period commencing at the end of the grace period.

14 (2) The project loan from the Bank and each of the loans
15 thereunder by the National Government to the States shall:

16 (a) have an eight (8) year grace period for the repayment
17 of principal;

18 (b) bear interest at the rate of 1% per annum during the
19 grace period and 1.5% per annum thereafter; and

20 (c) provide for the repayment of principal over a twenty-
21 four (24) year period commencing at the end of the grace period.

22 Section 5. Use of proceeds. The proceeds of the loan will be
23 used for the exclusive purpose of facilitating development of the
24 private sector in the FSM, as more fully set forth in the loan

1 agreement between the FSM and the Bank.

2 Section 6. Relending conditions.

3 (1) Relending of loan proceeds to a State shall be by way of
4 Program and Project Relending Agreements between the National
5 Government and the State which, taken together shall:

6 (a) place the foreign exchange risk on the State until the
7 estimation and transfer process called for in subsection (c) below, and
8 on the National Government thereafter;

9 (b) amend provisions relating to the Trust Account so as to
10 permit and require that Trust Account to be used, in conjunction with
11 the External Debt Management Fund, for repayment of the Public Sector
12 Reform Program Loan, the present program and project loans and possibly
13 other loans to the State;

14 (c) provide for annual estimation of the amount
15 conservatively estimated to be needed as a sinking fund for repayment
16 of all loan proceeds advanced to the State since the last such
17 estimate, followed by transfer of the amount so estimated from the
18 Trust Account to the External Debt Management Fund;

19 (d) provide for disbursement to the State of funds
20 remaining in the Trust Account after five years if and when all loans
21 to be repaid from the Trust Account have been disbursed;

22 (e) provide that from, and after completion of, each annual
23 estimation and transfer process called for in subsection (c) of this
24 section, the National Government shall bear the risk that funds in the

1 Trust Account and the External Debt Management Fund may not be
2 sufficient to repay all the loans intended to be repaid therefrom and
3 the State shall be released from liability for any such shortfall
4 except as otherwise expressly provided in the Relending Agreements;

5 (f) contain such other provisions as the President or the
6 Bank may require; and

7 (g) are specifically and properly authorized by the
8 Legislature of the State.

9 (2) Except as provided herein, or in the loan agreements with
10 the Bank, the form of the Relending Agreement with respect to a
11 particular loan from the Bank, shall be the same for all States so as
12 to assure that no State receives preferential treatment over any other
13 State.

14 Section 7. Delegations.

15 (1) While the President shall remain involved and informed, he
16 may delegate:

17 (a) to the Secretary of the Department of Finance and
18 Administration, the authority to negotiate the loan agreements with the
19 Bank, the Relending Agreements with the States, and other relevant
20 documents;

21 (b) to the Secretary of the Department of Finance and
22 Administration, the authority, to sign any such documents on behalf of
23 the National Government;

24 (c) to the FSM's representative on the Board of the Bank in

1 Manila, the authority to sign agreements between the Bank and the
2 National Government on behalf of the FSM; and

3 (d) to such officials as the President deems appropriate,
4 the authority to administer various portions of the programs and
5 projects funded by the loans from the Bank.

6 (2) The right to delegate the performance of an act to a person
7 includes the right to ratify the performance of that act by that person
8 after the fact.

9 Section 8. Appropriation of loan proceeds.

10 (1) If and to the extent that such an appropriation is
11 necessary, all sums directly or indirectly received as proceeds of the
12 project loan from the Bank are hereby appropriated for the purpose of
13 funding private sector development projects to the extent and in the
14 manner specified in the project loan agreement. Such funds may not be
15 obligated until received from or made available by the Bank.

16 (2) If and to the extent that such an appropriation is
17 necessary, all sums directly or indirectly received as proceeds of the
18 program loan from the Bank and intended for the use of a State are
19 hereby appropriated for the purpose of funding programs or projects in
20 that State to the extent and in the manner specified in the program
21 loan agreement. Such funds may not be obligated until they have been
22 received from or made available by the Bank and until their use has
23 been further specified through appropriation legislation in the State.

24 (3) Proceeds of the program loan which are intended for the

1 use of the National Government shall be subject to appropriation by the
2 Congress of the FSM in one or more separate appropriation acts.

3 Section 9. Repayment authorization. The sum of up to \$13,017,158
4 is hereby authorized to be appropriated in future years for repaying
5 the loans from the Bank if and to the extent that the State Trust
6 Accounts referred to in section 5 of this act and the External Debt
7 Management Fund are insufficient to repay the loan.

8 Section 10. Allotment and management of funds and lapse date.

9 (1) All funds appropriated by this act shall be allotted,
10 managed, administered, and accounted for in accordance with applicable
11 law, including, but not limited to, the Financial Management Act of
12 1979. The allottee shall be responsible for ensuring that these funds,
13 or so much thereof as may be necessary, are used solely for the purpose
14 specified in this act and that no obligations are incurred in excess of
15 the sum appropriated.

16 (2) The authority of the allottee to obligate funds appropriated
17 by this act shall not lapse.

18 Section 11. This act shall become law upon approval by the
19 President of the Federated States of Micronesia or upon its becoming
20 law without such approval.

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December 3, 2001

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/s/ Leo A. Falcam

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Leo A. Falcam

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President

Federated States of Micronesia