
A BILL FOR AN ACT

To further amend Title 54 of the Code of the Federated States of Micronesia by adding a new chapter 7, for the purpose of enacting a Federated States of Micronesia Unified Revenue Authority Act of 2010 for the National Government and for other purposes.

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

1 Section 1. Title 54 of the Code of the Federated States
2 of Micronesia is hereby amended by adding a new Chapter 7.

3 Section 2. Title 54 of the Code of the Federated States of
4 Micronesia is hereby further amended by adding a new chapter 7
5 to be entitled "FSM Unified Revenue Authority".

6 Section 3. Title 54 of the Code of the Federated States of
7 Micronesia is hereby amended by adding a new subchapter 1 of
8 Chapter 7 to be entitled "General Provisions."

9 Section 4. Title 54 of the Code of the Federated States of
10 Micronesia is hereby further amended by adding a new section
11 701 to subchapter 1 of Chapter 7 to read as follows:

12 "Section 701. Short title. This chapter may be
13 cited as the Federated States of Micronesia Unified
14 Revenue Authority Act of 2010".

15 Section 5. Title 54 of the Code of the Federated States of
16 Micronesia is hereby further amended by adding a new section
17 702 to subchapter 1 of Chapter 7 to read as follows:

18 "Section 702. Definitions. In this chapter,
19 Wherever used in this Chapter, unless the subject

1 matter, context, or sense otherwise requires:

2 (1) "Authority" means the Federated States of
3 Micronesia Unified Revenue Authority established by
4 Section 711.

5 (2) "Board" means the Board of Directors of the
6 Authority appointed under Section 712.

7 (3) "CEO" means the Chief Executive Officer
8 appointed under Section 731.

9 (4) "Congress" means the Congress of the Federated
10 States of Micronesia.

11 (5) "Finance Official" means the Secretary, a
12 Director of Finance, Director of Administration,
13 Director of Administration and Treasury or such other
14 official holding the highest administrative office
15 responsible for matters of finance or taxation within
16 the FSM national government or the government of any
17 State.

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

19 (7) "Government" means the Government of the
20 Federated States of Micronesia or the State
21 Government of a State in the Federated States of
22 Micronesia, whichever the context appropriately
23 requires.

24 (8) "Generally Accepted Accounting Principles"
25 or "GAAP" means those accounting principles currently

1 accepted by certified public accountants and which
2 are utilized by auditors operating within the FSM,
3 PROVIDED HOWEVER, that in the event International
4 Financial Reporting Standards (IFRS) become generally
5 accepted by the financial/auditing entities within
6 the FSM and as prescribed by law or regulations, then
7 GAAP shall be modified by IFRS.

8 (9) "Memorandum of Understanding" means the
9 Memorandum of Understanding entered into between the
10 FSM national government and the several States under
11 Section 759.

12 (10) "National tax" means a tax or duty imposed
13 under a law referred to in paragraphs (a) or (b) of
14 the definition of "Revenue Law" in subsection (15).

15 (11) "Net tax" means the gross collection of tax,
16 penalties, and interest under a revenue law less
17 refunds paid under such law.

18 (12) "Net National taxes" means the net tax
19 collected in respect of National taxes.

20 (13) "Net State taxes" means the net tax collected in
21 respect of a State's taxes.

22 (14) "Prescribed percentage", in relation to the URA
23 operations budget, is that percentage determined
24 under Section 752.

25 (15) "Revenue law" means-

1 (a) any Chapter under this Title;

2 (b) a law of the FSM imposing a tax or duty if
3 the law provides that the Authority has the
4 responsibility for administering the tax or duty; and

5 (c) a law of a State imposing a tax which
6 the Authority is allowed to administer by virtue of
7 the laws of such State.

8 (16) "Revenue officer" means the CEO and any officer
9 of the Authority appointed under Section 732.

10 (17) "Secretary" means the Secretary of the
11 Department of Finance.

12 (18) "State" means a State of the Federated States
13 of Micronesia; and

14 (19) "State tax" means a tax imposed under a law
15 referred to in paragraph (c) of the definition of
16 "Revenue Law" in subsection (15)."

17 Section 6. Title 54 of the Code of the Federated States
18 of Micronesia is hereby amended by adding a new subchapter II
19 of Chapter 7 to be entitled "Establishment, Membership, and
20 Meetings of the Authority."

21 Section 7. Title 54 of the Code of the Federated States
22 of Micronesia is hereby further amended by adding a new section
23 711 to subchapter II of Chapter 7 to read as follows:

24 "Section 711. Establishment of the Federated States
25 of Micronesia Unified Revenue Authority. The

1 Federated States of Micronesia Unified Revenue
2 Authority is hereby established under the laws of the
3 Federated States of Micronesia. It may hereinafter
4 be referred to as "the Authority".

5 Section 8. Title 54 of the Code of the Federated States
6 of Micronesia is hereby further amended by adding a new section
7 712 to subchapter II of Chapter 7 to read as follows:

8 "Section 712. Board of Directors of the Authority.

9 (1) There is a Board of Directors of the Authority
10 that is the governing body of the Authority.

11 (2) The Board is responsible for monitoring the
12 overall performance of the Authority and for
13 determining policies relating to staffing of and
14 procurement by the Authority.

15 (3) The Board must not intervene in the
16 determination of an assessment, ruling application,
17 liability, objection, or appeal of a person under a
18 revenue law, or in any other operational matter of
19 the Authority."

20 Section 9. Title 54 of the Code of the Federated States of
21 Micronesia is hereby further amended by adding a new section
22 713 to subchapter II of Chapter 7 to read as follows:

23 "Section 713. Appointment and Termination of
24 Appointment of Directors.

25 (1) The Board consists of the following directors-

1 (a) the Secretary;

2 (b) a representative of the State of Chuuk
3 appointed pursuant to Chuuk State law;

4 (c) a representative of the State of Kosrae
5 appointed pursuant to Kosrae State law;

6 (d) a representative of the State of Pohnpei
7 appointed pursuant to Pohnpei State law;

8 (e) a representative of the State of Yap appointed
9 pursuant to Yap State law; and

10 (f) a representative of the private sector
11 appointed by a majority of the directors referred to
12 in paragraphs (a)-(e).

13 (2) The person appointed under subsection (1)(f)
14 must be from a pool of candidates from the private
15 sector nominated by the Governors, who in the opinion
16 of the Board, has adequate experience in public
17 administration, or in financial, commercial, tax, or
18 legal matters. Each Governor may nominate no more
19 than two persons from his State.

20 (3) The following persons must not be appointed
21 under subsection (1)(f)-

22 (a) a person who is an undischarged bankrupt;

23 (b) a person who has been convicted of an
24 offense under a revenue law, or who otherwise has
25 been convicted of any other crime involving moral

1 turpitude;

2 (c) a person whose affairs under all revenue
3 laws are not up to date; or

4 (d) a person who is disqualified or suspended
5 from practice of the person's profession for
6 misconduct.

7 (4) Before appointing a person under subsection
8 (1)(f), the Board must have regard to any potential
9 conflicts of interest that the person may have.

10 (5) The person appointed as director under
11 subsection (1)(a) holds office for as long as the
12 person holds the office of Secretary.

13 (6) The person appointed as director under
14 subsection (1)(b), (c), (d), or (e) holds office for
15 pursuant to the State law of appointment.

16 (7) The person appointed as director under
17 subsection (1)(f) holds office for a term not
18 exceeding three years and is eligible for
19 reappointment.

20 (8) The person appointed as director under
21 subsection(1)(b), (c), (d), or (e) may be removed
22 from office in accordance with the State law
23 appointing the person as director.

24 (9) The person appointed as director under
25 subsection (1)(f) may be removed from office by

1 resolution of the Board if the director-

2 (a) has been absent, without leave of the
3 Board, from three consecutive meetings of the Board;

4 (b) has become an undischarged bankrupt;

5 (c) has been convicted of an offense, or has
6 become liable for a penalty, under a revenue law,
7 including section 718 of this Chapter, or has been
8 convicted of any other crime involving moral
9 turpitude; or

10 (d) has become disqualified or suspended
11 from practice of the person's profession for
12 misconduct."

13 Section 10. Title 54 of the Code of the Federated States
14 of Micronesia is hereby further amended by adding a new section
15 714 to subchapter II of Chapter 7 to read as follows:

16 "Section 714. Chairperson of the Board.

17 (1) The Chairperson of the Board is rotated
18 annually among the five FSM governments as
19 determined by the Board.

20 (2) The Chairperson may authorize, in writing, any
21 director to exercise any power or perform any
22 function conferred on the Chairperson by or under
23 this Act."

24 Section 11. Title 54 of the Code of the Federated States
25 of Micronesia is hereby further amended by adding a new section

1 715 to subchapter II of Chapter 7 to read as follows:

2 "Section 715. Meetings of the Board.

3 (1) The Board must meet as often as may be
4 necessary for the performance of its functions,
5 provided that it shall meet on no less than four
6 occasions each calendar year and provided, further,
7 that at least two such meetings shall require the
8 physical presence of the directors at a single
9 location.

10 (2) At any meeting, the quorum of the Board is four
11 directors. Subject to Subsection (1) of this
12 Section, participation may be in person,
13 teleconference, or by other appropriate electronic
14 means in real time. A quorum, once established,
15 shall not be broken by the absence or withdrawal of
16 one (1) or more directors before a meeting is
17 adjourned.

18 (3) Notice of a meeting of the Board must be given
19 to each director and shall be delivered by hand or
20 sent by post, facsimile, electronic mail, or other
21 written message to an address supplied by the
22 director to the Board for this purpose.

23 (4) Subject to subsection 5 of this Section,
24 decisions at meetings of the Board are by a simple
25 majority of the directors participating.

1 (5) The director appointed under Section 713(1)(f)
2 is a non-voting member of the Board but is to be
3 taken into account in determining whether a quorum
4 exists.

5 (6) Subject to this Section, the Board may
6 regulate its own procedure.

7 (7) The validity of a proceeding of the Board is
8 not affected by a vacancy in the membership, or by
9 any defect in the appointment, of a director.

10 (8) The Board may invite a person to attend a
11 meeting of the Board for the purpose of advising it
12 on any matter under discussion, but the person so
13 attending has no right to vote at the meeting."

14 Section 12. Title 54 of the Code of the Federated States
15 of Micronesia is hereby further amended by adding a new section
16 716 to subchapter II of Chapter 7 to read as follows:

17 "Section 716. Transaction of Business Without
18 Meeting.

19 A resolution of the Board is valid, even though it
20 was not passed at a meeting of the Board, if-

21 (a) it is signed or assented to by all

22 (b) five Directors of the Board who are
23 appointed under Section 713(1)(a), (b), (c), (d), and
24 (e) hereof; and

25 (c) a notice in writing of the proposed

1 resolution was given to each director."

2 Section 13. Title 54 of the Code of the Federated States
3 of Micronesia is hereby further amended by adding a new section
4 717 to subchapter II of Chapter 7 to read as follows:

5 "Section 717. Remuneration of Directors.

6 The directors of the Board and persons invited to
7 attend a meeting of the Board under Section 715(8)
8 are entitled to such remuneration as may be
9 established by regulation."

10 Section 14. Title 54 of the Code of the Federated States
11 of Micronesia is hereby further amended by adding a new section
12 718 to subchapter II of Chapter 7 to read as follows:

13 "Section 718. Disclosure of Interest.

14 (1) A director of the Board who has a direct or
15 indirect personal interest in the outcome of any
16 matter before the Board must disclose the interest to
17 the Board.

18 (2) The disclosure of an interest under subsection
19 (1) must be recorded in the minutes of the Board.

20 (3) After making a disclosure under subsection (1),
21 the director-

22 (a) in the case of a meeting, must withdraw
23 from the meeting before the commencement of
24 deliberations of the Board in respect of the matter
25 referred to in subsection (1), although the director

1 may be counted for the purposes of forming a quorum
2 of the Board at the meeting; and

3 (b) in any case, must not vote on the matter.

4 (4) A director who contravenes this Section is
5 guilty of an offense, and upon conviction is subject
6 to a fine not exceeding \$1000, imprisonment for not
7 more than one year, or both."

8 Section 15. Title 54 of the Code of the Federated States
9 of Micronesia is hereby further amended by adding a new section
10 719 to subchapter II of Chapter 7 to read as follows:

11 "Section 719. Minutes of Meetings and Business
12 Transacted.

13 (1) The Board must keep minutes of all its meetings
14 and business transacted under Section 715 and 716 in
15 a proper form.

16 (2) The minutes of a meeting, if duly signed by the
17 Chairperson or person presiding, are admissible, in
18 any legal proceedings, as evidence of the facts
19 stated therein and a meeting of the Board in respect
20 of which minutes have been so signed is treated as
21 having been duly convened and held, and the directors
22 present at the meeting have been duly appointed to
23 act.

24 (3) Any minutes of a resolution dealt with under
25 Section 716, if duly signed by the Chairperson, are

1 admissible, in any legal proceedings, as evidence of
2 the facts stated therein and that the resolution was
3 properly dealt with in accordance with Section 716."

4 Section 16. Title 54 of the Code of the Federated States
5 of Micronesia is hereby further amended by adding a new section
6 720 to subchapter II of Chapter 7 to read as follows:

7 "Section 720. Common Seal.

8 (1) The Authority must have a common seal of such
9 design as it may decide.

10 (2) The common seal must be kept by the Chairperson
11 and its affixing must be authenticated by two
12 directors of the Board generally or specifically
13 authorized by the Authority for the purpose, or by
14 one such director and the Chairperson.

15 (3) All deeds, documents, and other instruments
16 purporting to be sealed with the common seal and
17 authenticated in accordance with subsection (2) are,
18 unless the contrary is proved, presumed to have been
19 validly executed.

20 (4) The common seal of the Authority must
21 be officially and judicially noticed for
22 all purposes."

23 Section 17. Title 54 of the Code of the Federated States
24 of Micronesia is hereby further amended by adding a new section
25 721 to subchapter II of Chapter 7 to read as follows:

1 "Section 721. Task Assignment by Board.

2 (1) The Board may, from time to time, by notice in
3 writing under the hand of the Chairperson, assign to
4 any person or committee a specific task to assist the
5 Board in furtherance of its duties, provided that the
6 Board may not delegate its policy-making power.

7 (2) An assignment under this Section may be made to
8 a specified person or committee, or holder for the
9 time being of a specified office or to the holders of
10 offices of a specified class.

11 (3) An assignment may be made subject to such
12 restrictions and conditions as the Board thinks fit,
13 and may be made either generally or in relation to
14 any particular case or class of case.

15 (4) A person or committee purporting to be acting
16 under assignment of the Board must, when required to
17 do so, produce satisfactory evidence of such
18 assignment.

19 (5) A committee established under this section may
20 regulate its own procedure but is subject to
21 direction given by the Board.

22 (6) Sections 715, 716, 718, and 719 apply equally
23 to members and meetings of a committee established
24 under this Section.

25 (7) The members of a committee and persons invited

1 to attend meetings of the committee to advise the
2 committee are entitled to such allowances and
3 expenses as the Board may fix by regulation.

4 Section 18. Title 54 of the Code of the Federated States
5 of Micronesia is hereby amended by adding a new subchapter III
6 of Chapter 7 to be entitled "Service of Authority".

7 Section 19. Title 54 of the Code of the Federated States
8 of Micronesia is hereby further amended by adding a new
9 Section 731 to subchapter III of Chapter 7 to read as follows:

10 "Section 731. Appointment of Chief Executive Officer.

11 (1) The Board must appoint a Chief Executive
12 Officer on such terms and conditions as the Board
13 may determine.

14 (2) The CEO-

15 (a) shall serve for a term of four years,
16 subject to reappointment by the Board;

17 (b) is responsible for the administration and
18 enforcement of, and collection of revenue, under the
19 revenue laws;

20 (c) is responsible for the day-to-day
21 operations of the Authority;

22 (d) is responsible for the proper
23 administration and management of the functions and
24 affairs of the Authority in accordance with the
25 policy laid down by the Board; and

1 (e) shall perform such other
2 functions and duties as the Board may determine.

3 (3) Except as provided in Subsection (2), the CEO
4 is not subject to the direction or control of any
5 person.

6 (4) If the CEO is temporarily absent from the FSM,
7 or temporarily unable to perform the duties of his
8 office, the Board may appoint a person to act in the
9 place of the CEO during that period.

10 (5) The Board may terminate the appointment of the
11 CEO for incapacity, misbehavior, or misfeasance or
12 malfeasance. A CEO whose appointment has been
13 terminated under this Subsection may appeal to a
14 Court of competent jurisdiction."

15 Section 20. Title 54 of the Code of the Federated States
16 of Micronesia is hereby further amended by adding a new section
17 732 to subchapter III of Chapter 7 to read as follows:

18 "Section 732. Appointment of Officers and Other
19 Staff.

20 The CEO may appoint, on such terms and conditions as
21 the Board may determine, such officers, employees,
22 agents, or consultants as may be necessary or
23 expedient for carrying out the functions and duties
24 of the Authority."

25 Section 21. Title 54 of the Code of the Federated States

1 of Micronesia is hereby further amended by adding a new section
2 733 to subchapter III of Chapter 7 to read as follows:

3 "Section 733. Delegation of CEO's Functions and
4 Powers.

5 (1) Subject to Subsection (4) hereof, the CEO may,
6 by written instrument, delegate to a revenue officer
7 any of his or her functions and powers under any
8 revenue law, other than this power of delegation.

9 (2) A reference in a revenue law to the CEO
10 includes, in respect of the exercise of a power or
11 performance of a function delegated to a revenue
12 officer, a reference to the delegate.

13 (3) A delegation under this Section is revocable at
14 will and does not prevent the exercise of a power or
15 performance of a function by the CEO.

16 (4) The CEO shall not delegate the functions and
17 powers of tax assessment and collection to any person
18 other than an employee of the Authority, provided
19 that nothing herein shall be deemed as limiting the
20 CEO from retaining legal counsel, or contracting with
21 consultants and others as may be necessary to assist
22 the Authority perform its duties."

23 Section 22. Title 54 of the Code of the Federated States
24 of Micronesia is hereby further amended by adding a new section
25 734 to subchapter III of Chapter 7 to read as follows:

1 "Section 734. Oath of Office.

2 The Board may prescribe an oath of office to be
3 administered to revenue officers."

4 Section 23. Title 54 of the Code of the Federated States
5 of Micronesia is hereby further amended by adding a new section
6 735 to subchapter III of Chapter 7 to read as follows:

7 "Section 735. Confidentiality and Disclosure of
8 Information.

9 (1) Revenue officers, directors, employees of the
10 Authority, former directors of the Board, former
11 members of a committee of the Board, persons invited
12 to a Board or committee meeting, former employees or
13 contractors of the Authority, and any person formerly
14 or presently engaged by the Authority in any capacity
15 shall not disclose any business or personal document
16 or information received during the performance of
17 duties or in the course of any meeting of the
18 Authority if such document or information is deemed
19 confidential or secret by law or by generally
20 accepted business practices, except that they may
21 disclose a confidential or secret business or
22 personal document or information to-

23 (a) another revenue officer, but only to the
24 extent required by law or as may be necessary for the
25 purposes of any revenue law;

1 (b) the Secretary, but only in relation to
2 National taxes;

3 (c) a Finance Official of a State, but only in
4 relation to the State's taxes;

5 (d) the Secretary of Justice of the FSM
6 Department of Justice or his designee, but only to
7 the extent required for any legal action or claim by
8 or against the National Government;

9 (e) the Attorney General of a State Government
10 or his designee, but only to the extent required for
11 any legal action or claim by or against the State;

12 (f) a court of competent jurisdiction upon
13 order of such court, or to the extent necessary with
14 respect to the enforcement of any revenue law;

15 (g) the National Public Auditor or a person
16 authorized by the National Public Auditor in writing,
17 but only to the extent that the disclosure is
18 necessary for the performance of the audit of the
19 Authority's accounts;

20 (h) the State Public Auditor or a person
21 authorized by the State Public Auditor in writing,
22 but only to the extent that the disclosure is
23 necessary for audit of accounts held by the Authority
24 on behalf of the States;

25 (i) the competent authority of a government of

1 a foreign country with which the FSM national
2 government has entered into an agreement providing
3 for the exchange of information, but only to the
4 extent permitted under that agreement and applicable
5 law; and

6 (j) a person with the written consent of the
7 person to whom the documents or information relate.

8 (3) If a revenue officer is permitted to disclose
9 documents or information under subsection (3), the
10 officer must maintain secrecy and confidentiality
11 except to the minimum extent necessary to achieve the
12 object for which the disclosure is permitted.

13 (4) Every person who knowingly or intentionally
14 violates any provision of Subsections (1) or (2)
15 hereof, or a duty or obligation imposed therein,
16 shall be guilty of a felony and, upon conviction
17 thereof, shall be fined not less than \$500.00 and not
18 more than \$5,000.00, or be imprisoned for not more
19 than two years, or both."

20 Section 24. Title 54 of the Code of the Federated States
21 of Micronesia is hereby amended by adding a new subchapter IV
22 of Chapter 7 to be entitled "Functions, Duties and Powers of
23 the Authority."

24 Section 25. Title 54 of the Code of the Federated States
25 of Micronesia is hereby further amended by adding a new section

1 741 to subchapter IV of Chapter 7 to read as follows:

2 "Section 741. Functions of the Authority.

3 The primary function of the Authority is to maximize,
4 over time, the collection of tax revenue lawfully
5 owing to the FSM National Government and the States
6 given the resources available to it. Without limiting
7 the generality of the foregoing, the Authority has
8 the following specific functions-

9 (a) to act as agent in the collection of
10 revenue on behalf of the FSM national government and
11 the governments of the several States in accordance
12 with their revenue laws;

13 (b) to otherwise administer on behalf
14 of the FSM national government and the government of
15 the several States the provisions of the revenue laws
16 as shall from time to time require its action;

17 (c) to render ancillary services to the FSM
18 National Government and the governments of the
19 several States in the administration and enforcement
20 of their revenue laws;

21 (d) to take border security and customs
22 measures as required under FSMC Title 54, Chapter 2 or
23 as assigned to the Authority in accordance with law.;

24 (e) to ensure that all revenue collected is
25 dealt with in accordance with Section 758;

1 (f) to promote voluntary compliance with the
2 revenue laws;

3 (g) to take such measures as may be required
4 to improve the standards of service provided to
5 taxpayers with a view to improving efficiency and
6 effectiveness in administration, and maximizing
7 revenue collection;

8 (h) to take such measures as may be required
9 or considered necessary to prevent tax evasion and
10 fraud of any type;

11 (i) to advise the FSM national government and
12 the governments of the several States on matters
13 relating to the administration and collection of
14 revenue, and border security, under the revenue laws;

15 (j) as directed by the Secretary, to represent
16 the FSM national government internationally in
17 respect of matters related to taxation and customs;

18 (k) to perform such other functions, in
19 relation to the collection of National taxes as the
20 Secretary may assign to the Authority; and

21 (l) to perform such other functions in
22 relation to the collection of State taxes as the
23 Finance Official of the relevant State may assign to
24 the Authority."

25 Section 26. Title 54 of the Code of the Federated States

1 of Micronesia is hereby further amended by adding a new section
2 742 to subchapter IV of Chapter 7 to read as follows:

3 "Section 742. Powers of the Authority.

4 (1) In performing the functions authorized pursuant
5 to Section 741 of this Chapter, the Authority has the
6 following powers:

7 (a) to adopt, alter, and use a seal;

8 (b) to adopt and amend bylaws governing the
9 conduct of its business and the exercise of its
10 powers, subject to the provisions of the revenue
11 laws;

12 (c) to sue and be sued in its name;

13 (d) to acquire, in any lawful manner, any
14 personal property, either tangible or intangible, to
15 hold, maintain, use and operate such property, and to
16 sell, lease or otherwise dispose of such property;

17 (e) to retain and terminate the services of
18 employees, agents, attorneys, auditors, and
19 independent contractors upon such terms and
20 conditions as it may deem appropriate;

21 (f) to make assessments, conduct
22 investigations, initiate judicial proceedings,
23 publish rules and rulings, and to take such other
24 action as may be necessary in connection with its
25 role as a unified tax administration for the FSM

1 National Government and the governments of the
2 several States; and

3 (g) to do all such other things on its own
4 account or as agent for the FSM National Government
5 and the governments of the several States as may be
6 deemed incidental to or conducive to the attainment
7 of the functions and responsibilities of the
8 Authority.

9 (2) The Authority is not permitted to own any real
10 property, but may lease real property to the extent
11 necessary for its operation."

12 Section 27. Title 54 of the Code of the Federated States
13 of Micronesia is hereby amended by adding a new subchapter V of
14 Chapter 7 to be entitled "Financial Provisions and Reporting."

15 Section 28. Title 54 of the Code of the Federated States
16 of Micronesia is hereby further amended by adding a new section
17 751 to subchapter V of Chapter 7 to read as follows:

18 "Section 751. Funds of the Authority.

19 (1) Establishment. There shall be established a
20 Federated States of Micronesia Special Fund,
21 hereinafter referred to as the "Fund", separate and
22 apart from all public monies or funds of the
23 Federated States of Micronesia, which shall be
24 administered by the authority exclusively for the
25 purposes of this Chapter.

1 (2) Deposits. Except as may otherwise be required
2 by grantors in cases of grants, all funds specified
3 under Subsection 5 hereof, and all funds derived from
4 deductions made pursuant to Section 752 hereof, shall
5 be deposited in the Fund. Any unexpended moneys in
6 this Fund shall neither revert nor lapse to the
7 General Fund, or any other Fund.

8 (3) Administration. The Fund shall be administered
9 by the CEO in accordance with the regulations and
10 procedures which the Board shall promulgate as
11 appropriate for the effectuation and implementation
12 of the provisions of this subchapter. Procurement of
13 goods and services to be funded wholly or partially
14 from the Fund shall be subject to the Financial
15 Management Act of 1979 and its subsidiary regulation.

16 (4) Authority funds. The funds of the Authority
17 consist of-

18 (a) money appropriated from time to time by
19 Congress and paid to the Authority.

20 (b) money derived from the disposal, lease, or
21 hire of, or any other dealing with, any property
22 vested in or acquired by the Authority;

23 (c) money borrowed by the Authority in
24 accordance with subsection (2);

25 (d) income from investments referred to in

1 subsection (3); and

2 (e) except as provided herein, any other
3 moneys that may become payable to the Authority in
4 respect of any matter incidental to its functions and
5 powers, including but not limited to grants or other
6 donated funding; and

7 (f) money deducted for the operations of the
8 Authority pursuant to Section 752 hereof.

9 (5) The Authority may borrow upon such terms and
10 conditions as the Board may approve, any sums
11 required by the Authority to meet any of its
12 obligations or to perform any of its functions.

13 (6) The Authority shall, to the extent practicable,
14 maintain its funds in the form of liquid, interest
15 bearing bank deposits.

16 (7) The Authority shall conserve its funds by
17 performing its functions and exercising its powers
18 under this Chapter so as to ensure that the total
19 revenues of the Authority are sufficient to meet all
20 sums properly chargeable to its revenue account
21 including depreciation and interest on capital.

22 (8) The funds of the Authority do not include
23 National and State taxes, or any interest or penalty
24 in relation to such taxes, collected by the Authority
25 on behalf of the FSM National Government or the

1 governments of the several States.”

2 Section 29. Title 54 of the Code of the Federated States
3 of Micronesia is hereby further amended by adding a new section
4 752 to subchapter V of Chapter 7 to read as follows:

5 “Section 752. Funding of URA Operations.

6 Unless otherwise provided by an Act of Congress, the
7 Authority shall deduct from the National Government’s
8 share of the National Taxes collected during the
9 current year an amount not exceeding the prescribed
10 percentage as funds for its operations in the ensuing
11 year. Such deductions shall be deemed appropriated
12 as if set forth in the Comprehensive Budget Act for
13 the relevant fiscal year.”

14 Section 30. Title 54 of the Code of the Federated States
15 of Micronesia is hereby further amended by adding a new section
16 753 to subchapter V of Chapter 7 to read as follows:

17 “Section 753. Taxes Collected by the Authority Held
18 in Trust for National or State Governments.

19 (1) The National Taxes collected by the Authority
20 are held by the Authority in trust for the FSM
21 National Government and the governments of the
22 several States in the proportion specified in Section
23 758.

24 (2) The State taxes collected by the Authority on
25 behalf of a State are held by the Authority in trust

1 for the State in the proportion specified in Section
2 758.

3 (3) The amounts referred to in subsections (1) and
4 (2) do not form part of the assets of the Authority
5 available to meet the claims of creditors of the
6 Authority.”

7 Section 31. Title 54 of the Code of the Federated States
8 of Micronesia is hereby further amended by adding a new section
9 754 to subchapter V of Chapter 7 to read as follows:

10 “Section 754. Expenditure to be Charged on Funds
11 of the Authority.

12 (1) The funds of the Authority must be expended for
13 the purposes of-

14 (a) paying any expenditure lawfully incurred
15 by the Authority in the performance of its functions
16 or the exercise of its powers under the revenue laws;

17 (b) discharging any obligations and
18 liabilities of the Authority and making any payments
19 that the Authority is required or authorized to make;
20 or

21 (c) paying any expenses for carrying into
22 effect the provisions of the revenue laws.

23 (2) The FSM national government and the governments
24 of the several States are not liable for any debts
25 incurred by the Authority unless all the governments

1 have agreed otherwise in relation to a particular
2 debt or debts."

3 Section 32. Title 54 of the Code of the Federated States
4 of Micronesia is hereby further amended by adding a new section
5 755 to subchapter V of Chapter 7 to read as follows:

6 "Section 755. Bank Accounts.

7 (1) The Authority shall maintain one or more bank
8 accounts into which funds of the Authority shall be
9 deposited and from which operational expenses are
10 paid. Funds of the Authority shall be deposited into
11 the appropriate account no later than the next
12 business day.

13 (2) The Authority shall maintain a separate bank
14 account for each Government. The Authority shall
15 deposit the funds held in trust pursuant to Section
16 753 into the respective account of each Government.
17 Such funds collected by the Authority shall be
18 deposited into the appropriate account no later than
19 the next business day. The Authority shall not
20 commingle funds.

21 (3) No withdrawal or payment of money from an
22 account opened under Subsection (1) can be made
23 without the signature of the CEO or his/her designee.
24 No withdrawal or payment of money from an account
25 opened under Subsection (2) can be made without the

1 signature of the CEO or his/her designee and the
2 signature of the Chief Financial Officer of the
3 Authority or his/her designee.

4 (4) No amount can be withdrawn from an account
5 opened under Subsection (2) except in making a refund
6 of tax deposited into the account or in the transfer
7 of the balance of the account of the FSM National
8 Government or a State Government in accordance with
9 Section 758.

10 (5) The Authority shall maintain in each account a
11 sufficient balance to meet minimum bank balance
12 requirements as set by the bank."

13 Section 25. Title 54 of the Code of the Federated States
14 of Micronesia is hereby further amended by adding a new section
15 756 to subchapter V of Chapter 7 to read as follows:

16 "Section 756. Annual Budget and Costs of
17 Administration.

18 (1) At such time and in such manner as the Board
19 may prescribe, but not later than six months prior to
20 the close of the current fiscal year, the CEO shall
21 submit to the Board a detailed estimate of the budget
22 for the next ensuing fiscal year for the proper
23 conduct of the Authority. This submission shall
24 include:

25 (a) for the last completed fiscal year,

1 audited accounts indicating the amount of revenue
2 collected by the Authority on behalf of the FSM
3 national government and the governments of the
4 several States, the amount of other income of the
5 Authority, and the amount of all expenditures
6 incurred by the Authority, together with the closing
7 balance of all bank accounts maintained by the
8 Authority;

9 (b) for the fiscal year in progress, a
10 statement showing the estimated amount of revenue to
11 be collected on behalf of the FSM national government
12 and the governments of the several States, the
13 estimated amount of other income of the Authority,
14 and the estimated amount of all expenditures to be
15 incurred by the Authority, together with such
16 summaries, schedules, and supporting data as the
17 board or the President may require by notice in
18 writing to the CEO; and

19 (c) for the next ensuing fiscal year, a budget
20 showing the estimated amount of revenue to be
21 collected on behalf of the FSM national government
22 and the governments of the several States, the
23 estimated amount of other income of the Authority,
24 and the estimated amount of all expenditures to be
25 incurred by the Authority, including salaries and

1 wages, purchases of office supplies, operational
2 expenses, and the cost of maintaining branch offices.

3 (2) The annual budget of the Authority shall be no
4 more than 10% of the National Government's share of
5 National Taxes, expressed as the prescribed
6 percentage authorized by Congress; provided that the
7 Board may designate in writing a lower budget cap,
8 within the prescribed percentage."

9 Section 33. Title 54 of the Code of the Federated States
10 of Micronesia is hereby further amended by adding
11 a new section 757 to subchapter V of Chapter 7 to read as
12 follows:

13 "Section 757. Accounts, Annual Report, and Audit.

14 (1) The Authority must keep accounts of its
15 transactions and financial affairs, and must ensure
16 that-

17 (a) all moneys received by the Authority are
18 properly recorded and accounted for;

19 (b) all payments by the Authority are properly
20 authorized;

21 (c) adequate control is maintained over the
22 Authority's property and the incurring of
23 liabilities; and

24 (d) the accounts are kept in accordance with
25 Generally Accepted Accounting Principles.

1 (2) Within three months after the end of each
2 fiscal year, the CEO must prepare a report of the
3 Authority's activities during the fiscal
4 year(referred to as the "Annual Report") and submit a
5 copy of the Report to the Board, the President, the
6 Governor of each State, and the Finance Officials.

7 (3) The Annual Report must contain, among other
8 things-

9 (a) a statement of financial performance,
10 including a statement of the financial position of
11 the Authority;

12 (b) a statement of cash flows;

13 (c) a statement of distribution of revenues to
14 the States pursuant to Section 758;

15 (d) a copy of the most recent budget submitted
16 pursuant to Section 756;

17 (e) a report of the Authority's operations for
18 the year; and

19 (f) such other information as is required to give a
20 true and fair view of the Authority's financial
21 affairs.

22 (4) The annual accounts of the Authority must be
23 audited by the Public Auditor or, if the Public
24 Auditor indicates in writing that an audit cannot be
25 completed within six months of the end of the

1 financial year, by an independent accounting firm
2 satisfactory to the Board. For this purpose, the CEO
3 must, within three months after the end of each
4 financial year, submit to the Auditor-

5 (a) the accounts of the Authority for the
6 year; and

7 (b) the Annual Report for the year prepared in
8 accordance with subsection (2).

9 (5) The Board shall cause a copy of the Annual
10 Report and a copy of the auditor's opinion of the
11 Authority's accounts for a financial year to be laid
12 before Congress and the State legislatures within
13 thirty (30) days following receipt of the Auditor's
14 opinion.

15 (6) The CEO shall, from time to time as the Board
16 may require, and no less than once each fiscal
17 quarter, submit to the Board an interim report
18 accounting for estimated and actual revenue
19 collections, as well as estimated and actual
20 expenditures of the Authority."

21 Section 34. Title 54 of the Code of the Federated States
22 of Micronesia is hereby further amended by adding a new section
23 758 to subchapter V of Chapter 7 to read as follows:

24 "Section 758. Distribution of Revenues.

25 (1) The Authority shall pay the following amounts

1 to the treasury of each State Government,-

2 (a) a hundred percent of the net tax collected
3 pursuant to the Value Added Tax Act of the State;

4 (b) a hundred percent of the net tax collected
5 pursuant to any other taxes imposed by the State;

6 (c) eighty percent of the net tax collected
7 pursuant to section 221 of this Title in relation to
8 the import of gasoline and diesel fuels into the
9 State;

10 (d) fifty percent of the net tax collected
11 pursuant to Section 121 of this Title in relation to
12 wages and salaries received by employees in the
13 State;

14 (e) fifty percent of the net tax collected
15 pursuant to Section 221 (other than Section 221 of
16 this Title in relation to the import of gasoline and
17 diesel fuels into the State) of this Title in
18 relation to the import of goods into the State; and

19 (f) fifty percent of the net tax collected
20 pursuant to-

21 (i) Sections 521 and 522 of this Title in
22 relation to business carried on through a permanent
23 establishment in the State as determined under
24 Section 512(30);

25 (ii) Section 524 of this Title in relation

1 to the carriage of passengers, livestock, mail,
2 merchandise, or goods embarked in the State or to the
3 insurance of risks in the State; and

4 (iii) Section 525 of this Title in relation
5 to interest, royalties, a natural resource amount, or
6 a management fee derived by a non-resident person
7 from sources in the State determined under Section
8 513 on the basis that the reference in that Section
9 to FSM is a reference to the State.

10 (2) The Authority shall pay the following amounts
11 to the treasury of the National Government:

12 (a) twenty percent of the net tax collected
13 pursuant to section 221 of this Title in relation to
14 the import of gasoline and diesel fuels into the
15 State;

16 (b) fifty percent of the net tax collected
17 pursuant to Section 121 of this Title in relation to
18 wages and salaries received by employees in the
19 State;

20 (e) fifty percent of the net tax collected
21 pursuant to Section 221 (other than Section 221 of
22 this Title in relation to the import of gasoline and
23 diesel fuels into the State) of this Title in relation
24 to the import of goods into the State; and

25 (f) fifty percent of the net tax collected

1 pursuant to-

2 (i) Sections 521 and 522 of this Title in
3 relation to business carried on through a permanent
4 establishment in the State as determined under
5 Section 512(30);

6 (ii) Section 524 of this Title in relation
7 to the carriage of passengers, livestock, mail,
8 merchandise, or goods embarked in the State or to the
9 insurance of risks in the State; and

10 (iii) Section 525 of this Title in relation
11 to interest, royalties, a natural resource amount, or
12 a management fee derived by a non-resident person
13 from sources in the State determined under Section
14 513 on the basis that the reference in that Section
15 to FSM is a reference to the State.

16 (3) All distributions referenced in this Section
17 shall include any interest accrued while the funds
18 have been held by the Authority in trust.

19 (4) The timing of the distribution of revenue shall
20 be as follows:

21 (a) By no later than the last day of each
22 month the Authority shall distribute to each
23 Government the net taxes collected and deposited by
24 the Authority during the previous month.

25 (b) Refunds to taxpayers shall be paid from

1 the subsequent month's distribution of revenue to the
2 Governments."

3 Section 35. Title 54 of the Code of the Federated States
4 of Micronesia is hereby further amended by adding a new section
5 759 to subchapter V of Chapter 7 to read as follows:

6 "Section 759. Memorandum of Understanding.

7 (1) The FSM national government and the governments
8 of the several States should enter a Memorandum of
9 Understanding to give effect to each government's
10 commitments in relation to the establishment of the
11 Authority.

12 (2) The amendment of this Act or the regulations
13 promulgated without the unanimous consent by all
14 parties to the Memorandum of Understanding will
15 constitute a ground for withdrawal by any party from
16 the Memorandum of Understanding."

17 Section 36. Title 54 of the Code of the Federated States
18 of Micronesia is hereby amended by adding a new subchapter VI
19 of Chapter 7 to be entitled "Miscellaneous."

20 Section 37. Title 54 of the Code of the Federated States
21 of Micronesia is hereby further amended by adding a new section
22 761 to subchapter VI of Chapter 7 to read as follows:

23 "Section 761. Limitation of Liability.

24 (1) Except as provided in Subsection 3 of this
25 Section, no civil proceedings shall lie against the

1 Authority or an officer, employee, or director of the
2 Authority for anything done or said, or a failure to
3 do or say anything in the course of the operation of
4 the Authority, unless it is shown that the Authority,
5 director, officer, or employee acted in bad faith or
6 with intentional disregard for the rights or safety
7 of others, or unless it is shown that such action or
8 failure to act constitutes a violation of a revenue
9 law.

10 (2) Unless waived, no action for damages shall lie
11 against the FSM National Government or a government
12 of the several States for any act or omission on the
13 part of the Authority, or any of its directors,
14 revenue officers or of its CEO.

15 (3) Nothing in this Section shall be construed as a
16 limitation on the power of the Authority to sue and
17 be sued in its own name."

18 Section 38. Title 54 of the Code of the Federated States
19 of Micronesia is hereby further amended by adding a new section
20 762 to subchapter VI of Chapter 7 to read as follows:

21 "Section 762. Authority as Agent of the Government.

22 (1) In exercising its powers and duties under the
23 revenue laws, no action, claim, suit or statement
24 made by the Authority in its own name shall affect
25 its status as agent of the FSM National Government

1 and the governments of the several States for the
2 purpose of tax collection and revenue administration,
3 and all actions, statements or communications
4 undertaken by the Authority as agent is effective as
5 if made by the Authority in its own name, and vice-
6 versa.

7 (2) To the extent necessary for enforcement, any
8 tax claims administered by the Authority as agent of
9 the FSM National Government or the governments of the
10 several States are deemed assigned to the Authority
11 for the purpose of collection and administration."

12 Section 39. Title 54 of the Code of the Federated States
13 of Micronesia is hereby further amended by adding a new section
14 763 to subchapter VI of Chapter 7 to read as follows:

15 "Section 763. Claims for and Payments of Tax
16 Refunds.

17 All claims for refunds or offsets made by any person
18 with respect to any sum collected by the Authority on
19 behalf of the FSM national government or the
20 governments of the several States shall constitute,
21 first, a claim against those funds held within the
22 trust accounts maintained by the Authority pursuant
23 to section 753(2) that are allocated or allocable to
24 the government or governments for whose benefit the
25 original tax was collected, and second, against the

1 government itself or the governments themselves, as
2 the case may be."

3 Section 40. Title 54 of the Code of the Federated States
4 of Micronesia is hereby further amended by adding a new section
5 764 to subchapter VI of Chapter 7 to read as follows:

6 "Section 764. Proceedings Conducted by Revenue
7 Officers.

8 Subject to Section 767 hereof, a properly qualified
9 revenue officer authorized in writing by the CEO may
10 appear in civil proceedings in a court of competent
11 jurisdiction on behalf of such government for the
12 recovery of any unpaid tax under the respective
13 revenue law."

14 Section 41. Title 54 of the Code of the Federated States
15 of Micronesia is hereby further amended by adding a new section
16 765 to subchapter VI of Chapter 7 to read as follows:

17 "Section 765. Vesting of Assets and Liabilities,
18 Contracts and Proceedings; Transitional Provisions.

19 (1) All property, except real property or such
20 property as the CEO may determine, that immediately
21 before the commencement of this Act was vested in the
22 FSM national government for the use of the Revenue
23 Department for the purpose of giving effect to the
24 taxes and duties imposed under Title 54 is, on the
25 date of commencement of this Act, and without further

1 assurance, vested in the Authority subject to all
2 interests, liabilities, charges, obligations and
3 trusts affecting the property.

4 (2) Except as otherwise provided in Subsection(1)
5 in relation to property, all contracts, debts,
6 engagements and liabilities of the FSM National
7 Government attributable to the Revenue Department
8 remains vested in the FSM National Government and may
9 be enforced by or against the FSM national
10 government.

11 (3) All legal proceedings and claims in respect of
12 taxes and duties imposed under Title 54 pending at
13 the commencement of this Act are to be continued or
14 enforced by or against the Authority in the same
15 manner as they would have been continued or enforced
16 if this Act had not been enacted.

17 (4) The Authority will offer contracts of
18 employment to all existing revenue authority
19 employees in good standing provided that the
20 Authority is not required to hire the employees at
21 the same salaries or to fill the same positions. In
22 the event employees of a pre-existing revenue
23 authority are employed by the Authority, all accrued
24 benefits, sick leave, annual leave and other
25 contractual obligations owed by the pre-existing

1 revenue authority to its employees remains the
2 obligation of that authority and is not assumed by
3 the Authority, except to the extent directed by the
4 Board.

5 (5) Subject to satisfactory arrangements with the
6 FSM national government and the governments of the
7 several States, the Authority is to acquire, lease or
8 otherwise take over in any lawful manner the books,
9 property, and operations of any preexisting revenue
10 authority, provided that ownership of books and
11 records herein conveyed, and the right of access
12 thereto, shall remain with each respective
13 government."

14 Section 42. Title 54 of the Code of the Federated States
15 of Micronesia is hereby further amended by adding a new section
16 766 to subchapter VI of Chapter 7 to read as follows:

17 "Section 766. References in Other Laws.

18 A reference in any other legislation, regulation,
19 order, or other enactment or in any agreement, deed,
20 instrument, application, notice, or other document
21 whatsoever to-

22 (a) the person charged with the responsibility
23 of a revenue law to which this Chapter applies must
24 be read as a reference to the CEO; or

25 (b) a preexisting revenue authority must be

1 read as a reference to the Authority.”

2 Section 43. Title 54 of the Code of the Federated States
3 of Micronesia is hereby further amended by adding a new section
4 767 to subchapter VI of Chapter 7 to read as follows:

5 “Section 767. Controlling Laws.

6 (1) Notwithstanding anything in this Act to the
7 contrary, no policy or procedure adopted, decision
8 made, business transacted, or action taken by or
9 under the authority of the Board, CEO, or the
10 Authority shall be valid, insofar as applying to the
11 administration or enforcement of
12 a revenue law of a government, unless such policy,
13 procedure, decision, business transaction, or action
14 is not inconsistent with a revenue law of such
15 government.

16 (2) The applicability of and consistency with a law
17 of a government shall be determined by the chief
18 legal officer of such government.”

19 Section 44. Title 54 of the Code of the Federated States
20 of Micronesia is hereby further amended by adding a new section
21 767 to subchapter VI of Chapter 7 to read as follows:

22 “Section 767. Regulations.

23 The Board shall adopt such regulations as may be
24 necessary for the enforcement of this Chapter, and
25 such regulations shall have the force and effect of

1 law."

2 Section 45. Title 54 of the Code of the Federated States
3 of Micronesia is hereby further amended by adding a new section
4 768 to subchapter VI of Chapter 7 to read as follows:

5 "Section 768. Effective Date.

6 (1) This Act shall become law and effective upon
7 approval by the President of the Federated States of
8 Micronesia or upon its becoming law without such
9 approval.

10 (2) The Authority shall commence administration of
11 the revenue laws twelve months after this Act becomes
12 law."

13 Section 46. This act shall become law upon approval by the
14 President of the Federated States of Micronesia or upon its
15 becoming law without such approval.

16

17 Date: 3/26/10

Introduced by: /s/ Joe N. Suka

Joe N. Suka
(by request)

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