
AN ACT

Authorizing the Governor to borrow up to \$4.5 million dollars through the Medium Term Note Program to fund Chuuk State Tuna Packing and Cannery projects as authorized under Chuuk State Law No. 193-06, and for other purposes.

BE IT ENACTED BY THE CHUUK STATE LEGISLATURE:

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2 Section 1. Purpose. The purpose of this Act is to
3 authorize the State to borrow funds pursuant to the National
4 Compact Funds Financing Act, such borrowing to be secured by
5 the State's Pledged Compact Funds. The specific category and
6 amount of Compact Funds that may be pledged as security shall
7 be as set forth under this Act, specifically including
8 Sections 3 and 12.

9 Section 2. Definitions. Unless the context clearly
10 indicates otherwise, the following definitions apply to terms
11 used in the Act.

12 A. "Bond": any bond, note or other evidence of
13 indebtedness issued under the National Compact Funds
14 Financing Act, including any evidence of indebtedness for
15 money borrowed from commercial banks or similar financial
16 institutions and any reimbursement obligation to a
17 provider of credit enhancement;

18 B. "Bond Repayment Fund": the fund created in
19 Section 624 of Title 55 of the FSM Code to provide for
20 the deposit and disbursement of funds pledged by a state
21 government and/or the National Government which
22 participates in a borrowing;

23 C. "Committee": the Committee referred to in
24 Section 524 of Title 58 of the FSM Code;

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1 D. "Compact": the Compact of Free Association
2 between the FSM and the United States of America and its
3 attendant agreements;

4 E. "Credit Enhancement": bond insurance, letter of
5 credit or similar credit enhancement instruments;

6 F. "Financing Program": the Medium Term Note
7 Program and any other program for borrowing established
8 or permitted by the National Compact Funds Financing Act
9 and this Act, including without limitation, programs
10 involving public offering or private placement of bonds
11 for direct borrowing from commercial banks or similar
12 financial institutions;

13 G. "FSM": the Federated States of Micronesia;
14 other instrument pursuant to which the Bonds shall be
15 issued, as approved by a Resolution of the Committee;

16 I. "National Compact Funds Financing Act" or
17 National Act": Section 511 et sec. of Title 58 of the
18 FSM Code, as amended, and including any amendments that
19 may be adopted hereafter;

20 J. "Pledged Compact Funds": the amount payable
21 under the Compact which the President is authorized to
22 pledge to the payment of the bonds following legislative
23 action by the FSM and the State;

24 K. "Pledged Funds": the pledged Compact Funds
25 and/or other pledged moneys, and investment earnings
26 thereon;

27 L. "President": the President of the FSM or his
28 lawfully and properly appointed designed;

29 M. "Resolution": the resolution or resolutions of
30 the Committee authorizing the issuance and sale of Bonds

1 on the terms and conditions, and substantially in the form,
2 approved therein or pursuant to procedures provided therein;

3 N. "Security": the FSM Secretary of Finance;

4 O. "State": the State of Chuuk; and

5 P. "Trustee": the FSM fiscal Agent appointed as
6 such in the Indenture pursuant to the National Act,
7 and any successors or assigns, who will act as such for
8 the benefit of the holders of the bonds.

9 Section 3. Authority to borrow. The State is hereby
10 authorized to participate in a borrowing under the Medium Term
11 Note Program and any other program for borrowing established
12 or permitted by the National Compact Funds Financing Act
13 including, without limitation, programs involving public
14 offering or private placement of bonds or direct borrowing
15 from commercial banks or similar financial institutions. The
16 specific amount that may be pledged and used to cover the
17 costs of borrowing shall be as set forth under this Act.

18 Section 4. Authority of State Officials. When the
19 specific amount that may be pledged and used to cover the
20 costs of borrowing is authorized by statute:

21 A. The Governor, the Director of the Department of
22 Treasury, or the Governor's designee, if any, to the
23 Committee, and the Attorney General are authorized to
24 perform the functions and duties described in the
25 National Act. In the case of the Attorney General, he is
26 specifically authorized to provide the legal opinion
27 described in the National Act.

28 B. Without limiting the foregoing, the Governor may
29 authorize the pledge of security necessary to secure the
30 borrowing, to satisfy any financial obligations

1 attributable to the State related to or resulting from such
2 borrowing, and to pledge such additional security as may be
3 necessary to protect the FSM Government and any non-
4 participating state against any loss arising in connection
5 with the State's participation in a financing program;
6 provided, however, that the Governor may take such actions
7 only with respect to specific amounts stated in Section 12 of
8 this Act.

9 C. The Governor is also authorized to enter into an
10 agreement or agreements with the Secretary and any
11 lending institution regarding the disbursement of
12 proceeds of bonds and earnings thereon or the proceeds of
13 borrowing from commercial banks or similar financial
14 institutions and regarding the payment of all financial
15 obligations attributable to the State related to or
16 resulting from the borrowing.

17 Section 5. Delegation of authority to the President.

18 When the specific amount to be pledged and used to cover the
19 costs of borrowing is known, the Governor may issue a written
20 certification to the President that specifies the amount and
21 source of funds or other security to be used to secure a
22 borrowing and to cover the costs of borrowing. When the
23 anticipated project costs and/or the anticipated costs of
24 borrowing is/are less than the amount State law allows to be
25 borrowed, then the amount certified by the Governor may be the
26 lesser amount. Upon receiving the Governor's certification,
27 the President is authorized to make irrevocable pledge(s) of
28 the amounts of Compact Funds specified in the Governor's
29 certificate (including any investment earnings therefrom) that
30 would otherwise be payable to the State, or irrevocable

1 pledge(s) of other security. The President shall not make any
2 such pledge except to secure a borrowing of funds on behalf of
3 the State. The pledge shall secure payment of the bonds or
4 funds borrowed, costs and expenses and all other financial
5 obligations resulting from or relating to the Financing
6 Program that are not otherwise paid. The President shall
7 also be authorized to make the necessary payments from the
8 pledged amounts for the purpose of and to the extent required
9 to satisfy all financial obligations attributed to the State
10 related to or resulting from the Financing Program. The
11 President shall certify to the Governor in writing the amount
12 actually so pledged and the amount authorized but not actually
13 pledged. Any funds that are authorized to be pledged by
14 statute but that are not actually pledged or used to satisfy
15 such financial obligations shall remain as funds of the State.

16 Section 6. Compact Funds. When the specific amount to
17 be pledged and to be used to cover the cost of borrowing is
18 known, and the Governor has issued a written certification to
19 the President as provided in Section 5 of this Act, and the
20 proceeds of the Financing Program have been actually
21 constructively received by the State, then the State consents
22 to and authorizes a reduction in the amount of Compact Funds
23 received or to be received on behalf of the State through the
24 Compact Financial Assistance Fund, with such reduction being
25 commensurate with the amount of Compact funds pledged by the
26 State, and irrevocably waives all rights to the receipt of
27 such Pledged Compact Funds.

28 Section 7. Indemnification.

29 A. Recognizing the complexity of any Financing
30 Program pursued under this Act and the National Act, the

1 State indemnifies and holds harmless all officers, employees
2 or other agents of the State, acting for on behalf of the
3 State from any and all claims, causes of action, demands,
4 losses, costs, or damages including all court costs and
5 attorney's fees, regardless of whether suit is actually
6 brought (hereinafter called "claims") arising from or relating
7 to any act or omission directly or indirectly related to the
8 matters contained in this Act or the National Act, or related
9 to the establishment or implementation of any Financial
10 Program. The State accepts tender of defense upon demand and
11 immediately reimburses any payment of claims by the officer,
12 employees or other agent of the State.

13 B. This indemnification and hold harmless covers
14 claims that are foreseeable and unforeseeable, whether
15 the act or omission is deemed to be within or outside the
16 scope of employment or responsibility, and whether caused
17 by negligence or recklessness of any degree, or
18 otherwise. Moreover, without limitation, this
19 indemnification and hold harmless specifically applies to
20 the Attorney General with respect to any opinion or
21 advice which may be required or rendered. This
22 indemnification and hold harmless does not apply to any
23 criminal acts.

24 Section 8. Taxes. In accordance with the National Act,
25 neither the State nor any political subdivision thereof will
26 impose any tax, assessment or levy on or related to a
27 borrowing under any Financing Program.

28 Section 9. Waiver of Sovereign Immunity.

29 A. Notwithstanding any other law to the contrary,
30 the State hereby waives its sovereign immunity but only

1 to the extent necessary to permit the National Government or
2 any other state of the FSM to bring an action and execute a
3 judgment as to any assets of the State based on any loss
4 arising in connection with the State's participation in a
5 Financing Program.

6 B. The State specifically asserts and establishes
7 its sovereign immunity from any other suit, judgment or
8 execution with respect to any matter or action taken
9 pursuant to this Act or the National Act. Except as
10 expressly authorized by subsection (A) of this Section or
11 as expressly authorized by other state law, the State
12 does not waive its sovereign immunity regarding the
13 aforementioned matters or actions.

14 Section 10. Alteration of rights. After the issuance of
15 any bonds the State does not limit or alter, or seek to limit
16 or alter the rights thereby vested pursuant to the indenture
17 including, without limitation, the irrevocable pledge by the
18 President of pledged Compact funds, until the bonds, together
19 with interest and premium, if any, thereon, are fully paid and
20 discharged; provided, however, that nothing herein contained
21 shall preclude such limitation or alteration if and when
22 adequate provision is made in accordance with the term of the
23 indenture for protection of the holders of the bonds. The FSM
24 is authorized to make this undertaking for the State in the
25 bonds and the Indenture.

26 Section 11. Authorization to debit certain expenses.
27 The Governor is authorized to approve, without further
28 authorization or appropriation, the debiting of the Compact
29 Financial Assistance Fund account of the State of Chuuk, as
30 established by the Agreement on Internal Budget and Finance

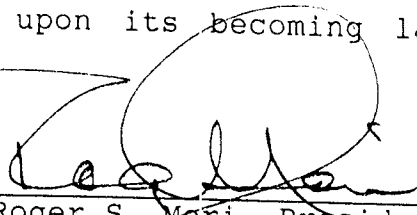
1 Procedures under the Compact of Free Association between the
2 National Government and the State Governments of the Federated
3 States of Micronesia, for expenses, including trustee fees,
4 associated with a borrowing by the State under the National
5 Compacts Financing Act.

6 Section 12. Authorization to Borrow. In order to secure
7 such borrowing, the Governor is authorized to authorize the
8 President to make an irrevocable pledge of up to \$5,359,198.00
9 in future Compact Funds and any investment earnings thereon
10 that would otherwise be payable to the State Government,
11 PROVIDED, that he must follow the procedures contained in the
12 Compact Funds Financing Act, and PROVIDED FURTHER, that the
13 amount of such pledge shall not exceed the following amounts
14 and the investment earnings thereon from Chuuk State's share
15 of Funds under the Compact of Free Association:

<u>FISCAL YEAR</u>	<u>COMPACT ACCOUNT</u>	<u>MAXIMUM</u>
<u>AMOUNT</u>		
18 1995	Sec.211(a) Capital Acct.	162,098
19 1996	Sec.211(a) Capital Acct.	300,800
20 1997	Sec.211(a) Capital Acct.	2,237,300
21 1998	Sec.211(a) Capital Acct.	1,622,950
22 1999	Sec.211(a) Capital Acct.	1,036,050

23 Section 13. Relationship to other laws. The provisions
24 of this Act shall apply notwithstanding any contrary provision
25 of the Chuuk State Financial Management Act.

26 Section 14. Effective Date. This Act shall take effect
27 upon approval by the Governor, or upon its becoming law
28 without such approval.

Signed by: 
Roger S. Mori, President
Senate
Chuuk State Legislature

Attested:

Datasi Albert, Chief Clerk
Senate
Chuuk State Legislature

Date: October 21, 1994

Singed by:

Kisande K. Sos, Speaker
House of Representatives
Chuuk State Legislature

Attested:

Herter Sorim, Chief Clerk
House of Representatives
Chuuk State Legislature

Date: October 21, 1994

Approved by:

Sasao H. Gouland
Governor
Chuuk State Government

Date: 11/11/94

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S.S.C.R.NO.2-2R-41