A BILL FOR AN ACT

To further amend title 55 of the Code of the Federated States of Micronesia, as amended, by adding a new section 419 relating to the implementation of the Infrastructure Development Plan; and to further amend section 204 of Title 32 exempting such activities from the foreign investment and labor laws, and for other purposes.

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

Section 1. A new Section 419 is added to chapter 4 of Title 55, as follows:

"Section 419. Implementation of Infrastructure Development Plan.

(1) Notwithstanding any provision of law to the contrary, the National Government shall have jurisdiction, in coordination with the respective state, over activities relating to any public contract that is nor may be awarded for a civil works project to implement any part of the Infrastructure Development Plan and that is supported by funds provided through Section 211 of the Amended Compact of Free Association, as that Plan may be amended from time to time, including but not limited to all contract management activities, all bidding and pre-bidding procedures for such public contracts, and all activities performed by any citizen or noncitizen contractor or subcontractor pursuant to
any such public contract. Except of this section, the provisions of chapter 4 shall not apply to public contracts referred to in this subsection.

(2) Notwithstanding section 205 of Title 32 of the Code of the Federated States of Micronesia, no Foreign Investment Permit shall be required to conduct any activity referred to in subsection (1).

(3) The provisions of subchapter III and subchapter IV of chapter 1 of Title 51 shall not apply to alien workers employed exclusively on activities referred to in subsection (1), and such workers shall not be deemed nonresident for purposes of chapter 1 of Title 51.

(4) The President shall be responsible for establishing procurement procedures specifically for use with all public contracts referred to in subsection (1), which shall

   (a) meet or exceed prevailing international standards for free and open competitive bidding, transparency, and fairness to all parties,
   
   (b) effectively and efficiently facilitate the execution and implementation of public contract referred to in subsection (1),
   
   (c) protect resident workers, and
   
   (d) protect the public interest.

Such procurement procedures shall take effect upon
adoption by the President in accordance with title 17 of
the Code of the Federated States of Micronesia.

(5) Any citizen taxpayer in the Federated States of
Micronesia may seek to enjoin a public contract referred
to in subsection (1) to the same extent and in the same
manner as such remedy is available to bona fide
unsuccessful bidders on the contract under the
procurement procedures established and approved by the
President pursuant to subsection (4).

(6) The courts of the Federated States of Micronesian
shall recognize and give full force and effect to the
dispute resolution methods established by the President
pursuant to subsection (4).

Section 2. Section 204 of chapter 2 of the title 32 of the
Code of the Federated States of Micronesia, as enacted by Public
Law No. 10-49, is hereby amended to read as follows:

"Section 204. Requirement that a foreign investor
obtain a Foreign Investment Permit.
A noncitizen may not conduct any activity in the FSM
that amounts to "engaging in business", as defined in
section 203 of this chapter, unless that noncitizen
holds a currently valid Foreign Investment Permit
authorizing that noncitizen to conduct that activity[.]
except as provided in section 419 of chapter 4 of Title
55."
Section 3. This act shall become law upon approval by the President of the Federated States of Micronesia or upon its becoming law without such approval.

Date: 11/07/05

Introduced by: /s/Simiram Sipenuk
Simiram Sipenuk
(by request)