

SIXTH CONGRESS OF THE FEDERATED STATES OF MICRONESIA

FIRST SPECIAL SESSION, 1989

CONGRESSIONAL BILL NO. 6-76, C.D.1, C.D.2

Public Law No. 6 - 38

AN ACT

To establish a program to assist the States to prevent, prepare for, and recover from natural and man-made disasters, to repeal chapter 7 of title 41 of the Code of the Federated States of Micronesia, and for other purposes.

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

1 Section 1. Short title. This act is known and may be cited as
2 the "Disaster Relief Assistance Act of 1989."

3 Section 2. Findings and intent.

4 (1) The Congress of the Federated States of Micronesia
5 finds and declares that:

6 (a) Natural and man-made disasters kill and injure
7 people, disrupt communities and the workings of government, destroy
8 and damage property, cut off income and cause suffering of other
9 kinds; and

10 (b) Due to the severe impact of disasters, the
11 resources of the States are oftentimes inadequate to cope with them
12 so that the States require the assistance of the National Government
13 and other sources of available aid to restore devastated areas.

14 (2) Therefore the Congress of the Federated States of
15 Micronesia intends by this act to:

16 (a) Provide for a permanent, orderly program of
17 National Government assistance to the States and local governments in
18 carrying out their responsibilities to alleviate suffering and damage
19 which result from disasters by:

20 (i) Upgrading and broadening the scope of
21 existing disaster relief programs;

22 (ii) Encouraging the development of comprehensive

1 disaster preparedness and assistance plans, programs, capabilities,
2 and organizations by the States and local governments;

3 (iii) Encouraging the adoption of hazard mitigation
4 measures to minimize losses from disasters, including development of
5 land use and construction regulations;

6 (iv) Achieving greater coordination and respon-
7 siveness of disaster preparedness and relief programs; and

8 (v) Providing National Government assistance for
9 losses sustained as a result of a disaster.

10 (b) Authorize the President to establish a program
11 of disaster preparedness, assistance and relief that utilizes the
12 services of all appropriate agencies, including the assistance from
13 the United States Federal agencies, and other foreign governments and
14 agencies providing assistance during disasters to provide for:

15 (i) Preparation of disaster preparedness plans
16 for mitigation, warning, emergency operations, rehabilitation, and
17 recovery;

18 (ii) Training and exercise;

19 (iii) Post-disaster critique and evaluation; and

20 (iv) Coordination of the National, States and
21 local preparedness programs.

22 Section 3. Definitions. As used in this act, the following
23 definitions shall apply:

24 (1) "Disaster" means the imminent threat or the occurrence
25 of widespread injury or death to persons, or severe widespread injury

1 to, or destruction of, property caused by a natural or man-made
2 catastrophe;

3 (2) "Hazardous facility" means any material, equipment, or
4 facility, public or private, which threatens loss of life or injury
5 to persons or property substantially worse, in the event of a disaster,
6 than that expected under normal conditions;

7 (3) "Man-made" means any event or activity which may cause,
8 or causes, a disaster which is the result of man's actions and not
9 through natural occurrences;

10 (4) "National Government" means the Government of the Feder-
11 ated States of Micronesia;

12 (5) "State of emergency" means a formal declaration by the
13 President in a situation where it is required to preserve public
14 peace, health, or safety, at a time of extreme emergency caused by
15 a disaster, and where the States need National and possibly inter-
16 national aid to prevent, prepare for, or recover from the disaster;
17 and

18 (6) "States" means the governments of the States of the
19 Federated States of Micronesia.

20 Section 4. Limitations. Except as otherwise provided in this
21 act, its language shall not be construed to:

22 (1) Impair a civil right during a state of emergency except
23 to the extent actually required for the preservation of peace, health,
24 or safety;

25 (2) Interfere with normal programming or the dissemination

1 of news or comment on public affairs; but any communications facility
2 or organization, including, but not limited to, radio and television
3 stations, wire services, and newspapers, may be required to transmit
4 or print public service messages furnishing information or instructions
5 in connection with a disaster;

6 (3) Impair the power of the judiciary except that the
7 declaration of a state of emergency shall be free from judicial
8 interference for 30 days after it is first issued;

9 (4) Affect the jurisdiction or responsibilities of State,
10 municipal, or local police forces, and fire fighting forces; or

11 (5) Limit, modify, or abridge the authority of the
12 President to assist the States in responding to disasters or to
13 exercise any other powers vested in him by the laws of the Federated
14 States of Micronesia, independent of, or in conjunction with, any
15 provisions of this act.

16 Section 5. Presidential authority.

17 (1) In situations where it is required to preserve public
18 peace, health, or safety, at a time of extreme emergency caused by
19 disaster, the President may declare a state of emergency. Within
20 30 days after the declaration of emergency, the Congress of the
21 Federated States of Micronesia shall convene at the call of its
22 Presiding Officer or the President to consider revocation, amendment,
23 or extension of the declaration. Unless it expires by its own terms,
24 is revoked or extended, the declaration of emergency is effective
25 for 30 days.

1 (2) The President shall also have the power to issue
2 Presidential orders as needed in a state of emergency.

3 (3) Any Presidential order issued under subsection (2) of
4 this section shall be disseminated promptly and brought to the
5 attention of both the general public and government officials
6 responsible for acting during and after any state of emergency.

7 (4) During a state of emergency, the President is
8 authorized to suspend any regulatory statutes, or any order, rule, or
9 regulation of an executive agency of the National Government. The
10 President shall exercise this authority only if strict adherence to
11 the provisions of the regulatory statute, order, rule, or regulation
12 would substantially prevent, hinder, or delay actions needed to
13 prevent, prepare for, or recover from a disaster.

14 (5) The President or his designee shall coordinate
15 National Government activities to assist the States to prevent,
16 prepare for, and recover from disasters.

17 (6) The President may request aid from the United States
18 Government and from other foreign public and private entities
19 providing disaster assistance. The President shall coordinate such
20 foreign aid with assistance provided by the National Government.

21 (7) In the event of a threatened or existing disaster, the
22 President may provide immediate assistance from the Disaster Relief
23 Fund, Public Law No. 2-64, to save lives, preserve property, and
24 protect public health and safety. The President may provide such
25 assistance by directing National Government agencies to:

1 (a) Give technical assistance and provide advisors to
2 affected States;

3 (b) Lend equipment, supplies, facilities, and
4 personnel to affected States; and

5 (c) Perform on public or private lands or waters
6 emergency services needed to save lives, preserve property, and
7 protect public health and safety.

8 Section 6. State responsibilities.

9 (1) To be eligible for National assistance pursuant to
10 this act, a State shall:

11 (a) Prepare a disaster plan meeting the standards set
12 forth in subsection (2) of section 7 of this act and the implementing
13 regulations required by that section;

14 (b) Appoint a State officer to develop and maintain
15 the State disaster plan, and recommend to the Governor measures
16 appropriate and necessary to prevent, prepare for, and recover from
17 disasters; and

18 (c) In the event of a threatened or existing
19 disaster, regularly broadcast warnings and information concerning any
20 disaster. The broadcasts shall be in both the predominant native
21 languages of the State and English. The President or his designee
22 may study the need for broadcasts in other languages and accommodate
23 such need in the regulations required by subsection (2) of section 7
24 of this act.

25 (2) If the Governor of a State determines that the State

1 needs National assistance to prevent, prepare for, or recover from
2 disasters, he may request such aid from the President. The President
3 shall assess the State's need and may render such aid as needed,
4 subject to available funds. Any State desiring to obtain disaster
5 assistance from a foreign government or organization must submit
6 such request to the President for transmission.

7 Section 7. National Government responsibilities. The President
8 or his designee shall:

9 (1) Assist the States in preparing and maintaining their
10 disaster plans and review the disaster plan prepared by each State to
11 ensure Federated States of Micronesia eligibility for funding under
12 the United States Federal Emergency Management Act.

13 (2) Promulgate rules and regulations setting forth minimum
14 requirements for the State disaster plans, in accordance with the
15 requirements of chapter 1 of title 17 of the Code of the Federated
16 States of Micronesia. Such rules and regulations shall have the
17 force and effect of law. The regulations may include, but are not
18 limited to:

19 (a) General requirements for preventing injury and
20 damage, for speedy action in response to a disaster, and for other
21 measures of emergency relief that may be necessary;

22 (b) A requirement that particularly vulnerable areas,
23 including, but not limited to, outlying islands, be identified and
24 accorded special consideration;

25 (c) Guidelines for land use regulations and building

CONGRESSIONAL BILL NO. 6-76, C.D.1, C.D.2
Public Law No. 6 - 38

1 standards that promote safety; and

2 (d) Requirements that appropriate measures be taken
3 to prevent injury and damage, such as the construction of seawalls
4 and emergency shelters.

5 (3) Create a National disaster plan incorporating features
6 of the State disaster plans. After approval by the President, the
7 National plan shall be promulgated by Presidential order.

8 (4) Survey industries, facilities, and other public and
9 private resources within the Federated States of Micronesia that may
10 be useful for carrying out the purposes of this act. The President
11 or his designee shall inform the States of the results of the survey
12 and, as needed, assist in preparing legislation to ensure governmental
13 control of such resources in the event of a threatened or existing
14 disaster. The President may, by regulation, authorize National
15 assistance to the States in compensating the owners of private
16 resources and facilities used or destroyed in the event of a
17 threatened or existing disaster, pursuant to and subject to the
18 conditions of section 9 of this act.

19 (5) Compose and maintain a register of persons in the
20 Federated States of Micronesia with training and expertise useful
21 in preventing, preparing for, and recovering from disasters. Copies
22 of the revised register shall be distributed annually to the States.

23 (6) Prepare and distribute to the States a list of foreign
24 public and private assistance programs available to them.

25 (7) Locate hazardous facilities publicly or privately

1 owned, and, as needed, assist the States in drafting provisions of
2 State disaster plans applicable to such facilities.

3 (8) Determine what means exist for speedy and efficient
4 communications in the event of a threatened or existing disaster and
5 pursue improvements as necessary to integrate or supplement such
6 communications.

7 (9) Keep abreast of weather conditions which could
8 potentially develop into a natural disaster.

9 Section 8. Restoration of National facilities.

10 (1) The President may authorize repair, restoration, or
11 replacement of any National Government facility that has been destroy-
12 ed or damaged by disaster, subject to availability of funds. The
13 authorization shall be based on a determination that the repair,
14 restoration, or replacement is so urgent that it cannot await
15 specific legislation to redress the problem.

16 (2) National Government departments and offices shall
17 assess the natural and man-made hazards that threaten their
18 facilities and shall take appropriate action to reduce or eliminate
19 such hazards.

20 Section 9. Compensation for property used or destroyed by order
21 of a State Governor.

22 (1) The National Government shall provide no aid to the
23 States to compensate persons who volunteer their services to prevent,
24 prepare for, or recover from disasters.

25 (2) If State resources are inadequate to compensate the

1 owners of private land, facilities, and other resources which the
2 Governor of the State orders used or destroyed to prepare for,
3 prevent the spread of, or recover from a disaster, National
4 assistance may be provided from the Disaster Relief Fund, Public Law
5 No. 2-64, at the discretion of the President. The Governor of the
6 affected State may submit such claims for compensation, calculated
7 according to fair market value, to the President for approval.

8 (3) The President, in reviewing a State Governor's
9 requests for compensation pursuant to this section, shall ensure that
10 no claimant receives compensation for any part of a claim for which
11 the claimant has received financial aid from other sources, including
12 insurance. Partial compensation for the claimant's loss, received
13 prior to the State Governor's request, shall not preclude National
14 aid for the remainder.

15 (4) If the President finds that National aid has
16 duplicated any part of aid otherwise received by a claimant, he shall
17 direct such claimant to pay to the Treasurer of the Federated States
18 of Micronesia the amount of such superfluous aid for deposit to the
19 Disaster Relief Fund, Public Law No. 2-64.

20 (5) The President is authorized to promulgate rules and
21 regulations to implement the purposes of this section, in accordance
22 with the requirements of chapter 1 of title 17 of the Code of the
23 Federated States of Micronesia. Such rules and regulations shall
24 have the force and effect of law.

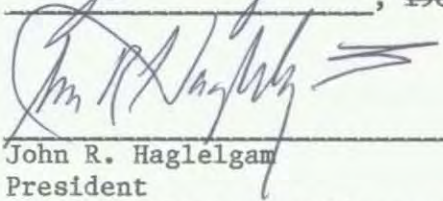
25 Section 10. No cause of action created. Nothing in this act

1 shall be construed to create or authorize any cause of action against
2 the National Government, its officials or employees for failure to
3 prevent or mitigate the effects of a disaster.

4 Section 11. Repealer. Chapter 7 of title 41 of the Code of the
5 Federated States of Micronesia is hereby repealed in its entirety.

6 Section 12. Effective date. This act shall become law upon
7 approval by the President of the Federated States of Micronesia or
8 upon its becoming law without such approval.

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

January 9, ~~1989~~ 1990


John R. Haglelgam
President
Federated States of Micronesia