
A BILL FOR AN ACT

To amend title 51 of the Code of the Federated States of Micronesia, by repealing sections 138 and 307, by amending sections 113 to 115, 121 and 122, 131, 133 to 134, 136, 137 and 139, 141, 151, 153 to 155, 161 to 163, 165, 166 and 169, 201 to 205 and 207, 302 to 306 to delete all references to the Trust Territory, instrumentalities and officials, and inserting the Federated States of Micronesia in lieu thereof; by amending sections 112 to redefine some of the terms therein; by amending section 135 to create a requirement that employers pay in advance the return airfares of non-citizen employees; by amending section 142 to eliminate the requirement that non-citizen employees leave the FSM before they are employed by new employers; by adding a new section 143 to establish a time period for requesting extension of work permits; by amending section 152 to include regulation of recruitment of FSM citizens to the duties of the employment services; by adding a new section 170 to authorize the chief to issue citations and impose fines; and for other purposes.

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

1 Section 1. Section 112 of title 51 of the Code of the
2 Federated States of Micronesia is hereby amended to read as
3 follows:

4 "Section 112. Definitions. For the purposes of this
5 chapter, unless it is otherwise provided or the context
6 requires a different construction, application, or
7 meaning:

8 (1) 'Available' means able to be on the island on
9 which the employer desires workers on the date the
10 employer states the workers are desired.

11 (2) 'Chief' means the chief of the Division of

1 Immigration and Labor within the Department of
2 ~~[Resources and Development]~~ Justice.

3 ~~[(3) 'District representative' means the district~~
4 ~~employment service officer, or any other person~~
5 ~~designated by the chief to act on his behalf in the~~
6 ~~district in which there is no district employment~~
7 ~~service officer.]~~

8 ~~[-(4)]~~ (3) 'Employer' means any individual,
9 partnership, association, or corporation hiring foreign
10 employees to work in the ~~[Trust Territory]~~ Federated
11 States of Micronesia or hiring FSM citizens for
12 employment outside the FSM, ~~[and any individual who has~~
13 ~~in his employ a domestic servant,]~~ but does not include
14 any branch or agency of the ~~[Trust Territory Government~~
15 ~~or of the United States]~~ Government of the Federated
16 States of Micronesia.

17 ~~[-(5)]~~ (4) 'Employment service' means the ~~[Trust~~
18 ~~Territory]~~ Federated States of Micronesia Employment
19 Service established under section 151 of this chapter.

20 ~~[-(6)]~~ (5) 'Employment service officer' means the
21 ~~[official]~~ Immigration and Labor officer who is ~~[the~~
22 ~~head of the Trust Territory]~~ designated by the Secretary
23 of Justice to head the Employment Service established
24 under section 151 of this chapter.

25 ~~[-(7)]~~ (6) 'Nonresident worker' means any person who is

1 capable of performing services or labor and who is not a
2 citizen of the [~~Trust Territory~~] Federated States of
3 Micronesia or an immigrant alien admitted to the [~~Trust~~
4 ~~Territory~~] Federated States of Micronesia for permanent
5 residence under the provisions of title 50 of this Code,
6 including persons acting in a professional, managerial,
7 or executive capacity.

8 ~~[-(8)]~~ (7) 'Recruitment' means the hiring of FSM
9 citizens for employment outside the FSM.

10 (8) 'Resident worker' means any person who is
11 capable of performing services or labor and who is a
12 citizen of the [~~Trust Territory~~] Federated States of
13 Micronesia or an immigrant alien admitted to the [~~Trust~~
14 ~~Territory~~] Federated States of Micronesia for permanent
15 residence under the provisions of title 50 of this Code,
16 including persons acting in a professional, managerial,
17 or executive capacity.

18 (9) 'State representative' means the immigration
19 officer designated by the Secretary to act as the
20 Employment Service officer for that state, or the
21 officer in-charge of a state personnel or labor office."

22 Section 2. Section 113 of title 51 of the Code of the
23 Federated States of Micronesia is hereby amended to read as
24 follows:

25 "Section 113. Statement of policy. The Congress of the

1 Federated States of Micronesia finds and declares that
2 it is essential to a balanced and stable economy in the
3 ~~[Trust Territory]~~ Federated States of Micronesia that
4 ~~[Trust Territory]~~ Federated States of Micronesia citizen
5 workers be given preference in employment in occupations
6 and industries in the ~~[Trust Territory]~~ Federated States
7 of Micronesia, and that the public interest requires
8 that the employment of non-citizen workers in such
9 occupations and industries not impair the wages and
10 working conditions of ~~[Trust Territory]~~ Federated States
11 of Micronesia workers. The Congress of the FSM further
12 finds and declares that the active recruitment of FSM
13 citizens by domestic and international agencies to work
14 overseas is a matter of great national concern, and that
15 many of the FSM citizens recruited in the FSM do not
16 have sufficient understanding of their legal rights and
17 responsibilities."

18 Section 3. Section 114 of title 51 of the Code of the
19 Federated States of Micronesia is hereby amended to read as
20 follows:

21 "Section 114. Preference. Resident workers shall be
22 given preference in employment in the ~~[Trust Territory]~~
23 Federated States of Micronesia in any industry or
24 occupation for which such workers are qualified and
25 available. Nonresident workers shall be employed only

1 to supplement the labor force of available and qualified
2 resident workers."

3 Section 4. Section 115 of title 51 of the Code of the
4 Federated States of Micronesia is hereby amended to read as
5 follows:

6 "Section 115. Benefits for resident workers hired by
7 Government contractors.

8 (1) The [~~Trust Territory~~] Government of the
9 Federated States of Micronesia shall not enter into any
10 contract whose primary purpose is the construction of
11 any building, airport, road, harbor, or any other thing,
12 unless such contract provides that if the contractor
13 utilizes nonresident labor as defined in this chapter
14 and if such contractor provides either transportation,
15 lodging or lodging expenses, or room or board expenses
16 to any such employee, then such contractor shall provide
17 the same benefits to resident employees, as defined in
18 this title.

19 (2) Transportation, lodging or lodging expenses, or
20 room or board expenses need not be provided when a
21 resident employee maintains his principal place of
22 residence within normal commuting distance, as defined
23 by regulations implementing [~~Public Law No. 4C-49~~]
24 title 52 of this Code, from his place of employment
25 with such contractor."

1 Section 5. Section 121 of title 51 of the Code of the
2 Federated States of Micronesia is hereby amended to read as
3 follows:

4 "Section 121. Compliance with chapter; Exception for
5 temporary employees.

6 (1) No employer shall employ a nonresident worker
7 except in strict accordance with the provisions of this
8 chapter and rules and regulations issued hereunder,
9 except that the provisions of this chapter shall not
10 apply to temporary employees who are brought into the
11 [~~Trust Territory~~] Federated States of Micronesia for a
12 period of time not to exceed 90 days.

13 (2) If the employer bringing in such temporary
14 employees to the [~~Trust Territory~~] Federated States of
15 Micronesia finds that their services are needed for a
16 period of time exceeding 90 days, he may apply to the
17 chief for an extension of the exemption, and the chief
18 may grant such extension for an additional period of
19 time not to exceed 90 days if he finds that the
20 extension is reasonable.

21 (3) The chief may grant more than one extension, but
22 the total time period, including any extension, such
23 temporary employee may remain in the [~~Trust Territory~~]
24 Federated States of Micronesia under temporary employee
25 status shall not exceed 180 days."

1 Section 6. Section 122 of title 51 of the Code of the
2 Federated States of Micronesia is hereby amended to read as
3 follows:

4 "Section 122. Application of chapter to employees of
5 [Trust Territory] Federated States of Micronesia
6 Government. Nothing in chapter 1 of this title, known
7 as the Protection of Resident Workers Act, shall be
8 construed to exempt employees of the ~~[Trust Territory]~~
9 Government of the Federated States of Micronesia in
10 seeking employment during hours not engaged in the
11 performance of government employment, and employers
12 other than the ~~[Trust Territory]~~ Government of the
13 Federated States of Micronesia in hiring such employees
14 or prospective employees, from complying fully with the
15 provisions of such chapter, and such chapter shall be
16 construed to apply to such persons for all purposes,
17 except insofar as rendered inapplicable by a specific
18 provision thereof."

19 Section 7. Section 131 of title 51 of the Code of the
20 Federated States of Micronesia is hereby amended to read as
21 follows:

22 "Section 131. Application required. Any employer who
23 desires to import alien workers for employment in the
24 ~~[Trust Territory]~~ Federated States of Micronesia, or to
25 hire FSM citizens for employment outside the FSM, shall

1 file an application with the Employment Service stating
2 the place and nature of the employer's business, the
3 number of workers desired and occupational
4 qualifications of such workers, the wages to be paid
5 such workers, the date on which such workers are
6 desired, the [~~district~~] state or [~~districts~~] states in
7 which such workers are desired, and any other
8 information the Employment Service may require or which
9 the employer may deem appropriate or as required by
10 regulation."

11 Section 8. Section 133 of title 51 of the Code of the
12 Federated States of Micronesia is hereby amended to read as
13 follows:

14 "Section 133. Publication of vacancy.

15 (1) In the event of inability to supply sufficient
16 qualified resident workers pursuant to section 132 of
17 this chapter, the Employment Service shall cause the
18 existence of the vacancies and other applicable
19 information regarding the jobs to be publicized.

20 (2) The publication shall include posting of notice
21 in public places in the [~~districts~~] states, the use of
22 radio and newspaper media when appropriate, and such
23 other means as the Employment Service may determine to
24 be feasible.

25 (3) No nonresident worker shall be permitted to be

1 employed unless such publicity shall have been given:

2 (a) for a period of 30 days, in the [~~district~~]
3 state or [~~districts~~] states where such employment is to
4 take place; and

5 (b) for a period of 15 days, beginning with the
6 sixteenth day after the first day on which the first
7 advertisement was made in the [~~district~~] state or
8 [~~districts~~] states in which employment is to take place,
9 in all other [~~districts~~] states of the [~~Trust Territory~~]
10 Federated States of Micronesia.

11 (4) Upon the expiration of 30 days after the first
12 advertisement by the Employment Service, the employment
13 service officer, upon a finding that there are no
14 occupationally qualified resident workers available to
15 fill all or some of the vacancies applied for, shall
16 notify the chief of those positions for which no
17 resident workers are available."

18 Section 9. Section 134 of title 51 of the Code of the
19 Federated States of Micronesia is hereby amended to read as
20 follows:

21 "Section 134. Determination to permit employment of
22 nonresident workers.

23 (1) Upon receipt of notice from the employment
24 service officer of those positions which the employer
25 requires, and for which no resident workers are

1 available, the chief shall determine whether the
2 employment of such nonresident workers will be in the
3 best interests of the [~~Trust Territory~~] Federated States
4 of Micronesia, and for what period of time and under
5 what conditions the employer should be authorized to
6 hire nonresident workers for those positions.

7 (2) Within seven days after the receipt of notice
8 from the employment service officer, he shall notify the
9 employer of his findings."

10 Section 10. Section 135 of title 51 of the Code of the
11 Federated States of Micronesia is hereby amended to read as
12 follows:

13 "Section 135. Nonresident employment agreements.

14 (1) For those positions for which the chief has
15 determined that nonresident workers may be hired, he
16 shall require that a nonresident employment agreement be
17 entered into between the employer and the [~~Trust~~
18 ~~Territory~~] Government of the Federated States of
19 Micronesia, which agreement shall authorize the employer
20 to hire nonresident workers.

21 (2) The agreement shall be signed by the chief, as
22 representative of the [~~Trust Territory~~] Government of
23 the Federated States of Micronesia, and by the employer
24 or his authorized representative.

25 (3) The agreement shall contain the following

1 provisions, in addition to any other provisions the
2 chief deems necessary in the circumstances:

3 (a) a statement that the employer requires such
4 nonresident workers for immediate employment;

5 (b) a statement of the wages the employer is
6 paying or intends to pay the nonresident workers for
7 each occupational classification he is importing an
8 alien to fill;

9 (c) a statement that the employer agrees to
10 comply with the minimum employment conditions and other
11 requirements consistent with the provisions of this
12 chapter and other applicable laws of the [~~Trust~~
13 ~~Territory~~] Federated States of Micronesia;

14 (d) a statement of the period of time for which
15 the employer will be allowed to fill each position with
16 a nonresident worker before he must attempt to fill the
17 position with a resident worker by filing a new
18 application with the Employment Service; and

19 (e) [~~a statement of the employer's~~
20 ~~responsibility for return transportation to the place of~~
21 ~~origin of each employee so employed.~~] a deposit with the
22 chief of a bond in the amount equivalent to the return
23 airfare of each nonresident worker to his point of hire.
24 Any payment so made pursuant to this subsection (3) (e)
25 of this section shall be deposited in a separate account

1 with the Secretary of Finance and Administration for the
2 sole purpose of repatriating those nonresident workers
3 for whom such payments were made.

4 (4) Upon execution of the agreement required under
5 subsections (1) through (3) of this section, the chief
6 shall notify the Office of Immigration Control.

7 (5) The chief shall provide each nonresident worker
8 covered by this chapter with a copy of the nonresident
9 workers' agreement which authorized his employer to hire
10 him."

11 Section 11. Section 136 of title 51 of the Code of the
12 Federated States of Micronesia is hereby amended to read as
13 follows:

14 "Section 136. Effective date of nonresident employment
15 agreements. In addition to the requirements imposed by
16 section 135 of this chapter, no nonresident employment
17 agreement shall be effective until it has been signed by
18 the [~~District Administrator~~] Governor of the [~~district~~]
19 state in which such employment, or the major portion
20 thereof, is to be performed by the nonresident worker in
21 question."

22 Section 12. Section 137 of title 51 of the Code of the
23 Federated States of Micronesia is hereby amended to read as
24 follows:

25 "Section 137. Expiration of nonresident employment

1 agreements for failure of performance. Any nonresident
2 employment agreement entered into by the chief [~~of~~
3 ~~labor~~] with any employer pursuant to the requirements of
4 section 135 of this chapter, shall expire 60 days from
5 the date thereof, except as to the employment of any
6 nonresident worker, as defined in this title who is
7 employed and present in the [~~Trust Territory~~] Federated
8 States of Micronesia within 60 days from such date."

9 Section 13. Title 51 of the Code of the Federated States of
10 Micronesia is hereby amended by repealing section 138 and adding a
11 new section 138 to read as follows:

12 "Section 138. Nonresident worker's identification
13 certificate.

14 (1) The chief shall provide each nonresident worker
15 covered by this chapter with a nonresident worker's
16 identification certificate.

17 (2) The identification certificate shall contain the
18 nonresident worker's name, his employer's name, his job
19 classification, his legal residence, his country of
20 origin and citizenship, his point of hire, the date of
21 expiration of his entry permit, and the number of the
22 nonresident worker's agreement which authorized his
23 employer to hire him.

24 (3) The nonresident worker shall be required to keep
25 such certificate on his person at all times."

1 Section 14. Section 139 of title 51 of the Code of the
2 Federated States of Micronesia is hereby amended to read as
3 follows:

4 "Section 139. Entry requirements. Prior to entry of a
5 nonresident worker into the [~~Trust Territory~~] Federated
6 States of Micronesia for employment under the provisions
7 of this chapter, the following requirements shall be
8 met:

9 (1) Each nonresident worker shall present to the
10 chief or his representative a sworn affidavit, on a form
11 issued by the [~~Trust Territory~~] Government of the
12 Federated States of Micronesia, executed by him, and
13 such other evidence as the chief may require, which
14 indicates a minimum of 2 years experience in the line of
15 work for which he is being hired, marital status, and if
16 married the name of the spouse, number and ages of
17 dependent children, and the addresses of the spouse and
18 dependent children, and that he has not been convicted
19 of a felony or other crime involving moral turpitude;
20 and

21 (2) The employer of a nonresident worker shall
22 present to the chief or his representative a copy of the
23 nonresident worker's contract of employment, which shall
24 include a statement of job title, of the duration of the
25 contract, location of work, weekly hours schedule, wage

1 scale for regular and overtime work, any deductions for
2 living costs, and such other information or contractual
3 provisions as required by the chief."

4 Section 15. Section 141 of title 51 of the Code of the
5 Federated States of Micronesia is hereby amended to read as
6 follows:

7 "Section 141. Outside employment for compensation
8 prohibited.

9 (1) It shall be unlawful for any nonresident worker
10 admitted into the [~~Trust Territory~~] Federated States of
11 Micronesia under the provisions of this title to engage
12 in any other employment for compensation or for profit
13 other than for the employer who has contracted with the
14 chief for the employment of such nonresident worker in
15 the [~~Trust Territory~~] Federated States of Micronesia.

16 (2) Any employment of the nonresident worker in the
17 manner prohibited under this section shall constitute
18 sufficient ground and cause for deportation and the
19 chief [~~of the Division of Labor~~] shall communicate to
20 the [~~Attorney General~~] Secretary of Justice any
21 violation of this section and the Attorney General shall
22 institute deportation proceedings against the alien
23 worker if in the opinion of the [~~District Administrator~~]
24 Secretary of Justice such action would be in the best
25 interest of the public. Violation of the provisions of

1 this section by an employer or nonresident worker shall
2 also be subject to penalties prescribed by section 167
3 of this title."

4 Section 16. Section 142 of title 51 of the Code of the
5 Federated States of Micronesia is hereby amended to read as
6 follows:

7 "Section 142. Change of employment. No nonresident
8 worker who is under a labor contract with an employer
9 shall work for or be employed by any other employer
10 during the term of such contract. Before a nonresident
11 worker can work for or be employed by an employer
12 different than his previous employer, the new employer
13 must first [~~he shall first be required to leave the~~
14 ~~Federated States of Micronesia]~~ satisfy the requirements
15 of section 135 herein and the previous employer agrees
16 in writing that the nonresident worker may change
17 employment."

18 Section 17. Title 51 of the Code of the Federated States of
19 Micronesia is hereby amended by adding a new section 143 to read
20 as follows:

21 "Section 143. Request for extension of work permits.
22 A request for extension of a work permit shall be
23 submitted to the chief at least 45 days before the
24 expiration of the work permit. A fee shall be charged
25 to extend each work permit, the amount to be determined

1 by regulation."

2 Section 18. Section 151 of title 51 of the Code of the
3 Federated States of Micronesia is hereby amended to read as
4 follows:

5 "Section 151. [Trust Territory] Federated States of
6 Micronesia Employment Service.

7 (1) There is hereby established in the Department of
8 [Resources and Development a Trust Territory] Justice an
9 Employment Service.

10 (2) The [Trust Territory] Employment Service shall
11 be headed by an employment service officer, who shall
12 report directly to the chief [of Labor] Immigration and
13 Labor.

14 (3) The purpose of the establishment of the [Trust
15 Territory] Federated States of Micronesia Employment
16 Service is to create a system of free public employment
17 [offices] services in the [Trust Territory] Federated
18 States of Micronesia for workers seeking employment and
19 for employers seeking workers.

20 (4) The [Trust Territory] Federated States of
21 Micronesia Employment Service shall have its main office
22 in the [Trust Territory headquarters] central office of
23 the Division of Immigration and Labor, and shall have
24 field offices in each of the [administrative districts]
25 states.

1 (5) The [~~Trust Territory~~] Employment Service shall
2 have such powers, duties, and functions as may be
3 established by this chapter, other provisions of this
4 Code, and the manual of administration of the [~~Trust~~
5 ~~Territory~~] Federated States of Micronesia Government."

6 Section 19. Section 152 of title 51 of the Code of the
7 Federated States of Micronesia is hereby amended to read as
8 follows:

9 "Section 152. Functions and duties of Employment
10 Service. For the purpose of this chapter, and without
11 limitations on the scope or extent of powers, duties, or
12 responsibilities vested in it by other provisions of the
13 [~~Trust Territory~~] FSM Code, manual of administration,
14 regulations, or order of the [~~High Commissioner~~]
15 President, the Employment Service through its employment
16 service officer and [~~district~~] state representative
17 shall:

18 (1) in the placement of workers, assist the chief in
19 determining occupational categories, and, for those
20 occupational categories designated by the chief, perform
21 certification functions regarding minimum standards of
22 qualifications and minimum wage requirements;

23 (2) conduct continuing surveys of manpower needs,
24 assist in preparing training programs, and recommend
25 other measures for alleviating shortages and reducing

1 the need for nonresident workers;

2 (3) oversee, monitor, and review the use of alien
3 workers and all matters related thereto, including but
4 not limited to the following; health, safety, meals,
5 lodging, salaries, working hours and conditions, and
6 specific contractual provisions for labor services;

7 (4) regulate the recruitment of FSM citizens for
8 employment outside the FSM, through the promulgation of
9 regulations establishing a system of registration of
10 recruiters and establishing minimum requirements for
11 overseas employment contracts;

12 (5) conduct such investigations as may be necessary
13 to fulfill the provisions of this section and such other
14 duties as may be required by the chief."

15 Section 20. Section 153 of title 51 of the Code of the
16 Federated States of Micronesia is hereby amended to read as
17 follows:

18 "Section 153. Functions and duties of the chief. For
19 the purpose of this chapter, and without limitations on
20 the scope or extent of powers, duties, or
21 responsibilities vested in him by other provisions of
22 ~~[this]~~ the Code of the Federated States of Micronesia,
23 manual of administration, regulations, or order of the
24 ~~[High Commissioner]~~ President, the chief and his
25 ~~[district]~~ state representative shall, under the

1 direction of the Secretary of Justice:

2 (1) enforce the provisions of this chapter and the
3 agreements which the chief enters into with employers
4 concerning the employment of nonresident workers,
5 including the performance of investigatory functions as
6 appropriate thereto;

7 (2) require that employers accept such agreements or
8 conditions for the payment of wages or benefits to
9 nonresident workers as the chief shall determine to be
10 necessary and consistent with the policy and purposes of
11 this chapter and any such agreements or conditions
12 agreed to by an employer shall be legally enforceable in
13 the courts of the [~~Trust Territory~~] Federated States of
14 Micronesia, upon action taken by an aggrieved employee
15 or in his behalf by the chief or his [~~district~~] state
16 representative. In any such action taken by the chief
17 or his [~~district~~] state representative on behalf of an
18 aggrieved employee, the chief or his [~~district~~] state
19 representative shall be represented by the Department of
20 Justice [~~Office of the Attorney General~~] of the [~~Trust~~
21 ~~Territory~~] Federated States of Micronesia;

22 (3) establish occupational categories for the
23 occupations to which this chapter is applicable, and,
24 when the chief deems it necessary or desirable,
25 establish minimum standards of qualification procedures,

1 and minimum wage requirements for workers in certain
2 occupational categories;

3 (4) supervise the employment service in furtherance
4 of the objectives of this chapter and in the
5 effectuation of the provisions of this chapter."

6 Section 21. Section 154 of title 51 of the Code of the
7 Federated States of Micronesia is hereby amended to read as
8 follows:

9 "Section 154. Employer's records. Each employer hiring
10 employees in the [~~Trust Territory~~] Federated States of
11 Micronesia shall keep and present immediately upon
12 demand of the chief or his [~~district~~] state
13 representative, and quarterly to the chief and to his
14 [~~district~~] state representative up-to-date records with
15 the following information:

16 (1) the name, address, age, and legal residence of
17 each of his employees;

18 (2) the classification and wage rate of each of his
19 employees;

20 (3) payrolls showing the number of hours worked each
21 week, the compensation earned, and deductions made for
22 each of his employees;

23 (4) the educational and experiential backgrounds of
24 each of his nonresident employees (to be provided but
25 once by an employer for each nonresident employee

1 working in the [~~Trust Territory~~] Federated States of
2 Micronesia);

3 (5) the number of employment related accidents, name
4 of the injured, and disposition by the employer of the
5 injured employee;

6 (6) the number and types of illnesses by alien
7 workers, the treatment and disposition of the alien
8 worker, and whether hospitalization was required;

9 (7) the citizenship, country of origin, and
10 expiration date of entry permit of each alien worker
11 employed; and

12 (8) a copy of the nonresident worker's agreement
13 authorizing the hiring of the alien worker in question."

14 Section 22. Section 155 of title 51 of the Code of the
15 Federated States of Micronesia is hereby amended to read as
16 follows:

17 "Section 155. Rules and regulations. The chief,
18 subject to approval by the [~~High Commissioner~~]
19 President, shall promulgate rules and regulations
20 necessary or appropriate to effectuate the provisions of
21 this chapter. Such rules and regulations shall [~~become~~
22 ~~effective immediately, or on the date which the chief~~
23 ~~shall determine~~] be promulgated pursuant to title 17 of
24 this Code, and shall have the force and effect of law."

25 Section 23. Section 161 of title 51 of the Code of the

1 Federated States of Micronesia is hereby amended to read as
2 follows:

3 "Section 161. Authorization to conduct hearings and
4 investigations.

5 (1) The chief [~~or his district representative~~] is
6 hereby authorized to conduct hearings or investigations
7 as he may deem appropriate and necessary to enforce the
8 provisions of this chapter.

9 (2) In connection with such hearings or
10 investigations, the chief [~~or his district~~
11 ~~representative~~] may subpoena witnesses, records, and
12 documents."

13 Section 24. Section 162 of title 51 of the Code of the
14 Federated States of Micronesia is hereby amended to read as
15 follows:

16 "Section 162. Procedure for hearings and
17 investigations.

18 (1) The chief [~~or his district representative~~] shall
19 upon a sworn affidavit by a person that a violation of
20 this chapter or any rule or regulation issued thereunder
21 has occurred, investigate all complaints, and he shall
22 have the power to schedule a public or closed hearing as
23 he may deem appropriate under the circumstances.

24 (2) [~~Adequate notice shall be given to all parties~~
25 ~~involved in the controversy or investigation should a~~

1 ~~hearing be scheduled, and opportunity shall be made~~
2 ~~available to them to present such evidence as they may~~
3 ~~desire.] Conduct of such hearing shall be pursuant to~~
4 ~~the Administration Procedures Act, title 17 of the FSM~~
5 ~~Code.~~

6 ~~[(3) The district representative of the chief upon~~
7 ~~conclusion of his investigation or hearing shall have~~
8 ~~the power to issue an order disposing of the matter.~~
9 ~~Such order shall be in force and effect until modified,~~
10 ~~sustained, or repealed by the chief who shall review~~
11 ~~within 30 days all investigations and hearings conducted~~
12 ~~on a district level.]"~~

13 Section 25. Section 163 of title 51 of the Code of the
14 Federated States of Micronesia is hereby amended to read as
15 follows:

16 "Section 163. Petition to court for enforcement.

17 (1) The chief may petition the Trial Division of the
18 [~~High~~] Supreme Court of the [~~Trust Territory~~] Federated
19 States of Micronesia for the enforcement of an order
20 issued under the provisions of this chapter, and the
21 appropriate temporary relief or restraining order.

22 (2) The chief shall file in the Court a certified
23 transcript of the records in the proceedings, including,
24 where appropriate, the pleading and testimony upon which
25 the order was entered and the findings and order of the

1 chief.

2 (3) Upon such filing, the Court shall cause notice
3 to be served upon the person against whom the order is
4 directed. Thereupon the Court shall have jurisdiction
5 of the proceeding and may grant such temporary relief or
6 restraining order as it shall deem just and proper, or
7 issue a decree enforcing, modifying and enforcing as so
8 modified, or setting aside in whole or in part, the
9 order of the chief.

10 (4) In all such actions the chief shall be
11 represented by the [~~Office of~~] the Department of Justice
12 [~~Attorney General~~] of the [~~Trust Territory~~] Federated
13 States of Micronesia."

14 Section 26. Section 165 of title 51 of the Code of the
15 Federated States of Micronesia is hereby amended to read as
16 follows:

17 "Section 165. Appeals to Court.

18 (1) Anyone aggrieved by an order of the chief issued
19 under the provisions of sections 162 or 164 of this
20 chapter may appeal the order to the Trial Division of
21 the [~~High~~] Supreme Court of the [~~Trust Territory~~]
22 Federated States of Micronesia as provided for in title
23 17 of the Code of the FSM. [~~within 10 days following the~~
24 date of the order.]

25 (2) The commencement of any proceedings in any court

1 shall not operate as a stay of compliance with any
2 provisions of this chapter, or any rules, regulations,
3 or orders issued hereunder.

4 (3) All findings, decisions, or orders by the chief
5 on questions of fact shall be deemed final if supported
6 by substantial evidence."

7 Section 27. Section 166 of title 51 of the Code of the
8 Federated States of Micronesia is hereby amended to read as
9 follows:

10 "Section 166. Injunctions. In addition to any of the
11 other penalties prescribed by this chapter, the
12 [~~Attorney General~~] Department of Justice may bring
13 action in the Trial Division of the [~~High~~] Supreme Court
14 of the [~~Trust Territory~~] Federated States of Micronesia
15 to enjoin violations of the provisions of this chapter
16 or any of the rules and regulations issued pursuant
17 thereto."

18 Section 28. Section 169 of title 51 of the Code of the
19 Federated States of Micronesia is hereby amended to read as
20 follows:

21 "Section 169. Materiality of all information;
22 Sanctions.

23 (1) All information provided to the [~~Labor~~] Division
24 of Immigration and Labor regarding the application of an
25 alien for employment under this chapter, whether such

1 information is submitted by the employer or the alien,
2 or by another person on behalf of the employer or alien,
3 shall be deemed material to the [~~Labor~~] Division's
4 decision whether to permit such employment.

5 (2) The furnishing of any false or misleading
6 information by the alien, the employer, or by another
7 person on behalf of the employer or alien, shall be
8 grounds for the [~~Labor~~] Division to deny employment
9 under this chapter."

10 Section 29. Title 51 of the Code of the Federated States of
11 Micronesia is hereby amended by adding a new section 170 to read
12 as follows:

13 "Section 170. Citation. The chief may issue citations
14 and impose fines against employers and employees who
15 have violated any provisions of this chapter pursuant to
16 regulations promulgated by the President or his
17 designee. The provisions of sections 161, 162 and 163
18 apply should the employers or employees choose to appeal
19 such citations and fines."

20 Section 30. Section 201 of title 51 of the Code of the
21 Federated States of Micronesia is hereby amended to read as
22 follows:

23 "Section 201. Statement of Policy.

24 (1) It is the policy of the [~~Trust Territory~~]
25 Government of the Federated States of Micronesia to

1 insure the health of its citizens, and to prevent the
2 over taxation of its medical and hospital facilities and
3 personnel in the care and treatment of non-~~[Trust~~
4 ~~Territory]~~ citizens who arrive in the ~~[Trust Territory]~~
5 Federated States of Micronesia in a condition of ill
6 health.

7 (2) To this end, it shall be the practices of the
8 ~~[Trust Territory]~~ Government of the Federated States of
9 Micronesia, in accordance with the terms of this
10 chapter:

11 (a) to require each nonresident worker and each
12 member of his family entering the ~~[Trust Territory]~~
13 Federated States of Micronesia to have in his possession
14 a certificate of freedom from contagious diseases;

15 (b) to conduct a physical examination of every
16 entrant into the ~~[Trust Territory]~~ Federated States of
17 Micronesia who holds an entry permit for employment in
18 the ~~[Trust Territory]~~ Federated States of Micronesia;
19 and

20 (c) to revoke such entry permit upon a showing
21 that the continued presence of such person in the ~~[Trust~~
22 ~~Territory]~~ Federated States of Micronesia would violate
23 the statement of intent in this section."

24 Section 31. Section 202 of title 51 of the Code of the
25 Federated States of Micronesia is hereby amended to read as

1 follows:

2 "Section 202. Certificate required.

3 (1) In addition to any other requirements contained
4 in this title or title 50 of this Code, every person
5 admitted to the [~~Trust Territory~~] Federated States of
6 Micronesia for employment under the provisions of
7 chapter 1 of this title and every person admitted to the
8 [~~Trust Territory~~] Federated States of Micronesia as a
9 member of the family of such person shall have in his
10 possession, and thereafter shall keep in his possession,
11 a certificate of freedom from communicable diseases.

12 (2) Such certificate shall be executed and validated
13 not more than 30 days preceding the date of entry of
14 such person into the [~~Trust Territory~~] Federated States
15 of Micronesia by a physician licensed to practice
16 medicine in the country of origin of that person."

17 Section 32. Section 203 of title 51 of the Code of the
18 Federated States of Micronesia is hereby amended to read as
19 follows:

20 "Section 203. Physical examination required. Within 10
21 days after his entry into the [~~Trust Territory~~]
22 Federated States of Micronesia, each holder of an entry
23 permit which authorizes such person to enter the [~~Trust~~
24 ~~Territory~~] Federated States of Micronesia for the
25 purpose of employment and each member of the family of

1 such person shall be subject to a physical examination
2 to be conducted by or under the auspices of the
3 Department of Health, Education and Social Affairs
4 ~~[Services]~~. The cost of such physical examination shall
5 be borne by the entry permit holder."

6 Section 33. Section 204 of title 51 of the Code of the
7 Federated States of Micronesia is hereby amended to read as
8 follows:

9 "Section 204. Notification [to High Commissioner] of
10 reasons for rejecting permit holder.

11 (1) The ~~[director]~~ Secretary of the Department of
12 Health, Education and Social Affairs ~~[Services]~~ shall,
13 within a reasonable time after the completion of the
14 physical examination required in section 202 of this
15 chapter, notify the ~~[High Commissioner]~~ President as to
16 any medical reasons why the entry-permit holder or the
17 member of the family of the entry-permit holder should
18 not be allowed to remain in the ~~[Trust Territory]~~
19 Federated States of Micronesia, if any, and shall state
20 the basis of his judgment.

21 (2) No such notification shall be made if the
22 continued presence of the entry-permit holder or the
23 member of the family of the entry-permit holder in the
24 ~~[Trust Territory]~~ Federated States of Micronesia would
25 not, in all medical probability, result in substantial

1 danger to the health of the inhabitants of the [~~Trust~~
2 ~~Territory~~] Federated States of Micronesia or in a need
3 for prolonged medical care and treatment while in the
4 [~~Trust Territory~~] Federated States of Micronesia.

5 (3) Such notification shall be made upon any
6 positive finding of any contagious disease, including
7 any social disease."

8 Section 34. Section 205 of title 51 of the Code of the
9 Federated States of Micronesia is hereby amended to read as
10 follows:

11 "Section 205. Revocation of entry permit. Upon
12 notification from the [~~director~~] Secretary of the
13 Department of Health, Education and Social Affairs
14 [~~Services~~] to the [~~High Commissioner~~] President as
15 provided in section 203 of this chapter, the [~~High~~
16 ~~Commissioner~~] President shall revoke the entry permit of
17 the entry-permit holder or the member of his family in
18 question on the grounds that his continued presence in
19 the [~~Trust Territory~~] Federated States of Micronesia
20 would not be in the best interests of the [~~Trust~~
21 ~~Territory~~] Federated States of Micronesia."

22 Section 35. Section 207 of title 51 of the Code of the
23 Federated States of Micronesia is hereby amended to read as
24 follows:

25 "Section 207. Regulations. The [~~High Commissioner~~]

1 President shall have the power, in the manner [~~which is~~
2 ~~or may be~~] provided by law, to establish and promulgate
3 regulations not inconsistent with this chapter, and may
4 delegate any or all of his responsibilities under this
5 section to the chief of Immigration[~~, the chief of~~] and
6 Labor, the [~~director~~] Secretary of Health, Education
7 and Social Affairs [~~Services~~], or any of them."

8 Section 36. Section 302 of title 51 of the Code of the
9 Federated States of Micronesia is hereby amended to read as
10 follows:

11 "Section 302. Regional cooperation and exchange of
12 information.

13 (1) The chief [~~of the Labor Division, Department of~~
14 ~~Resources and Development,~~] shall initiate and maintain
15 with the several nations of the Pacific area who are
16 participants in the Conference of South Pacific Labor
17 Ministers, through the Department of Labor, Commonwealth
18 of Australia, a program of the periodic exchange of
19 information concerning labor in the [~~Trust Territory~~]
20 Federated States of Micronesia, including but not
21 limited to the exchange of information concerning
22 training programs and facilities, applicable legislation
23 and statistics.

24 (2) The chief shall maintain a file of all
25 information received from other such countries, which

1 shall be compiled and transmitted to the Congress [~~of~~
2 ~~Micronesia~~] as part of the annual report of the division
3 required by this chapter."

4 Section 37. Section 303 of title 51 of the Code of the
5 Federated States of Micronesia is hereby amended to read as
6 follows:

7 "Section 303. Exchange of labor personnel. The chief
8 [~~of Labor~~] is authorized to explore with other countries
9 of the Pacific area who are participants in the
10 Conference of South Pacific Labour Ministers, programs
11 for the exchange of labor administration personnel for
12 training and experience in the field of labor
13 administration. To this end, the chief is authorized to
14 implement the program by providing for the periodic
15 exchange of division personnel, and for the in-service
16 training of labor administration personnel from other
17 such countries in the [~~Trust Territory~~] Federated States
18 of Micronesia."

19 Section 38. Section 304 of title 51 of the Code of the
20 Federated States of Micronesia is hereby amended to read as
21 follows:

22 "Section 304. United States Department of Labor funds
23 and programs.

24 (1) The chief [~~of the Labor Division~~] is authorized
25 and directed to develop and maintain a list of all

1 programs and services offered by the United States
2 Department of Labor.

3 (2) He shall transmit copies of the list to the
4 Congress [~~of Micronesia~~] as a part of the annual report
5 of the division required by this chapter, together with
6 a statement as to the advisability of the applicability
7 of each program or service to the [~~Trust Territory~~]
8 Federated States of Micronesia, and a statement of the
9 current eligibility of the [~~Trust Territory~~] Federated
10 States of Micronesia for participation in these programs
11 and services.

12 (3) He shall take the steps as may be appropriate,
13 upon the request of the Congress [~~of Micronesia~~], to
14 secure the extension of these programs and services to
15 the [~~Trust Territory~~] Federated States of Micronesia."

16 Section 39. Section 305 of title 51 of the Code of the
17 Federated States of Micronesia is hereby amended to read as
18 follows:

19 "Section 305. Apprenticeship training program.

20 (1) Not later than [~~September 1, 1975,~~] October 1st
21 of each year, the chief of the Immigration and Labor
22 Division shall submit to the Congress [~~of Micronesia~~]
23 and to the [~~High Commissioner~~] President a program for
24 an apprenticeship training program, whereby employers
25 would be reimbursed for a portion of the salary of an

1 apprentice by the [~~Trust Territory~~] Government of the
2 Federated States of Micronesia until these apprentices
3 have been fully qualified in their trade.

4 (2) This program shall be limited to trades which
5 the chief believes essential to the future development
6 needs of the Federated States of Micronesia, and shall
7 include, but not be limited to, programs in the fields
8 of construction, agriculture, and mechanics.

9 (3) This program shall include a statement of the
10 funds necessary to implement the program, together with
11 a request for the funds.

12 (4) To the maximum extent possible, the chief is
13 authorized and directed to seek funding for the program
14 out of the regular operating budget of his division."

15 Section 40. Section 306 of title 51 of the Code of the
16 Federated States of Micronesia is hereby amended to read as
17 follows:

18 "Section 306. Annual report. The chief [~~of the Labor~~
19 ~~Division~~] shall, not later than January 31 of each year,
20 transmit to the Congress [~~of Micronesia~~] and to the
21 [~~High Commissioner of the Trust Territory~~] President a
22 complete report of the activities of the division over
23 the previous year, together with the other information
24 as shall be required by this or other chapters to be
25 included in the report. The report shall also contain

1 recommendations for legislation by the Congress [~~of~~
2 ~~Micronesia~~], in particular, legislation devoted to the
3 development of labor skills of citizens of the [~~Trust~~
4 ~~Territory~~] Federated States of Micronesia. In preparing
5 this report, the chief shall consult with the Department
6 of Economic Affairs and the Department of Health,
7 Education and Social Affairs to identify those positions
8 for which insufficient numbers of skilled or trained
9 FSM citizens exist, and for which foreign labor was
10 required."

11 Section 41. Title 51 of the Code of the Federated States of
12 Micronesia is hereby amended by repealing section 307 in its
13 entirety.

14 Section 42. This act shall become law upon approval by the
15 President of the Federated States of Micronesia or upon its
16 becoming law without such approval.

17
18 Date: 1/10/03

Introduced by: /s/ Joseph J. Urusemal
Joseph J. Urusemal
(by request)

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