

AN ACT

To authorize the National Government of the FSM to borrow the sum of 7,233,000 Special Drawing Rights (approximately \$10,600,000) from the ADB and relend certain portions thereof to the States for the purpose of water supply and sanitation projects therein; to amend title 55 of the Code of the Federated States of Micronesia by adding a new subchapter IX to establish an ADB Water Loan Fund; to appropriate proceeds of the loan; to appropriate the sum of \$772,100 from the General Fund of the Federated States of Micronesia for the fiscal year ending September 30, 1997, to finance the portion of the local cost-sharing component of the Project which is attributable to the FSM; to authorize future appropriation of up to \$10,600,000 for repaying the loan; and for other purposes.

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

Section 1. Title. This act may be referred to as the "ADB Water Project Authorization Act".

Section 2. Definitions. Unless otherwise defined or required by the context, terms used in this act shall have the following meanings:

(1) "Bank" means the Asian Development Bank.

(2) "Congress" means the Congress of the FSM.

(3) "FSM" means the Federated States of Micronesia.

(4) "Financing Agreement" means a three-party agreement between the FSM, a State, and utility company within that State in substantially the form heretofore submitted to Congress and labeled "Congress Draft".

(5) "Loan Agreement" means the Loan Agreement (Special Operations) (Water Supply and Sanitation Project) between the FSM and the Bank in substantially the form heretofore submitted to Congress and labeled "Negotiated Draft 14/viii/96".

(6) "President" means the President of the FSM or his designee, or in the absence of the President, the Vice President of the FSM or his designee.

(7) "Project" means the water supply and sanitation project contemplated by the Loan Agreement.

(8) "State" means a state of the FSM.

Section 3. Borrowing Authorization. Congress hereby authorizes the President to execute the Loan Agreement, borrow money from the Bank as provided for therein, and otherwise exercise the rights and perform the obligation of the FSM therein, all in the name of and on behalf of the FSM.

Section 4. Relending Authorization. Congress hereby authorizes the President to execute a Financing Agreement with each of the States, relend money to each State

as provided for therein, and otherwise exercise the rights and perform the obligations of the FSM therein, all in the name of and on behalf of the FSM. Said Agreement shall not allow the acceleration or calling in of a State's loan unless that State shall have materially defaulted or such call for acceleration is necessitated by a call or acceleration by the Bank of its loan to the FSM.

Section 5. Repayment Provisions. Title 55 of the Code of the FSM, as amended, is hereby further amended by adding a new subchapter IX entitled "ADB Water Loan Fund".

Section 6. Title 55 of the Code of the FSM, as amended, is hereby further amended by adding a new section 660 of subchapter IX to read as follows:

"Section 660. Establishment. There is hereby created and established the ADB Water Loan Fund, separate from the General Fund of the FSM and all other funds."

Section 7. Title 55 of the Code of the FSM, as amended, is hereby further amended by adding a new section 661 of subchapter IX to read as follows:

"Section 661. Purpose. The purpose of the Fund is to provide an ongoing revolving fund for the receipt and disbursement of funds associated with the Loan Agreement (Special Operations) (Water Supply and Sanitation Project) between the Federated States of Micronesia and the Asian Development Bank (hereinafter referred to in this subchapter as the 'Loan Agreement')."

Section 8. Title 55 of the Code of the FSM, as amended, is hereby further amended by adding a new section 662 of subchapter IX to read as follows:

"Section 662. Deposits. All revenues received pursuant to the Loan Agreement, the Financing Agreements whereby proceeds of the loan are relent to the States, any appropriation heretofore or hereafter made for purpose of facilitating repaying of the loan or execution of the project identified in the Loan Agreement, and any and all revenue from any and all other sources associated with the subject matter of the Loan Agreement, including investment earnings on sums in the Fund, shall be deposited in the Fund."

Section 9. Title 55 of the Code of the FSM, as amended, is hereby further amended by adding a new section 663 of subchapter IX to read as follows:

"Section 663. Disbursement. The Secretary of Finance is hereby authorized to make disbursements from moneys available in the Fund, without further authorization or appropriation of the Congress of the Federated States of Micronesia, for the purpose of execution of the project identified in the Loan Agreement, repayment of the proceeds of the loan, interest on the loan, and any and all other charges or fees associated with the loan as set forth in the Loan Agreement.

Unexpended moneys in the Fund shall not revert to the General Fund nor lapse at the end of the fiscal year; PROVIDED, however, that upon final payment and satisfaction of the loan, all unexpended moneys in the Fund shall revert to the General Fund, except that unexpended monies earned by the Fund on the investment of a State or utility's payment into the Fund shall be distributed to the State."

Section 10. Title 55 of the Code of the FSM, as amended, is hereby further amended by adding a new section 664 of subchapter IX to read as follows:

"Section 664. Administration. The Fund shall be administered by the Secretary of Finance of the Federated States of Micronesia, who shall administer the Fund in accordance with the Loan Agreement, applicable law, generally accepted accounting standards, and sound financial practices for the effectuation and implementation of the provisions of this subchapter."

Section 11. Title 55 of the Code of the FSM, as amended, is hereby further amended by adding a new section 665 of subchapter IX to read as follows:

"Section 665. Annual Report. The President or his designee shall report to the Congress of the Federated States of Micronesia and to the Governor of each participating State on the status of the Fund at the close of each fiscal year."

Section 12. 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 contemplated under the Loan Agreement are hereby appropriated to the ADB Water Loan Fund for the purpose of implementing the Project. Such funds may not be obligated until received from or made available by the Bank.

Section 13. Other Appropriation. The sum of \$772,100, or so much thereof as may be necessary, is hereby appropriated from the General Fund of the FSM for the

fiscal year ending September 30, 1997, to the ADB Water Loan Fund, to be used to finance the local cost-sharing component (counterpart support) attributable to the FSM National Government under the Loan Agreement and Financing Statements.

Section 14. Repayment Authorization. The sum of up to \$10,600,000 is hereby authorized to be appropriated in future years when and as necessary for repaying the loan from the Bank.

Section 15. 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 purposes specified in this act, and that no obligations are incurred in excess of the sums appropriated. The authority of the allottee to obligate funds appropriated by this act shall not lapse.

Section 16. This act shall become law upon approval by the President of the Federated States of Micronesia for upon its becoming law without such approval.

January 23, 1996

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