

A BILL FOR AN ACT

To amend Title 18, by adding a new Chapter 8 entitled "The Reduction in Force Assistance Program" to create a fund for those state government employees subject to layoff due to a Reduction In Force; and for other purposes.

BE IT ENACTED BY THE KOSRAE STATE LEGISLATURE

1 Section 1. Purpose. The purpose of this law is to create a fund to assist state government
2 employees who are subjected to layoff due to a lack of work or lack of fund.

3 Section 2. Amendment. Title 18 of the Kosrae State Code is amended by adding a new
4 Chapter 8, as follows:

5 "Section 18.801. Short Title. Chapter 8 of Title 18 of the Kosrae State Code shall be
6 known and may be cited as the "Kosrae Reduction in Force Assistance Program".

7 Section 18.802. Purpose. The purpose of this Chapter is to assist those employees who
8 may be subject to Reduction in Force implemented to lower the cost of Kosrae State Government
9 operations due to less-than-anticipated local revenue collections and reductions in Compact
10 funding during the Compact step-down and phase-out periods.

11 Section 18.803. Findings. The State finds that:

12 (1) the State must initiate and implement cost savings measures as it faces less-
13 than-anticipated local revenues collections and certain reductions and possible future termination
14 of funds under the Compact of Free Association between the Federated States of Micronesia and
15 the United States of America; and

16 (2) the State cannot continue to provide essential public services unless cost-
17 saving and cost reduction measures are implemented immediately; and

18 (3) the State must ease the impact of the necessary cost-saving and cost-reduction
19 measures on the people of the State of Kosrae. An assistance program will help to alleviate the
20 fiscal difficulties facing the State of Kosrae.

21 Section 18.804. Definitions. As used in this Chapter, unless the context clearly requires
22 otherwise, the following definitions shall apply:

1 (1) “Base Salary” means the specific rate of pay based on a sixty-four hour bi-
2 weekly pay period, for a given pay level and step as contained within the Base Salary Schedule
3 established by the State Public Service Act of 1997 as amended.

4 (2) “Compact” means the Compact of Free Association between of the Federated
5 States of Micronesia and the United States of America.

6 (3) “Participating employee” means a permanent employee who qualifies to
7 participate in the Program as set forth in Section 18.806.

8 (4) “Permanent employees” means employees appointed to positions in the public
9 service system who have successfully completed their probationary employment status.

10 (5) “Probationary [employees]” means employees appointed to positions in the
11 Public Service System who have not completed their probationary employment status.

12 (6) “Program” means the “Reduction in Force Assistance Program”
13 established and prepared within the Kosrae State Government.

14 Section 18.805. Reduction in Force Assistance Program: Commencement.

15 (1) The State hereby establishes a Kosrae State Reduction in Force Assistance
16 Program for the benefit of permanent employees recruited pursuant to the State Public Service
17 System Act whose positions are abolished from the public service system.

18 (2) The program shall begin on the date the Governor certifies that there are funds
19 available in the Program for disbursement to employees and shall continue from the date of
20 certification for a period not to exceed two years.

21 (3) The certification shall clearly state the date when the program will end.

22 (4) Copies of certification shall be provided to each branch of the Kosrae State
23 Government.

24 Section 18.806. Eligibility: Procedures: Requirements. Eligibility for the benefits under
25 the Program shall be determined as follows:

1 (1) Within 30 days of the commencement of the Program, the Governor of Kosrae
2 for the Executive Branch, the Chief Justice of Kosrae State for the Judicial Branch, the Speaker
3 of the Kosrae Legislature, and the Chief Executive Officer for each agency of the State
4 Government shall submit to the Governor, or his designee, a list for their respective branch or
5 agency. Each list may be updated from time to time and shall include each position:

6 (a) Which shall be terminated because such position is redundant,
7 inefficient, no longer funded or subject to abolishment from the Public Service without causing a
8 failure by the Kosrae State Government to provide essential public services.

9 (b) Any other position that may be eligible for inclusion in the program.

10 (i) A position is not eligible for inclusion if it is exempt by law from
11 the provisions of the State Public Service System Act, except that contract positions may be
12 eligible.

13 (ii) A position is not eligible for inclusion if it provides essential public
14 service and if abolished would cause the Kosrae State Government to fail to provide essential
15 public services.

16 (2) A permanent employee in a position which may be terminated under
17 Section 18.806(1)(a) of this Chapter shall be deemed a mandatory participant in the program only
18 if the position is, in fact, abolished. Such abolishment may occur at any time during the Program
19 period but only after the employee has received their 60-day notice that the position is to be
20 abolished. Eligibility for compensation under the Program shall be subject to the criteria in
21 section 18.807(1). of this Chapter.

22 (3) A permanent employee in a position eligible for inclusion in the Program
23 under Section 18.806(1)(b) of this Chapter may participate in the program voluntarily by
24 submitting written application to the Governor or his designee. Eligibility for compensation
25 under the Program shall be subject to the criteria in Section 18.807(1) of this Chapter.

1 Section 18.807. Compensation to employees under the Program.

2 (1) Permanent employees eligible for participation in the Program shall be
3 eligible for compensation under the program if:

4 (a) There are funds available in the Program; and

5 (b) The respective branch or agency of the Kosrae State Government shall
6 abolish the position without compromising essential public services or such position shall be
7 filled by a permanent or probationary employee and such employee's previous position shall be
8 abolished.

9 (2) Permanent employees eligible for participation in the Program and eligible for
10 compensation under the program shall receive the following compensation:

11 (a) A lump sum payment equal to 26 bi-weekly base salary payments; or

12 (b) Periodic payments equal to 26 bi-weekly base salary payments.

13 (3) Periodic payments shall terminate prior to the receipt of the 26 bi-weekly
14 payments upon the person becoming re-employed with the State or National government or any
15 of their agencies; or reaching the age of 60, or otherwise becoming eligible for Social Security
16 benefits. An employee opting for a lump sum payment who becomes re-employed with the State
17 or National governments or their agencies, or who will become eligible for Social Security
18 benefits before the expiration of one year shall have the lump sum pro-rated to the actual number
19 of pay periods remaining before such re-employment or social security eligibility.

20 (4) Should the participating employee die prior to the termination of the benefits
21 under the Program, the deceased participating employee's entitlements to compensation under
22 the Program shall survive and the remainder will be paid to the estate of the deceased.

23 (5) Each compensation package due to an employee pursuant to this Chapter shall
24 be subject to the following adjustments prior to disbursement:

25 (a) Deduction of any salary advance;

1 (b) Deductions of any per diem or other travel advances including
2 outstanding travel authorizations; and

3 (c) Deductions of any other amount that the employee may owe to the
4 government, or additions of any adjustments that the government may owe the employee.

5 Section 18.808. Employees in program eligible for re-employment. An employee who
6 receives compensation under the Program shall be eligible for re-employment by the State
7 Government pursuant to State Public Service System Act or employment pursuant to
8 employment contract under the following conditions:

9 (1) The employee must be qualified for the position applied for and meet all other
10 requirements of the Public Service System or contractual qualifications.

11 (2) The position applied for may not be a position previously abolished under the
12 Reduction in Force and may not exceed those statutorily created personnel level caps.

13 (3) If the employee elects to receive a lump sum equal to one year salary under
14 the Program, then the employee shall be eligible for re-employment after the expiration of one
15 year following the employee's departure from the Public Service under the program with the
16 exception of elected or appointed positions subject to advice and consent. In the event the
17 employee is either elected or appointed to a position subject to the advice and consent of the
18 Legislature, then the lump sum payment received shall be pro-rated over the period of time the
19 employee was not employed by the government and the remainder shall be paid back into the
20 Assistance Program.

21 (4) If the employee elects to receive compensation under the Program in bi-
22 weekly installments for a period of one year, then the employee shall cease receiving such
23 installments upon becoming re-employed with the State Government.

24 Section 18.809. Government shall provide counseling and training. The Government
25 shall provide out-placement counseling and retraining for the participating employees during the

1 transition period at the request of the participating employee.

2 Section 18.810. Program Fun. uses, loan repayment and reversion of funds.

3 (1) This Section shall become operable in the event the Program is funded from
4 loan proceeds or from funds from the General Fund otherwise appropriated for such use and
5 which require repayment. Upon disbursement of any loan proceeds, such funds shall be
6 deposited in a Kosrae State Government Reduction in Force Assistance Program Fund
7 (hereinafter Assistance Fund) which is hereby created and established. The Assistance Fund
8 shall be separate from the General Fund or any other funds of the Kosrae State Government.
9 Money in the Assistance Fund shall be invested prudently and investment gains therefrom shall
10 accrue within the Fund.

11 (2) Funds in the Assistance Fund may only be withdrawn, unless otherwise
12 provided by law, for the following purposes:

13 (a) Payment of compensation to employees participating in the Program;

14 (b) Repayment of loan obligations directly related to the Program; or

15 (c) Payment for training costs related to the Program, but not exceeding
16 \$50,000 in total.

17 (3) In the event a loan is obtained to establish this Program, to facilitate the
18 repayment of any such loan, the State Government shall appropriate funds equivalent to at least
19 fifty percent of the costs for each position abolished and subject to compensation payments under
20 the Program. The funds so appropriated shall be deposited in the Multi-Loan Disbursement
21 Fund. The balance of the Multi-Loan Disbursement Fund must equal or exceed the principal
22 amount borrowed for the Program and the Early Retirement Program according to any loan
23 repayment term.

24 (4) Any funds remaining in the Multi-Loan Disbursement Fund and the State's
25 Trust Fund Account after the loan has been paid in full shall revert to the General Fund.

1 Section 18.811. Annual Report. The Governor shall submit a report to the Legislature
2 not later than the first Monday of February of each year regarding the condition of the Program,
3 actual expenditures from the last completed fiscal year, estimated expenditures for the fiscal year
4 in progress, a full accounting of the funds received by the State for the Program, and a full
5 accounting of funds deposited in the escrow account as authorized in Section 18.810 of this
6 Chapter.

7 Section 18.812. Act supersedes other laws. The provisions of this Chapter shall
8 supersede in their entirety any other provisions of any State laws that may be interpreted as being
9 inconsistent with any provisions of this Chapter."

10 Section 3. Effective Date. This act shall take effect on October 1, 2007 after approval or
11 after its becoming law without such approval.

12 PASSED BY THE NINTH KOSRAE STATE LEGISLATURE ON THE 31ST DAY OF JULY
13 2007

14
15

16 Lyndon H. Jackson
17 Speaker, 9th Kosrae State Legislature

18

19 Attested by: _____
20 Chief Clerk

21

22

23

24

25 Robert J. Weilbacher
Governor, State of Kosrae

Date: _____