
A BILL FOR AN ACT

To further amend chapter 7 of Title 54 of the Code of the Federated States of Micronesia (Annotated), as amended by Public Law No. 19-01, by repealing and re-enacting a new chapter 7, for the purpose of establishing a Federated States of Micronesia Unified Revenue Authority 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 (Annotated) is hereby amended by repealing and
3 re-enacting a new chapter 7 entitled: "Federated States of
4 Micronesia Unified Revenue Authority".

5 Section 2. Title 54 of the Code of the Federated States
6 of Micronesia (Annotated) is hereby amended by designating
7 sections 701 to 702 as subchapter I entitled: "General
8 Provisions."

9 Section 3. Title 54 of the Code of the Federated States
10 of Micronesia (Annotated) is hereby amended by repealing and
11 re-enacting a new section 701 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 2019".

15 Section 4. Title 54 of the Code of the Federated States
16 of Micronesia (Annotated) is hereby amended by repealing and
17 re-enacting a new section 702 to read as follows:

1 "Section 702. Definitions.

2 Wherever used in this chapter, unless the subject
3 matter, context, or sense otherwise requires:

4 (1) 'Authority' means the Federated States of
5 Micronesia Unified Revenue Authority established by
6 section 711 of this chapter.

7 (2) 'Board' means the Board of Directors of the
8 Authority appointed under section 712 of this
9 chapter.

10 (3) 'CEO' means the Chief Executive Officer
11 appointed under Section 731 of this chapter.

12 (4) 'Congress' means the Congress of the
13 Federated States of Micronesia.

14 (5) 'CTA' means the FSM Department of Finance and
15 Administration, Division of Customs and Tax
16 Administration.

17 (6) 'Finance Official' means the Secretary,
18 Director of Finance, Director of Administration,
19 Director of Administration and Treasury, or such
20 other official holding the highest administrative
21 office responsible for matters of finance or
22 taxation within the FSM National Government or the
23 Government of any State.

24 (7) 'FSM' means the Federated States of
25 Micronesia.

1 (8) 'Government' means the Government of the
2 Federated States of Micronesia or the Government of
3 a State in the Federated States of Micronesia,
4 whichever the context appropriately requires.

5 (9) 'Generally Accepted Accounting Principles' or
6 "GAAP" means those accounting principles currently
7 accepted by certified public accountants, which are
8 utilized by auditors operating within the FSM;
9 PROVIDED, HOWEVER, that in the event International
10 Financial Reporting Standards (IFRS) become
11 generally accepted by the financial/auditing
12 entities within the FSM and as prescribed by law or
13 regulations, then GAAP shall be modified by IFRS.

14 (10) 'Memorandum of Understanding' means the
15 Memorandum of Understanding entered into between
16 the FSM National Government and the governments of
17 the several States under section 759 of this
18 chapter.

19 (11) 'National tax' means a tax or duty imposed
20 under a law referred to in paragraphs (a) or (b) of
21 the definition of "Revenue law" in subsection (17)
22 of this section.

23 (12) 'Net tax' means the gross collection of tax,
24 penalties, and interest under a revenue law less
25 refunds paid under such law.

1 (13) 'Net National taxes' means the net tax
2 collected in respect of National taxes.

3 (14) 'Net State taxes' means the net tax collected
4 in respect of a State's taxes.

5 (15) 'Prescribed percentage', in relation to the
6 Authority's operations budget, is that percentage
7 determined under sections 752 and 756(2) of this
8 chapter.

9 (16) 'Revenue authority' means the CTA as defined
10 in subsection (5) of this section, or the
11 administrative office responsible for matters of
12 finance or taxation within the Government of any
13 State.

14 (17) 'Revenue law' means:

15 (a) any chapter under this title;

16 (b) a law of the FSM imposing a tax or duty
17 if the law provides that the Authority has the
18 responsibility for administering the tax or duty;
19 and

20 (c) a law of a State imposing a tax which
21 the Authority is allowed to administer by virtue
22 of the laws of such State.

23 (18) 'Revenue officer' means the CEO and any
24 officer of the Authority appointed under section
25 732 of this chapter

1 (19) 'Secretary' means the Secretary of the
2 Department of Finance and Administration.

3 (20) 'State' means a State of the Federated States
4 of Micronesia; and

5 (21) 'State tax' means a tax imposed under a law
6 referred to in paragraph (c) of the definition of
7 "Revenue law" in subsection (17) of this section."

8 Section 5. Title 54 of the Code of the Federated States
9 of Micronesia (Annotated) is hereby amended by designating
10 new sections 711 to 721 of chapter 7 as subchapter II
11 entitled: "Establishment, Membership, and Meetings of the
12 Authority."

13 Section 6. Title 54 of the Code of the Federated States
14 of Micronesia (Annotated) is hereby amended by repealing and
15 re-enacting a new section 711 to read as follows:

16 "Section 711. Establishment of the Federated
17 States of Micronesia Unified Revenue Authority. The
18 Federated States of Micronesia Unified Revenue
19 Authority is hereby established under the laws of
20 the Federated States of Micronesia. It may
21 hereinafter be referred to as "the Authority".

22 Section 7. Title 54 of the Code of the Federated States
23 of Micronesia (Annotated) is hereby amended by repealing and
24 re-enacting a new section 712 to read as follows:

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

1 (1) There is a Board of Directors of the
2 Authority that is the governing body of the
3 Authority.

4 (2) The Board is responsible for monitoring the
5 overall performance of the Authority and for
6 determining policies relating to staffing of and
7 procurement by the Authority.

8 (3) The Board may not intervene in the
9 determination of an assessment, ruling application,
10 liability, objection, or appeal of a person under a
11 revenue law, or in any other operational matter of
12 the Authority.”

13 Section 8. Title 54 of the Code of the Federated States
14 of Micronesia (Annotated) is hereby amended by repealing and
15 re-enacting a new section 713 to read as follows:

16 “Section 713. Appointment and termination of
17 directors.

18 (1) The Board consists of the following
19 directors:

20 (a) the Secretary;

21 (b) a representative of the State of Chuuk
22 appointed pursuant to Chuuk State law;

23 (c) a representative of the State of Kosrae
24 appointed pursuant to Kosrae State law;

25 (d) a representative of the State of Pohnpei

1 appointed pursuant to Pohnpei State law;

2 (e) a representative of the State of Yap

3 appointed pursuant to Yap State law; and

4 (f) a representative of the private sector

5 appointed by a majority of the directors referred

6 to in paragraphs (a) through (e) of this section.

7 (2) The person appointed under subsection (1)(f)

8 of this section must be from a pool of candidates

9 from the private sector nominated by the Governors,

10 who in the opinion of the Board, has adequate

11 experience in public administration, or in

12 financial, commercial, tax, or legal matters. Each

13 Governor may nominate no more than two persons from

14 his State.

15 (3) The following persons are not allowed to be

16 appointed under subsection (1)(f) of this section:

17 (a) a person who is an undischarged

18 bankrupt;

19 (b) a person who has been convicted of an

20 offense under a revenue law, or who otherwise has

21 been convicted of any other crime involving moral

22 turpitude;

23 (c) a person whose affairs under all revenue

24 laws are not up to date; or

25 (d) a person who is disqualified or

1 suspended from practice of the person's profession
2 for misconduct.

3 (4) Before appointing a person under subsection
4 (1)(f) of this section, the Board must take into
5 consideration any potential conflicts of interest
6 that the person may have.

7 (5) The person appointed as director under
8 subsection (1)(a) of this section shall hold the
9 office for as long as the person holds the office
10 of Secretary.

11 (6) A person appointed as director under
12 subsection (1)(b), (c), (d), or (e) of this section
13 shall hold office pursuant to the respective State
14 law under which each was appointed.

15 (7) The person appointed as director under
16 subsection (1)(f) of this section shall hold office
17 for a term not exceeding three years and is
18 eligible for reappointment.

19 (8) A person appointed as a director under
20 subsection(1)(b), (c), (d), or (e) of this section
21 may be removed from office in accordance with the
22 State law of appointment.

23 (9) The person appointed as director under
24 subsection (1)(f) of this section may be removed
25 from office by resolution of the Board if the

1 director:

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

5 (b) has become an undischarged bankrupt;

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

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

14 Section 9. Title 54 of the Code of the Federated States
15 of Micronesia (Annotated) is hereby amended by repealing and
16 re-enacting a new section 714 to read as follows:

17 "Section 714. Chairperson of the Board.

18 (1) The Chairperson of the Board shall rotate
19 annually among the five FSM governments as
20 determined by the Board.

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

25 Section 10. Title 54 of the Code of the Federated

1 States of Micronesia (Annotated) is hereby amended by
2 repealing and re-enacting a new section 715 to read as
3 follows:

4 "Section 715. Meetings of the Board.

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

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

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

25 (4) Subject to subsection (5) of this section,

1 decisions at meetings of the Board are by a simple
2 majority of the directors participating.

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

7 (6) Subject to this section, the Board may
8 regulate its own procedure.

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

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

17 Section 11. Title 54 of the Code of the Federated
18 States of Micronesia (Annotated) is hereby amended by
19 repealing and re-enacting a new section 716 to read as
20 follows:

21 "Section 716. Transaction of business without
22 meeting.

23 (1) A resolution of the Board is valid, even
24 though it was not passed at a meeting of the Board,
25 if:

1 (a) it is signed or assented to by all five
2 directors of the Board who are appointed under
3 section 713(1)(a),(b),(c),(d), and (e) of this
4 chapter; and

5 (b) a notice in writing of the proposed
6 resolution was given to each director.”

7 Section 12. Title 54 of the Code of the Federated
8 States of Micronesia (Annotated) is hereby amended by
9 repealing and re-enacting a new section 717 to read as
10 follows:

11 “Section 717. Remuneration of directors.
12 The directors of the Board and persons invited to
13 attend a meeting of the Board under section 715(8)
14 of this chapter are entitled to such remuneration
15 as may be established by regulation.”

16 Section 13. Title 54 of the Code of the Federated
17 States of Micronesia (Annotated) is hereby amended by
18 repealing and re-enacting a new section 718 to read as
19 follows:

20 “Section 718. Disclosure of interest.

21 (1) A director of the Board who has a direct or
22 indirect personal interest in the outcome of any
23 matter before the Board must disclose the interest
24 to the Board.

25 (2) The disclosure of an interest under

1 subsection (1) of this section must be recorded in
2 the minutes of the Board.

3 (3) After making a disclosure under subsection
4 (1) of this section, the director:

5 (a) in the case of a meeting, must withdraw
6 from the meeting before the commencement of
7 deliberations of the Board in respect of the matter
8 referred to in subsection (1) of this section,
9 although the director may be counted for the
10 purposes of forming a quorum of the Board at the
11 meeting; and

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

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

18 Section 14. Title 54 of the Code of the Federated
19 States of Micronesia (Annotated) is hereby amended by
20 repealing and re-enacting a new section 719 to read as
21 follows:

22 "Section 719. Minutes of meetings and business
23 transacted.

24 (1) The Board must keep minutes of all its
25 meetings and business transacted under sections 715

1 and 716 of this chapter in a proper form.

2 (2) The minutes of a meeting, if duly signed by
3 the Chairperson or person presiding, are
4 admissible, in any legal proceedings, as evidence
5 of the facts stated therein and a meeting of the
6 Board in respect of which minutes have been so
7 signed is treated as having been duly convened and
8 held, and the directors present at the meeting have
9 been duly appointed to act.

10 (3) Any minutes of a resolution dealt with under
11 section 716 of this chapter, if duly signed by the
12 Chairperson, are admissible, in any legal
13 proceedings, as evidence of the facts stated
14 therein and that the resolution was properly dealt
15 with in accordance with section 716 of this
16 chapter.”

17 Section 15. Title 54 of the Code of the Federated
18 States of Micronesia (Annotated) is hereby amended by
19 repealing and re-enacting a new section 720 to read as
20 follows:

21 “Section 720. Common seal.

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

24 (2) The common seal must be kept by the
25 Chairperson and its affixing must be authenticated

1 by two directors of the Board generally or
2 specifically authorized by the Authority for the
3 purpose, or by one such director and the
4 Chairperson.

5 (3) All deeds, documents, and other instruments
6 purporting to be sealed with the common seal and
7 authenticated in accordance with subsection (2) of
8 this section are, unless the contrary is proved,
9 presumed to have been validly executed.

10 (4) The common seal of the Authority must be
11 officially and judicially noticed for all
12 purposes.”

13 Section 16. Title 54 of the Code of the Federated
14 States of Micronesia (Annotated) is hereby amended by
15 repealing and re-enacting a new section 721 to read as
16 follows:

17 “Section 721. Task assignment by Board.

18 (1) The Board may, from time to time, by notice
19 in writing under the hand of the Chairperson,
20 assign to any person or committee a specific task
21 to assist the Board in furtherance of its duties;
22 PROVIDED, HOWEVER, that the Board may not delegate
23 its policy-making power.

24 (2) An assignment under this section may be made
25 to a specified person or committee, or holder for

1 the time being of a specified office or to the
2 holders of offices of a specified class.

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

7 (4) A person or committee purporting to be acting
8 under assignment of the Board must, when required
9 to do so, produce satisfactory evidence of such
10 assignment.

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

14 (6) Sections 715, 716, 718, and 719 of this
15 chapter apply equally to members and meetings of a
16 committee established under this section.

17 (7) The members of a committee and persons
18 invited to attend meetings of the committee to
19 advise the committee are entitled to such
20 allowances and expenses as the Board may fix by
21 regulation.

22 Section 17. Title 54 of the Code of the Federated
23 States of Micronesia (Annotated) is hereby amended by
24 designating sections 731 to 735 as subchapter III entitled:
25 "Service of Authority."

1 Section 18. Title 54 of the Code of the Federated
2 States of Micronesia (Annotated) is hereby amended by
3 repealing and re-enacting a new section 731 to read as
4 follows:

5 "Section 731. Appointment of Chief Executive
6 Officer.

7 (1) The Board shall appoint a Chief Executive
8 Officer (CEO) on such terms and conditions as the
9 Board may determine.

10 (2) The CEO:

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

13 (b) is responsible for the administration
14 and enforcement of, and collection of revenue,
15 under the revenue laws;

16 (c) is responsible for the day-to-day
17 operations of the Authority;

18 (d) is responsible for the proper
19 administration and management of the functions and
20 affairs of the Authority in accordance with the
21 policy laid down by the Board; and

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

24 (3) Except as provided in subsection (2) of this
25 section, the CEO is not subject to the direction or

1 control of any person.

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

6 (5) The Board may terminate the appointment of
7 the CEO for incapacity, misbehavior, or misfeasance
8 or malfeasance. A CEO whose appointment has been
9 terminated under this subsection may appeal to a
10 Court of competent jurisdiction."

11 Section 19. Title 54 of the Code of the Federated
12 States of Micronesia (Annotated) is hereby amended by
13 repealing and re-enacting a new section 732 to read as
14 follows:

15 "Section 732. Appointment of officers and other
16 staff.

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

22 Section 20. Title 54 of the Code of the Federated
23 States of Micronesia (Annotated) is hereby amended by
24 repealing and re-enacting a new section 733 to read as
25 follows:

1 "Section 733. Delegation of CEO functions and
2 powers.

3 (1) Subject to subsection (4) of this section,
4 the CEO may, by written instrument, delegate to a
5 revenue officer any of the functions and powers of
6 the CEO under any revenue law, other than this
7 power of delegation.

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

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

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

23 Section 21. Title 54 of the Code of the Federated
24 States of Micronesia (Annotated) is hereby amended by
25 repealing and re-enacting a new section 734 to read as

1 follows:

2 "Section 734. Oath of office.

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

5 Section 22. Title 54 of the Code of the Federated
6 States of Micronesia (Annotated) is hereby amended by
7 repealing and re-enacting a new section 735 to read as
8 follows:

9 "Section 735. Confidentiality and disclosure of
10 information.

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

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

4 (b) the Secretary, but only in relation to
5 National taxes;

6 (c) a Finance Official of a State, but only
7 in relation to that State's taxes;

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

12 (e) the Attorney General of a State
13 Government or his designee, but only to the extent
14 required for any legal action or claim by or
15 against that State;

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

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

24 (h) a State Public Auditor or a person
25 authorized by a State Public Auditor in writing,

1 but only to the extent that the disclosure is
2 necessary for audit of accounts held by the
3 Authority on behalf of that State;

4 (i) the competent authority of a government
5 of a foreign country with which the FSM National
6 Government has entered into an agreement providing
7 for the exchange of information, but only to the
8 extent permitted under that agreement and
9 applicable law; and

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

12 (2) If a revenue officer is permitted to disclose
13 documents or information under subsection (1) of
14 this section, the officer must maintain secrecy and
15 confidentiality except to the minimum extent
16 necessary to achieve the object for which the
17 disclosure is permitted.

18 (3) Any person who knowingly or intentionally
19 violates any provision of subsections (1) or (2) of
20 this section, or a duty or obligation imposed
21 therein, shall be guilty of a felony and, upon
22 conviction thereof, shall be fined not less than
23 \$500 and not more than \$5,000, or be imprisoned for
24 not more than two years, or both."

25 Section 23. Title 54 of the Code of the Federated

1 States of Micronesia (Annotated) is hereby amended by
2 designating sections 741 to 742 as subchapter IV entitled:
3 "Functions, Duties and Powers of the Authority."

4 Section 24. Title 54 of the Code of the Federated
5 States of Micronesia (Annotated) is hereby amended by
6 repealing and re-enacting a new section 741 to read as
7 follows:

8 "Section 741. Functions of the Authority.
9 The primary function of the Authority is to
10 maximize, over time, the collection of tax revenue
11 lawfully owing to the FSM National Government and
12 the States given the resources available to it.
13 Without limiting the generality of the foregoing,
14 the Authority has the following specific functions:

15 (1) to act as agent in the collection of revenue
16 on behalf of the FSM National Government and the
17 Governments of the several States in accordance
18 with their revenue laws;

19 (2) to otherwise administer on behalf of the FSM
20 National Government and the Governments of the
21 several States the provisions of the revenue laws
22 as shall from time to time require its action;

23 (3) to render ancillary services to the FSM
24 National Government and the Governments of the
25 several States in the administration and

1 enforcement of their revenue laws;

2 (4) to take border security and customs measures
3 as required under chapter 2 of this title or as
4 assigned to the Authority in accordance with law;

5 (5) to ensure that all revenue collected is dealt
6 with in accordance with Section 758 of this
7 chapter;

8 (6) to promote voluntary compliance with the
9 revenue laws;

10 (7) to take such measures as may be required to
11 improve the standards of service provided to
12 taxpayers with a view to improving efficiency and
13 effectiveness in administration, and maximizing
14 revenue collection;

15 (8) to take such measures as may be required or
16 considered necessary to prevent tax evasion and
17 fraud of any type;

18 (9) to advise the FSM National Government and the
19 Governments of the several States on matters
20 relating to the administration and collection of
21 revenue, and border security, under the revenue
22 laws;

23 (10) as directed by the Secretary, to represent
24 the FSM National Government internationally in
25 matters related to taxation and customs;

1 (11) to perform such other functions in relation
2 to the collection of National taxes as the
3 Secretary may assign to the Authority; and
4 (12) to perform such other functions in relation
5 to the collection of State taxes as the Finance
6 Official of the relevant State may assign to the
7 Authority.”

8 Section 25. Title 54 of the Code of the Federated
9 States of Micronesia (Annotated) is hereby amended by
10 repealing and re-enacting a new section 742 to read as
11 follows:

12 “Section 742. Powers of the Authority.

13 (1) In performing the functions authorized
14 pursuant to section 741 of this chapter, the
15 Authority has the following powers:

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

17 (b) to adopt and amend bylaws governing the
18 conduct of its business and the exercise of its
19 powers, subject to the provisions of the revenue
20 laws;

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

22 (d) to acquire, in any lawful manner, any
23 personal property, either tangible or intangible,
24 to hold, maintain, use and operate such property,
25 and to sell, lease or otherwise dispose of such

1 property;

2 (e) to retain and terminate the services of
3 employees, agents, attorneys, auditors, and
4 independent contractors upon such terms and
5 conditions as it may deem appropriate;

6 (f) to make assessments, conduct
7 investigations, initiate judicial proceedings,
8 publish rules and rulings, and to take such other
9 action as may be necessary in connection with its
10 role as a unified tax administration for the FSM
11 National Government and the Governments of the
12 several States; and

13 (g) to do all such other things on its own
14 account or as agent for the FSM National Government
15 and the Governments of the several States as may be
16 deemed incidental to or conducive to the attainment
17 of the functions and responsibilities of the
18 Authority.

19 (2) The Authority is not permitted to own any
20 real property, but may lease real property to the
21 extent necessary for its operation.”

22 Section 26. Title 54 of the Code of the Federated
23 States of Micronesia (Annotated) is hereby amended by
24 designating sections 751 to 759 as subchapter V entitled:
25 “Financial Provisions and Reporting.”

1 Section 27. Title 54 of the Code of the Federated
2 States of Micronesia (Annotated) is hereby amended by
3 repealing and re-enacting a new section 751 to read as
4 follows:

5 "Section 751. Funds of the Authority.

6 (1) Establishment. There shall be established a
7 Federated States of Micronesia Special Fund,
8 hereinafter referred to as the "Fund", separate and
9 apart from all public monies or funds of the
10 Federated States of Micronesia, which shall be
11 administered by the Authority exclusively for the
12 purposes of this chapter.

13 (2) Deposits. Except as may otherwise be
14 required by grantors in cases of grants, all funds
15 specified under subsection (4) of this section and
16 all funds derived from deductions made pursuant to
17 section 752 of this chapter shall be deposited in
18 the Fund. Any unexpended moneys in this Fund shall
19 neither revert nor lapse to the General Fund, or
20 any other Fund.

21 (3) Administration. The Fund shall be
22 administered by the CEO in accordance with the
23 regulations and procedures which the Board shall
24 promulgate as appropriate for the effectuation and
25 implementation of the provisions of this

1 subchapter. Procurement of goods and services to be
2 funded wholly or partially from the Fund shall be
3 subject to the Financial Management Act of 1979 and
4 its subsidiary regulations.

5 (4) Authority funds. The funds of the Authority
6 consist of:

7 (a) money appropriated from time to time by
8 Congress and paid to the Authority;

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

12 (c) money borrowed by the Authority in
13 accordance with subsection (5) of this section;

14 (d) income from investments referred to in
15 subsection (6) of this section;

16 (e) except as provided herein, any other
17 moneys that may become payable to the Authority in
18 respect of any matter incidental to its functions
19 and powers, including but not limited to grants or
20 other donated funding; and

21 (f) money deducted for the operations of
22 the Authority pursuant to section 752 of this
23 chapter.

24 (5) The Authority may borrow upon such terms and
25 conditions as the Board may approve, any sums

1 required by the Authority to meet any of its
2 obligations or to perform any of its functions.

3 (6) The Authority shall, to the extent
4 practicable, maintain its funds in the form of
5 liquid, interest bearing bank deposits.

6 (7) The Authority shall conserve its funds by
7 performing its functions and exercising its powers
8 under this chapter so as to ensure that the total
9 revenues of the Authority are sufficient to meet
10 all sums properly chargeable to its revenue account
11 including depreciation and interest on capital.

12 (8) The funds of the Authority do not include
13 National and State taxes, or any interest or
14 penalty in relation to such taxes, collected by the
15 Authority on behalf of the FSM National Government
16 or the Governments of the several States.”

17 Section 28. Title 54 of the Code of the Federated
18 States of Micronesia (Annotated) is hereby amended by
19 repealing and re-enacting a new section 752 to read as
20 follows:

21 “Section 752. Funding of Authority operations.
22 Unless otherwise provided by an act of Congress,
23 the Authority shall deduct from the National
24 Government’s share of the National taxes collected
25 during the current year an amount not exceeding the

1 prescribed percentage as funds for its operations
2 in the ensuing year. Such deductions shall be
3 deemed appropriated as if set forth in the
4 comprehensive budget act for the relevant fiscal
5 year.”

6 Section 29. Title 54 of the Code of the Federated
7 States of Micronesia (Annotated) is hereby amended by
8 repealing and re-enacting a new section 753 to read as
9 follows:

10 “Section 753. Taxes collected by the Authority
11 held in trust for National or State Governments.

12 (1) The National taxes collected by the
13 Authority are held by the Authority in trust for
14 the FSM National Government and the Governments of
15 the several States in the proportion specified in
16 section 758 of this chapter.

17 (2) The State taxes collected by the Authority
18 on behalf of a State are held by the Authority in
19 trust for the State in the proportion specified in
20 section 758 of this chapter.

21 (3) The amounts referred to in subsections (1)
22 and (2) of this section do not form part of the
23 assets of the Authority available to meet the
24 claims of creditors of the Authority.”

25 Section 30. Title 54 of the Code of the Federated

1 States of Micronesia (Annotated) is hereby amended by
2 repealing and re-enacting a new section 754 to read as
3 follows:

4 “Section 754. Expenditure to be charged on funds
5 of the Authority.

6 (1) The funds of the Authority shall be expended
7 for the purposes of:

8 (a) paying any expenditure lawfully
9 incurred by the Authority in the performance of its
10 functions or the exercise of its powers under the
11 revenue laws;

12 (b) discharging any obligations and
13 liabilities of the Authority and making any
14 payments that the Authority is required or
15 authorized to make; and

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

18 (2) The FSM National Government and the
19 Governments of the several States are not liable
20 for any debts incurred by the Authority unless all
21 the Governments have agreed otherwise in relation
22 to a particular debt or debts.”

23 Section 31. Title 54 of the Code of the Federated
24 States of Micronesia (Annotated) is hereby amended by
25 repealing and re-enacting a new section 755 to read as

1 follows:

2 "Section 755. Bank accounts.

3 (1) The Authority shall maintain one or more
4 bank accounts into which funds of the Authority
5 shall be deposited and from which operational
6 expenses are paid. Funds of the Authority shall be
7 deposited into the appropriate account no later than
8 the next business day following receipt of such
9 funds.

10 (2) The Authority shall maintain a separate bank
11 account for each Government. The Authority shall
12 deposit the funds held in trust pursuant to section
13 753 of this chapter into the respective account of
14 each Government. Such funds collected by the
15 Authority shall be deposited into the appropriate
16 account no later than the next business day
17 following receipt of such funds. The Authority
18 shall not commingle funds.

19 (3) No withdrawal or payment of money from an
20 account opened under subsection (1) of this section
21 can be made without the signature of the CEO or the
22 CEO's designee. No withdrawal or payment of money
23 from an account opened under subsection (2) of this
24 section can be made without the signature of the
25 CEO or the CEO's designee and the signature of the

1 Chief Financial Officer of the Authority or the
2 CFO's designee.

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

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

13 Section 32. Title 54 of the Code of the Federated
14 States of Micronesia (Annotated) is hereby amended by
15 repealing and re-enacting a new section 756 to read as
16 follows:

17 "Section 756. Annual budget and costs of
18 administration.

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

1 (a) for the last completed fiscal year;
2 (i) audited accounts indicating the
3 amount of revenue collected by the Authority on
4 behalf of the FSM National Government and the
5 Governments of the several States;

6 (ii) the amount of other income of the
7 Authority;

8 (iii) the amount of all expenditures
9 incurred by the Authority; and

10 (iv) the closing balance of all bank
11 accounts maintained by the Authority;

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

22 (c) for the next ensuing fiscal year, a
23 budget showing the estimated amount of revenue to
24 be collected on behalf of the FSM National
25 Government and the Governments of the several

1 States, the estimated amount of other income of the
2 Authority, and the estimated amount of all
3 expenditures to be incurred by the Authority,
4 including salaries and wages, purchases of office
5 supplies, operational expenses, and the cost of
6 maintaining branch offices.

7 (2) The annual budget of the Authority shall be
8 no more than 10% of the National Government's share
9 of National taxes, expressed as the prescribed
10 percentage authorized by Congress; PROVIDED,
11 HOWEVER, that the Board may designate in writing a
12 lower budget cap, within the prescribed percentage."

13 Section 33. Title 54 of the Code of the Federated
14 States of Micronesia (Annotated) is hereby amended by
15 repealing and re-enacting a new section 757 to read as
16 follows:

17 "Section 757. Accounts, annual report, and audit.

18 (1) The Authority must keep accounts of its
19 transactions and financial affairs, and must ensure
20 that:

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

23 (b) all payments by the Authority are
24 properly authorized and recorded;

25 (c) adequate control is maintained over the

1 Authority's property and the incurring of
2 liabilities; and

3 (d) the accounts are kept in accordance with
4 Generally Accepted Accounting Principles.

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

11 (3) The annual report must contain, among other
12 things:

13 (a) a statement of financial performance,
14 including a statement of the financial position of
15 the Authority;

16 (b) a statement of cash flows;

17 (c) a statement of distribution of revenues
18 to the States pursuant to section 758 of this
19 chapter;

20 (d) a copy of the most recent budget
21 submitted pursuant to section 756 of this chapter;

22 (e) a report of the Authority's operations
23 for the year; and

24 (f) such other information as is required to
25 give a true and fair view of the Authority's

1 financial affairs.

2 (4) The annual accounts of the Authority must be
3 audited by the Public Auditor or, if the Public
4 Auditor indicates in writing that an audit cannot
5 be completed within six months of the end of the
6 financial year, by an independent accounting firm
7 satisfactory to the Board. For this purpose, the
8 CEO must, within three months after the end of each
9 financial year, submit to the Auditor:

10 (a) the accounts of the Authority for the
11 year; and

12 (b) the annual report for the year prepared
13 in accordance with subsection (2) of this section.

14 (5) The Board shall cause a copy of the annual
15 report and a copy of the auditor's opinion of the
16 Authority's accounts for a financial year to be
17 laid before Congress and the State legislatures
18 within 30 days following receipt of the Auditor's
19 opinion.

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

1 Section 34. Title 54 of the Code of the Federated
2 States of Micronesia (Annotated) is hereby amended by
3 repealing and re-enacting a new section 758 to read as
4 follows:

5 "Section 758. Distribution of revenues.

6 (1) The Authority shall pay the following
7 amounts to the treasury of each State Government:

8 (a) 100% of the net tax collected pursuant
9 to the Value Added Tax Act of the State;

10 (b) 100% of the net tax collected pursuant
11 to any other taxes imposed by the State;

12 (c) 80% of the net tax collected pursuant
13 to section 221 of this title in relation to the
14 import of gasoline and diesel fuels into the State;

15 (d) 50% of the net tax collected pursuant
16 to section 121 of this title in relation to wages
17 and salaries received by employees in the State;

18 (e) 50% of the net tax collected pursuant to
19 section 221 (other than section 221 of this title
20 in relation to the import of gasoline and diesel
21 fuels into the State) of this title in relation to
22 the import of goods into the State; and

23 (f) 50% of the net tax collected pursuant
24 to:

25 (i) sections 521 and 522 of this title

1 in relation to business carried on through a
2 permanent establishment in the State as determined
3 under section 512 of this title;

4 (ii) section 524 of this title in
5 relation to the carriage of passengers, livestock,
6 mail, merchandise, or goods embarked in the State
7 or to the insurance of risks in the State; and

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

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

17 (a) 20% of the net tax collected pursuant to
18 section 221 of this title in relation to the import
19 of gasoline and diesel fuels into the State;

20 (b) 50% of the net tax collected pursuant to
21 section 121 of this title in relation to wages and
22 salaries received by employees in the State;

23 (c) 50% of the net tax collected pursuant to
24 section 221 (other than section 221 of this title
25 in relation to the import of gasoline and diesel

1 fuels into the State) of this title in relation to
2 the import of goods into the State; and

3 (d) 50% of the net tax collected pursuant
4 to:

5 (i) sections 521 and 522 of this title
6 in relation to business carried on through a
7 permanent establishment in the State as determined
8 under section 512 of this title;

9 (ii) Section 524 of this title in
10 relation to the carriage of passengers, livestock,
11 mail, merchandise, or goods embarked in the State
12 or to the insurance of risks in the State; and

13 (iii) section 525 of this title in
14 relation to interest, royalties, a natural resource
15 amount, or a management fee derived by a non-
16 resident person from sources in the State
17 determined under section 513 of this title on the
18 basis that the reference in that section to FSM is
19 a reference to the State.

20 (3) All distributions referenced in this section
21 shall include any interest accrued while the funds
22 have been held by the Authority in trust.

23 (4) The timing of the distribution of revenue
24 shall be as follows:

25 (a) The Authority shall distribute to each

1 Government the net taxes collected and deposited by
2 the Authority during the previous month no later
3 than the last day of each month.

4 (b) Refunds to taxpayers shall be paid from
5 the subsequent month's distribution of revenue to
6 the Governments."

7 Section 35. Title 54 of the Code of the Federated
8 States of Micronesia (Annotated) is hereby amended by
9 repealing and re-enacting a new section 759 to read as
10 follows:

11 "Section 759. Memorandum of Understanding.

12 (1) The FSM National Government and the
13 Governments of the several States shall enter into
14 a Memorandum of Understanding to give effect to
15 each Government's commitments in relation to the
16 establishment of the Authority.

17 (2) The amendment of this chapter or the
18 regulations promulgated without the unanimous
19 consent by all parties to the Memorandum of
20 Understanding will constitute a ground for
21 withdrawal by any party from the Memorandum of
22 Understanding."

23 Section 36. Title 54 of the Code of the Federated
24 States of Micronesia (Annotated) is hereby amended by
25 designating sections 761 to 769 as subchapter VI entitled:

1 "Miscellaneous."

2 Section 37. Title 54 of the Code of the Federated
3 States of Micronesia (Annotated) is hereby amended by
4 repealing and re-enacting a new section 761 to read as
5 follows:

6 "Section 761. Limitation of liability.

7 (1) Except as provided in subsection (3) of
8 this section, no civil proceedings shall lie
9 against the Authority or an officer, employee, or
10 director of the Authority for anything done or
11 said, or a failure to do or say anything in the
12 course of the operation of the Authority, unless it
13 is shown that the Authority, director, officer, or
14 employee acted in bad faith or with intentional
15 disregard for the rights or safety of others, or
16 unless it is shown that such action or failure to
17 act constitutes a violation of a revenue law.

18 (2) Unless waived, no action for damages shall
19 lie against the FSM National Government or a
20 Government of the several States for any act or
21 omission on the part of the Authority, or any of
22 its directors, revenue officers or of its CEO.

23 (3) Nothing in this section shall be construed as
24 a limitation on the power of the Authority to sue
25 and be sued in its own name."

1 Section 38. Title 54 of the Code of the Federated
2 States of Micronesia (Annotated) is hereby amended by
3 repealing and re-enacting a new section 762 to read as
4 follows:

5 "Section 762. Authority as agent of the
6 Government.

7 (1) In exercising its powers and duties under
8 the revenue laws, no action, claim, suit or
9 statement made by the Authority in its own name
10 shall affect its status as agent of the FSM
11 National Government and the Governments of the
12 several States for the purpose of tax collection
13 and revenue administration, and all actions,
14 statements or communications undertaken by the
15 Authority as agent are effective as if made by the
16 Authority in its own name, and vice-versa.

17 (2) To the extent necessary for enforcement, any
18 tax claims administered by the Authority as agent
19 of the FSM National Government or the Governments
20 of the several States are deemed assigned to the
21 Authority for the purpose of collection and
22 administration."

23 Section 39. Title 54 of the Code of the Federated
24 States of Micronesia (Annotated) is hereby amended by
25 repealing and re-enacting a new section 763 to read as

1 follows:

2 "Section 763. Claims for and payments of tax
3 refunds.
4 All claims for refunds or offsets made by any
5 person with respect to any sum collected by the
6 Authority on behalf of the FSM National Government
7 or the Governments of the several States shall
8 constitute, first, a claim against those funds held
9 within the trust accounts maintained by the
10 Authority pursuant to section 753(2) of this
11 chapter that are allocated or allocable to the
12 government or governments for whose benefit the
13 original tax was collected, and second, against the
14 Government itself or the Governments themselves, as
15 the case may be."

16 Section 40. Title 54 of the Code of the Federated
17 States of Micronesia (Annotated) is hereby amended by
18 repealing and re-enacting a new section 764 to read as
19 follows:

20 "Section 764. Proceedings conducted by revenue
21 officers.
22 Subject to section 767 of this chapter, a qualified
23 revenue officer authorized in writing by the CEO
24 may appear in civil proceedings in a court of
25 competent jurisdiction on behalf of such Government

1 for the recovery of any unpaid tax under the
2 respective revenue law.”

3 Section 41. Title 54 of the Code of the Federated
4 States of Micronesia (Annotated) is hereby amended by
5 repealing and re-enacting a new section 765 to read as
6 follows:

7 “Section 765. Vesting of assets and liabilities,
8 contracts and proceedings; transitional provisions.

9 (1) All property, except real property or such
10 property as the CEO may determine, that immediately
11 before the commencement of this chapter was vested
12 in the FSM National Government for the use of the
13 CTA for the purpose of giving effect to the taxes
14 and duties imposed under this title is, on the date
15 of commencement of this chapter and without further
16 assurance, vested in the Authority subject to all
17 interests, liabilities, charges, obligations and
18 trusts affecting the property.

19 (2) Except as otherwise provided in subsection
20 (1) of this section in relation to property, all
21 contracts, debts, engagements and liabilities of
22 the FSM National Government attributable to the CTA
23 remain vested in the FSM National Government and
24 may be enforced by or against the FSM National
25 Government.

1 (3) All legal proceedings and claims in respect
2 of taxes and duties imposed under this title
3 pending at the commencement of this chapter are to
4 be continued or enforced by or against the
5 Authority in the same manner as they would have
6 been continued or enforced if this chapter had not
7 been enacted.

8 (4) The Authority will offer contracts of
9 employment to all existing revenue authority
10 employees in good standing provided that the
11 Authority is not required to hire the employees at
12 the same salaries or to fill the same positions. In
13 the event employees of a pre-existing revenue
14 authority are employed by the Authority, all
15 accrued benefits, sick leave, annual leave and
16 other contractual obligations owed by the pre-
17 existing revenue authority to its employees remain
18 the obligation of that authority and are not
19 assumed by the Authority, except to the extent
20 directed by the Board.

21 (5) The employees of the Authority are not
22 subject to the requirements or rights contained in
23 title 52 of this code, the National Public Service
24 System Act, or any of its subsidiary regulations.

25 (6) Subject to satisfactory arrangements with

1 the FSM National Government and the governments of
2 the several States, the Authority is to acquire,
3 lease or otherwise take over in any lawful manner
4 the books, property, and operations of any
5 preexisting revenue authority; PROVIDED, HOWEVER,
6 that ownership of books and records herein
7 conveyed, and the right of access thereto, shall
8 remain with each respective government.”

9 Section 42. Title 54 of the Code of the Federated
10 States of Micronesia (Annotated) is hereby amended by
11 repealing and re-enacting a new section 766 to read as
12 follows:

13 “Section 766. References in other laws.
14 A reference in any other legislation, regulation,
15 order, or other enactment or in any agreement,
16 deed, instrument, application, notice, or other
17 document whatsoever to:

18 (1) the person charged with the responsibility
19 of enforcement of a revenue law to which this
20 chapter applies must be read as a reference to the
21 CEO; or

22 (2) a preexisting revenue authority must be read
23 as a reference to the Authority.”

24 Section 43. Title 54 of the Code of the Federated
25 States of Micronesia (Annotated) is hereby amended by

1 repealing and re-enacting a new section 767 to read as
2 follows:

3 "Section 767. Controlling laws.

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

13 (2) The applicability of and consistency with a
14 law of a Government shall be determined by the
15 chief legal officer of such Government."

16 Section 44. Title 54 of the Code of the Federated
17 States of Micronesia (Annotated) is hereby amended by
18 repealing and re-enacting a new section 768 to read as
19 follows:

20 "Section 768. Regulations.

21 The Board shall adopt such regulations as may be
22 necessary for the enforcement of this chapter, and
23 such regulations shall have the force and effect of
24 law if they are not in conflict with the express
25 provisions of this chapter or other applicable

1 laws.”

2 Section 45. Title 54 of the Code of the Federated
3 States of Micronesia (Annotated) is hereby amended by
4 repealing and re-enacting a new section 769 to read as
5 follows:

6 “Section 769. Commencement of Administration.
7 The Authority shall commence administration of the
8 revenue laws 12 months after this chapter becomes
9 law.”

10 Section 46. This act shall become law upon approval by
11 the President of the Federated States of Micronesia or upon
12 its becoming law without such approval.

13

14 Date: 11/14/19

Introduced by: /s/ Isaac V. Figir
Isaac V. Figir

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