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A BILL FOR AN ACT

To further amend title 54 of the Code of the Federated States of Micronesia, as amended, by amending section 222 to exempt import duties on certain donated goods donated to directly benefit the FSM National Government or any of the four FSM states or any charitable organization duly established in FSM, and for other purposes.

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

1       Section 1. Section 222 of title 54 of the Code of the  
2 Federated States of Micronesia, as amended, is hereby further  
3 amended to read as follows:

4               "Section 222. Exemptions.

5               (1) Damaged, pillaged or faulty goods. Upon receipt  
6 of a written request within 28 days of the goods' release  
7 from Customs control, the Secretary may authorize a  
8 refund of the whole or part of the duty paid, where any  
9 of the following conditions exist:

10              (a) goods have been damaged, pillaged, lost or  
11 destroyed during the voyage;

12              (b) goods have, while subject to the control  
13 of Customs, been damaged, pillaged, lost or  
14 destroyed; or

15              (c) the Commissioner is satisfied that, owing to  
16 a fault or defect in any goods, the importer has received  
17 a reduction or a refund, in whole or part, of the price  
18 paid for the goods.

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1           (2) Goods imported for subsequent export.

2                   (a) Upon application to and approval by the  
3 Secretary, import duty paid on the following goods shall  
4 be refunded: goods imported for processing in the FSM,  
5 not otherwise used in the FSM, and subsequently exported  
6 from the FSM. For purposes of this subsection, raw  
7 materials or ingredients which are worked into or  
8 otherwise become part of a different or more finished  
9 product are deemed exported when that product is  
10 exported.

11                   (b) Goods imported for processing are eligible  
12 for the duty refund when the finished products which the  
13 imported goods were processed into have been loaded on  
14 an aircraft or vessel for direct removal from the FSM  
15 and that aircraft or vessel has departed from the port.  
16 After they have been so loaded, the goods shall again be  
17 subject to import duty if they are unloaded or used in  
18 the FSM. With respect to importers primarily engaged in  
19 importing for processing and subsequent export, the  
20 Secretary shall provide for waiving, by regulation  
21 rather than collecting and subsequently refunding,  
22 duties.

23                   (c) Upon application to and approval by the  
24 Secretary, import duty shall be waived on the following  
25 goods: goods imported for transshipment through the FSM,

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1 not to be used in the FSM, which are securely stored  
2 while in the FSM and which are exported from the FSM  
3 within a reasonable time of import to the FSM, as defined  
4 by regulation. Should these goods not be exported within  
5 a reasonable time, the importer will be subject to a  
6 penalty equal to one-quarter of the import duty that  
7 would have been due if the goods were to be used in the  
8 FSM. Should these goods be removed from the secure  
9 storage facility or used in the FSM, they will be subject  
10 to the full import duty.

11 (d) The burden of proving that goods imported are  
12 for subsequent export shall be upon the importer/exporter  
13 as specified in regulations.

14 (3) Goods carried in per trip abroad. Each time an  
15 individual person enters or returns to the FSM from a  
16 foreign jurisdiction, he or she is entitled to bring into  
17 the FSM the following goods duty free, provided that such  
18 goods are for that person's own personal use or  
19 consumption and not for resale or exchange, and provided  
20 further that such person is permitted by applicable State  
21 law to possess, use, and consume such goods:

22 (a) up to 200 cigarettes;

23 (b) up to one pound of tobacco or twenty cigars;

24 (c) up to 52 fluid ounces or 1500 milliliters of  
25 distilled alcoholic beverages; and

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1                   (d) up to two hundred dollars (\$200) worth of  
2 goods other than tobacco products, beer and malt  
3 beverages, distilled alcoholic beverages, and wine.

4                   (4) Visitors' personal effects. A visitor to the FSM  
5 may import bona fide personal effects into the FSM duty  
6 free, provided the goods are for the visitor's own  
7 personal use and will be taken with the visitor when he  
8 or she leaves the country.

9                   (5) Returning goods. Goods produced or properly  
10 entered in the FSM which are subsequently removed from  
11 the FSM may be returned to the FSM duty free. The burden  
12 shall be on the owner of the goods to establish that the  
13 goods were either produced in the FSM or previously and  
14 properly entered.

15                   (6) Goods used in foreign aid projects. An  
16 international organization, foreign contractor, or other  
17 foreign entity may import goods into the FSM duty free in  
18 connection with the performance of services or other  
19 conduct of business in furtherance of a foreign aid  
20 agreement entered into by the FSM, the terms of which  
21 require that such import shall not be subject to taxation  
22 by the FSM; provided that if and when such goods are  
23 subsequently sold in the FSM, import duty shall be due  
24 based on the sale amount. The duty, together with  
25 penalties and interest, shall be the joint and several

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1 personal liability of the importer and the purchaser and  
2 shall be secured by first liens on the goods and on the  
3 importer's property as hereinafter provided.

4 (7) Certain fishing vessels and equipment. Fishing  
5 vessels basing in the Federated States of Micronesia  
6 under a valid permit or license issued pursuant to title  
7 24 of the Code of the Federated States of Micronesia  
8 shall not be subject to the import duty on either the  
9 vessel or equipment installed in the vessel. This ex  
10 emption shall apply to replacement parts and equipment  
11 imported by these fishing vessels as well.

12 (8) Parcels which would generate a de minimis  
13 duty.

14 Parcels mailed or otherwise sent into the FSM, which  
15 would otherwise generate a de minimis duty, shall be  
16 exempt from import duty, provided that such goods are for  
17 the recipient's own personal use or consumption and not  
18 for resale or exchange. Parcels with values up to the  
19 amount specified in subsection (3)(d) of this section,  
20 shall be exempt.

21 (9) Certain Donated Goods.

22 (a) In General. Goods donated from abroad from  
23 an international donor and donated for the benefit of  
24 and directly to the Federated States of Micronesia  
25 National Government, or to any of the four State

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1 Government (Pohnpei, Kosrae, Chuuk, Yap), or to a  
2 charitable organization duly recognized and established  
3 in the FSM, shall be exempt from import duties provided  
4 that the importer satisfies the conditions set forth  
5 under subsection (9). For purposes of subsection (9),  
6 the importer is the recipient of the goods: the FSM  
7 National Government, the State Governments (Pohnpei,  
8 Kosrae, Chuuk, Yap), or a charitable organization duly  
9 recognized and established in the FSM. The importer  
10 must provide the Secretary of Finance or his designee  
11 with notarized documents which certify:

12 (i) the identify of the international  
13 donor;

14 (ii) the identify of the importer (the  
15 recipient government or charitable organization);

16 (iii) a statement from the international donor  
17 identifying the specific goods being donated and the  
18 value of said goods;

19 (iv) a statement from the international donor  
20 certifying that the goods are being donated for  
21 charitable purposes and not for resale;

22 (v) a state from the international donor  
23 certifying that the goods are being donated free of  
24 charge and that there are no expenses charged to the  
25 recipient of the goods;"

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1           (b) Certain Goods Exempted. The Secretary of  
2           Finance or his designee may consider an exemption for  
3           books, medicine, emergency relief supplies, building or  
4           construction materials and supplies, and emergency  
5           vehicles solely limited to:

6                   (i) police vehicles

7                   (ii) fire trucks and

8                   (iii) ambulance, as well as equipment and  
9           supplies necessary to operate said vehicles; provided  
10           these items are being donated from abroad for charitable  
11           purposes in compliance with subsection (a) and not for  
12           resale. However, if the goods being donated are  
13           building or construction supplies and materials, then  
14           the Secretary of Finance or his designee has the right  
15           to place a limit on any exemption claimed under this  
16           Paragraph. Said limitations shall be determined in a  
17           separate policy statement issued by the Secretary of  
18           Finance. These threshold limitations shall not apply to  
19           building or construction supplies and materials donated  
20           from abroad to the FSM National Government for emergency  
21           situations when there has been a State of Emergency  
22           declared by the President of Federated States of  
23           Micronesia.

24           (c) Burden of Proof. The burden of proving  
25           compliance with the provisions of this Paragraph is upon

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1 the importer (recipient government or charitable  
2 organization), and must be met by clear and convincing  
3 evidence.

4 (d) Subsequent Sale of Goods. If and when goods  
5 exempted under subsection 9 are subsequently sold in the  
6 FSM, import duty shall be due based on the sale amount.

7 Section 2. Retroactive. The exemptions specified under  
8 section 222(9) of this title shall apply retroactive exclusively  
9 to the following specified dates and donated goods:

10 (1) Two (2) Aircraft Rescue and Firefighting (ARF)  
11 Vehicles (fire trucks), equipment and spare parts  
12 (accessories for the fire trucks) which arrived in Yap  
13 on or about August 6, 2007 as part of the donated goods  
14 for the Airport Improvement Project (AIP) in FSM.

15 (2) Two (2) ARF fire trucks, equipment and spare parts  
16 (accessories for the fire trucks) which arrived in Weno,  
17 Chuuk State on or about August 16, 2007 as part of the  
18 AIP in the FSM;

19 (3) ARF Vehicles' equipment and spare parts  
20 (accessories to the fire trucks) donated as part of the  
21 AIP project, which arrived in Pohnpei on or about  
22 January 6, 2008.

23 (4) ARF Vehicles' equipment and spare parts  
24 (accessories to the fire trucks) donated as part of the  
25 AIP in FSM, which arrived in Kosrae on or about January



1                   17, 2008.

2           Section 2. This act shall become law upon approval by the  
3 President of the Federated States of Micronesia or upon its  
4 becoming law without such approval.

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6 Date: 9/29/08

Introduced by: /s/ Moses A. Nelson  
Moses A. Nelson

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