

NINTH CONGRESS OF THE FEDERATED STATES OF MICRONESIA

FIFTH SPECIAL SESSION, 1997 CONGRESSIONAL BILL NO. 9-310, C.D.1, C.D.2
PUBLIC LAW NO. 9-154

AN ACT

To authorize the FSM to borrow approximately \$18,000,000 from the ADB and relend \$15,000,000 to the States for the purpose of funding early retirement programs, and for other purposes.

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

Section 1. Authorization. The President of the Federated States of Micronesia is hereby authorized to borrow money from the Asian Development Bank (the "Bank") and relend a portion thereof to the States as provided hereinafter.

Section 2. Amounts. The amount to be borrowed from the Bank is the equivalent in SDRs (Special Drawing Rights) of the Bank, as of such point in time as the Bank and the President may agree, of up to \$18,000,000. The National Government will assume the risk of gain or loss in the exchange rate between SDRs and U.S. dollars and will relend to the State Governments in U.S. dollars, or retain for its own use, the loan proceeds from the Bank as follows:

	<u>1st Drawdown</u>	<u>2nd Drawdown</u>	<u>Total</u>
(1) Chuuk	\$ 3,000,000	\$ 2,300,000	\$ 5,300,000
(2) Kosrae	1,000,000	1,000,000	2,000,000
(3) Pohnpei	2,500,000	1,700,000	4,200,000
(4) Yap	2,000,000	1,500,000	3,500,000
(5) FSM	<u>1,500,000</u>	<u>1,500,000</u>	<u>3,000,000</u>
Total	10,000,000	8,000,000	18,000,000

Section 3. Financial Terms. The loan from the Bank and each of the loans to the States shall:

- (1) Provide for disbursement in two separate drawdowns;

(2) Be interest-free but bear a service charge of 1 percent per year;

(3) Have a 10-year grace period for repayment of the principle; and

(4) Provide for repayment of the principle over a 30-year period commencing at the end of the grace period.

Section 4. Use of Proceeds. The loan will be for the purpose of facilitating the early retirement component of the public sector reform program of each of the participating State and National Governments. Loan proceeds may be used solely to fund the cost of the severance packages and the cost of training directly related to the early retirement of employees from government service and other government restructuring pursuant to early retirement legislation enacted by each of the participating governments.

Section 5. Relending Conditions.

(1) Relending of proceeds to a State shall be by way of a Financing Agreement between the National Government and the State which:

(a) requires the establishment of a separate trust account within the national investment portfolio, for the benefit of the State but under the control of the Secretary of Finance, into which the State must gradually deposit, by September 30, 2001, and thereafter maintain, a sum not less than the principal balance which it owes;

(b) grants to the National Government an unconditional security interest in the State's share of section 211 block grants and section 217 inflation adjustments under the Compact of Free Association and in the State's share of national tax revenues;

(c) binds the State to the set-off provisions of section 3 of Public Law No. 9-136;

(d) contains such other provisions as the President or the Bank may require; and

(e) is specifically and properly authorized by the legislature of the State.

(2) Except as provided herein or in the loan agreement with the Bank, the form of the Financing Agreement shall be the same for all States so as to assure that no State is preferred over any other State.

Section 6. Delegations.

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

(a) to the Secretary of Finance the authority to negotiate the loan agreement with the Bank, the Financing Agreements with the State, and any other relevant documents;

(b) to the Secretary of Finance the authority to sign any such documents on behalf of the National Government;

(c) to the FSM's representative on the Board of the Bank in Manila the authority to sign agreements between the Bank and the National Government; and

(d) to such officials as the President deems appropriate the authority to administer various portions of the early retirement program.

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

Section 7. Appropriation of Loan Proceeds. If and to the extent that such an appropriation is necessary, all sums directly or indirectly received as proceeds of the loan from the Bank are hereby appropriated to the Retirement Fund created in the National Government's early retirement legislation for the purpose of implementing the Early Retirement Program of the National Government and relending to the States pursuant to this act. Such funds may not be obligated until received from or made available by the Bank.

Section 8. Repayment Authorization. The sum of up to the equivalent of \$18,000,000 in SDRs is hereby authorized to be appropriated in future years when and as necessary for repaying the loan from the Bank.

Section 9. Reporting. The President shall keep the Congress informed of the progress being made in implementing this act.

Section 10. 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 allottee shall be responsible for ensuring that these funds, or so much thereof as may be necessary, are used solely for the purpose specified in this act, and that no obligations are incurred in excess of the sum appropriated. The authority of the allottee to obligate funds appropriated by this act shall not lapse.

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

April 25 _____, 1997

for /s/ Jacob Nena
Bailey Olter
President
Federated States of Micronesia