A BILL FOR AN ACT

To amend title 24 of the Code of the Federated States of Micronesia to abolish the Micronesian Maritime Authority and to vest its present maritime management authority in the Department of Resources and Development of the executive branch of the Federated States of Micronesia National Government, and for other purposes.

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

Section 1. Section 102 of title 24 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 102. Definitions. As used in this title, unless the context otherwise requires, the term:

(1) "Atoll" means a circular or oval coral reef forming a geographic and ecologic unity crowned by at least one island.

(2) "Congress" means the Congress of the Federated States of Micronesia.

(3) "Fish" means any living resource.

(4) "Fishery" means:

(a) one or more stocks of fish which can be treated as a unit for purposes of conservation and management and which are identified on the basis of geographical, scientific, technical, recreation, and economic characteristics; and

(b) any fishing for such stocks.

(5) "Fishing means:

(a) the actual or attempted catching, taking, or harvesting of fish;

(b) any other activity which can reasonably be expected to result in the catching, taking, or harvesting
of fish; or

(c) any operations at sea in support of or in
preparation for any activity described in paragraphs (a) and
(b) of this subsection.

(8) "Fishing vessel" means any vessel, boat, ship, or
other craft which is used for, equipped to be used for, or
of a type that is normally used for:

(a) fishing;

(b) aiding or assisting one or more vessels at sea
in the performance of any activity related to fishing, including,
but not limited to preparation, supply, storage, refrigeration,
transportation, or processing.

(9) "Foreign fishing" means fishing by vessels:

(a) not registered in Micronesia; or

(b) not wholly owned by citizens of Micronesia; or

(c) not wholly controlled by citizens of Micronesia; or

(d) of foreign registry chartered by citizens of

Micronesia.

(10) "Foreign fishing agreement" means an agreement
between the Authority on behalf of the Government of the
Federated States of Micronesia and one or more foreign com-
mercial fishing interests to permit foreign vessels to harvest
fish within the extended fishery zone of the Federated States
of Micronesia. A "foreign party" is a party to such an agree-
ment other than the Authority Government of the Federated States
of Micronesia.

(111) (9) "Island" means a naturally formed area of land, surrounded by water, which is above water at high tide.

(112) (10) "Living resource" means a finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than marine birds.

(113) (11) "Micronesia" or "Government of Micronesia" refers to the appropriate State government or the Government of the Federated States of Micronesia.

(114) (12) "Person" means any individual, corporation, partnership, association, or other entity, the Government of Micronesia or any of its subdivisions or any entity thereof, and any foreign government, subdivision of such government, or entity thereof.

(115) (13) "Reef fish" means any species of living resource which predominately inhabits reef areas or internal waters.

(116) (14) "State" means any of the States of the Federated States of Micronesia.

(117) (15) "Stock of fish" means a species, subspecies, geographical grouping, or other category of fish capable of management as a unit.

(118) (16) "Submerged reef" means a coral reef forming a geographic and ecologic unity which is wholly submerged at high tide."

Section 2. Section 301 of title 24 of the Code of the Federated
States of Micronesia is hereby deleted in its entirety and replaced by a new section 301.

SECTION 301. "Micronesian Territorial Authority and "Micronesian Authority composed of ten members appointed by the High Commissioner, three members from the Congress of the State, also States of Micronesia appointed by the Speaker of the Congress of the Territory, and the other two appointed jointly by the Speaker and the High Commissioner. The appointed members that are present members of the Authority, and the appointed members by the Speaker of the Congress of the Territory, and any other member of the Congress of the Territory, as well as the appointed member of the High Commissioner and the joint appointed of the High Commissioner and the Speaker appointed of the Congress of Territory on the basis of their terms of appointment expired.

All appointed shall be for a term of two years.

The term of office of each original member shall commence immediately the date of the first meeting of the Authority.

Vacancies shall be filled in the same manner as the original appointment of the member of the Authority.

The Authority shall be chosen by majority vote of the members of the Authority. The Authority shall meet at such
Section 301. "Department of Resources and Development, Federated States of Micronesia National Government - Duties; Functions; and Authority.

(1) The Department of Resources and Development shall have the following duties, functions, and authority:

(a) To adopt regulations for the conservation, management, and exploitation of all living resources in the extended fishery zone of the Federated States of Micronesia pursuant to sections 102, 103, and 104 of title 18 of the Code of the Federated States of Micronesia;

(b) To provide technical assistance in the delimitation of the extended fishery zone in accordance with section 107 of title 18 of the Code of the Federated States of Micronesia;

(c) To negotiate and conclude foreign fishing agreements in accordance with sections 10, 402, 403, and 404 of title 24 of the Code of the Federated States of Micronesia;

(d) To issue foreign fishing permits in accordance with regulations promulgated pursuant to subsection 1(a) of this section;

(e) To rebates according to regulation approved by the Department of Resources and Development all or a portion of
a fee collected pursuant to section 405 of title 24 of the
Code of the Federated States of Micronesia from a joint fishing
venture duly organized by law, if the rebate will promote
fishery development;

(f) To perform such other duties and functions as
may be necessary to carry out the purposes of this title.

(2) The Department of Resources and Development shall
report on its activities in this regard on an annual basis
to the Presiding Officer of the Congress of the Federated
States of Micronesia, and to each State Governor."

Section 3. Section 302 of title 24 of the Code of the Federated
States of Micronesia is hereby deleted in its entirety:

Section 3021

(1) Regulations adopted by the authority shall have the
full force and effect of law.

(2) The procedure for the adoption of regulations by the
authority is expressly exempt from the requirements of the
administrative procedure act set forth in title 17 of this code.

The authority thereafter shall publish its proposed
regulations and allow the public a reasonable opportunity
to present its views relative to the adoption of any regulation.

(3) The regulations may provide except regulations of
his own authority which shall be effective for a period of
longer than six months unless the authority by notice to
publish the same regulations.
Section 4. Section 303 of title 24 of the Code of the Federated States of Micronesia is hereby deleted in its entirety:

Section 303. In the Territorial and International Law:

1. To adopt regulations for the establishment, maintenance, and operation of all Titles related to the Territorial and International Law of the Federated States of Micronesia, Title I, Title II, Title III, and Title IV of Title I.

2. To provide technical assistance in the establishment of the Territorial and International Law of the Federated States of Micronesia, Title I.

3. To negotiate and conclude foreign fishing agreements in accordance with Section 302 through 306 of this title.

4. To issue foreign fishing permits in accordance with regulations established by the authority of regulation.

5. To require all foreign fishing vessels to possess a vessel issued by a State before fishing in the Territorial Sea of the Federated States of Micronesia.

6. To require according to regulation approved by the authority of the Territory to Section 303 of Title II and Title III, a Joint Fishing Agreement only entitled by law.

7. Section 303 of this title is hereby deleted.
Section 5. Section 304 of title 24 of the Code of the Federated States of Micronesia is hereby deleted in its entirety:

Section 304. The Authority shall employ a suitable number of officials possessing such qualifications as may be established by the Authority. The Authority may appoint such other staff as it may be necessary.

Section 6. Section 305 of title 24 of the Code of the Federated States of Micronesia is hereby deleted in its entirety:

Section 305. Members of the Authority, other than the Judges:

Appointed solely by the President of the Senate:

Congress of Micronesia and the High Commissioner of Appointed Judges by the Speaker of the Congress of the Federated States of Micronesia, and the High Commissioner shall be compensated at the rate of three thousand dollars per day when actually on the business of the Authority.

The sole appointed shall be compensated at a rate established by the Authority but shall not participate in the selection of the Authority remaining via compensation.

Members of the Authority who are employees of
STATE GOVERNMENT OF THE GOVERNMENT OF THE FEDERATED STATES
OF MICRONESIA OF THE TRUST TERRITORY OF THE PACIFIC ISLANDS
SHALL NOT BE ELIGIBLE TO RECEIVE ANY CONTRIBUTION.

(3) ALL EXPENSES OF THE AUTHORITY SHALL BE PAID OUT OF THE
FINANCES OF THE TRUST TERRITORY GOVERNMENT
TAKEN WHILE IN THE BUSINESS OF THE AUTHORITY.

Section 7. Section 306 of title 24 of the Code of the Federated
States of Micronesia is hereby deleted in its entirety:

"Section 306. AUTHORITY / THE CHAIRMAN OF THE AUTHORITY
SHALL REPORT ON ITS ACTIVITIES TO THE HIGH COMMISSIONER AND
TO THE PRESIDENT OF THE CONGRESS OF THE FEDERATED
STATES OF MICRONESIA AND TO EACH STATE BUSINESS ON AN ANNUAL
BASED WHICH REPORT SHALL CONTAIN A DETAILLED ACCOUNTING OF THE
EXPENSES OF THE AUTHORITY.

Section 8. Section 403 of title 24 of the Code of the Federated
States of Micronesia is hereby amended to read as follows:

"Section 403. Foreign fishing agreements - Terms. - In
negotiating foreign fishing agreements, the AUTHORITY Depart-
ment of Resources and Development shall seek substantial agree-
ment by the foreign parties to the following terms and conditions:

(1) The foreign party and the owner or operator of any
fishing vessel fishing pursuant to such agreement will abide
by all regulations issued under authority of chapter 3 of
this title.

(2) The foreign party and the owner or operator of any
fishing vessel fishing pursuant to such foreign fishing agree-
ments will abide by the agreement that:

(a) any officer authorized to enforce the provisions
of this title shall be permitted to board and search or inspect
any vessel at any time and make arrests and seizures provided
for in section 508 of this title whenever such officer has
reasonable cause to believe, as a result of such a search
or inspection, that any such vessel or any person has committed
an act prohibited by this title;

(b) such officer shall also be permitted to examine
and make notations on the permit issued pursuant to sections
410 through 412 of this chapter;

(c) the permit issued for any such vessel pursuant
to sections 410 through 412 of this chapter shall be prominently
displayed in the wheelhouse of such vessel;

(d) appropriate position-fixing and identification
equipment shall be installed and maintained in working order
on each such vessel;

(e) duly authorized Micronesian observers shall be
permitted on board any such vessel and that the Government
of Micronesia shall be reimbursed for the cost of such observers;

(f) agents shall be appointed and maintained within
 Micronesia who are authorized to receive and respond to any
legal process issued in Micronesia with respect to such owner
or operator.

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(3) The foreign party and the owners or operators of all of the fishing vessels of such party shall not, in any year, exceed such party's allocation of the total allowable level of foreign fishing, in the event allocations are established by the Department of Resources and Development.

(4) Foreign parties will:

(a) apply, pursuant to sections 410 through 412 of this chapter, for any required permits;

(b) deliver promptly to the owner or operator of the appropriate fishing vessel any permit which is issued under that section for such vessel; and

(c) abide by the requirement that no foreign fishing will be permitted in the extended fishery zone of Micronesia after June 30, 1979, without a valid and applicable permit, and that all conditions and restrictions of the permit are complied with.

(5) The foreign party and the owner or operator of any fishing vessel fishing pursuant to such agreement will abide by all other terms and conditions of the agreement."

Section 9. Section 404 of title 24 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 404. Allowable levels of foreign fishing.

(1) The total allowable level of foreign fishing, if any, with respect to any fishery subject to the provisions
of this title, shall be that portion of the maximum sustainable yield of such fishery which will not be harvested by vessels of Micronesia.

(2) The Department of Resources and Development may determine the allocation among foreign parties of the total allowable level of foreign fishing which is permitted with respect to any fishery subject to the provisions of this title.

(3) In determining the allocation among parties, the Department of Resources and Development shall take into consideration:

(a) the extent to which vessels of such parties have traditionally fished the particular regulated species;

(b) whether such parties or their national governments have cooperated with the Government of Micronesia in, and made substantial contributions to, fishery research and the identification of fishery resources;

(c) whether such parties or their national governments have cooperated with the Government of the Federated States of Micronesia in enforcement of the provisions of this title and the regulations issued under its authority; and

(d) such other matters as it may deem appropriate."

Section 10. Section 410 of title 24 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 410. Application for permit - Contents. - Each foreign
party entitled to permits in accordance with its foreign fishing
agreement shall make application on forms prescribed by the
Development specifying inter alia:

(1) the name and official number or other identification
of each fishing vessel for which a permit is sought, together
with the name and address of the owner thereof;

(2) the tonnage, capacity, speed, processing equipment,
type, and quantity of fishing gear, and such other pertinent
information with respect to characteristics of each such vessel
as the Department of Resources and Development may
require;

(3) the amount of fish or tonnage of catch contemplated
for each such vessel during the time such permit is in force
and as required by the foreign fishing agreement; and

(4) the ocean area in which, and the season or period
during which, such fishing will be conducted as required by
the foreign fishing agreement."

Section 11. Section 411 of title 24 of the Code of the Federated
States of Micronesia is hereby amended to read as follows:

"Section 411. Review of application.

(1) Upon receipt of an application, the Department shall:

(a) forward a copy of the application to:

the committee on resources and development of the Council

(b) forward a copy of the application to:

the Secretary of the Department of Resources and Development
of the Federated States of Micronesia. If it is required to do so by the Chairman of the Executive Officers, it shall remain with copies of applications to the Committee on Resources and Development.

(2) (1) The Authority Department of Resources and Development upon receipt of an application, including an application for rebate of a fee, shall review the application, and in its discretion may solicit views from appropriate persons in the States, hold public hearings where necessary, and may approve the application on such terms and conditions and with such restrictions as the Authority Department of Resources and Development deems appropriate.

(2) (2) If the Authority Department of Resources and Development does not approve the application submitted by the foreign party, the Chairman shall notify such foreign party of the disapproval and the reasons therefor. After taking into consideration the reasons for disapproval, the foreign party may submit a revised application."

Section 12. Section 412 of title 24 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 412. Issuance of permit. - Upon notification by the foreign party of accordance of the terms, conditions, and restrictions on the application and permit, the Chairman Department of Resources and Development shall issue the permit."

Section 13. Section 413 of title 24 of the Code of the Federated
States of Micronesia is hereby amended to read as follows:

"Section 413. Suspension, revocation, or imposition of restrictions on permit. - If any foreign fishing vessel for which a permit has been issued pursuant to this section has been used in the commission of any act prohibited by this title or if any civil penalty or criminal fine imposed by this title has not been paid and is overdue, the Authority Department of Resources and Development shall:

(1) revoke such permit with or without prejudice to the right of the foreign party involved to obtain a permit for such vessel in any subsequent year; or

(2) suspend such permit for the period of time deemed appropriate; or

(3) impose additional conditions and restrictions on the approved application of the foreign party involved and on any permit issued under such application."

Section 14. Section 414 of title 24 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 414. Permits for noncommercial fishing. - Notwithstanding any other provision of this title, the Authority Department of Resources and Development may provide for the issuance of permits, on reasonable conditions, to foreign vessels or parties for research, survey, recreational, or noncommercial fishing within the extended fishery zone of Micronesia."
Section 15. Section 415 of title 24 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 415. Revenue from fees.

(1) Fees collected by the Authority Department of Resources and Development pursuant to section 405 of this chapter shall be deposited in the General Fund of the Congress of the Federated States of Micronesia, or its successor.

(2) In the case of fees collected from a joint fishing venture, if its application for a fishing permit includes a request for rebate of fees which the Authority Department of Resources and Development accepts pending its decision to rebate the fee, such fees shall be deposited in a separate trust account maintained by the Authority Department of Resources and Development until rebated to the joint fishing venture or paid into the General Fund of the Congress of the Federated States of Micronesia, or its successor, if the rebate request is denied.

(3) In the case of fees paid in goods or services rather than money, such goods and services shall be distributed, sold, or otherwise disposed of by the Congress of the Federated States of Micronesia by resolution while in session, and by the appropriate committee of the Congress between sessions."

Section 16. Section 502 of title 24 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 502. Civil penalties."
(1) Any person who is found by the National Court of
the Government of Micronesia in a civil proceeding to have
committed an act prohibited by section 501 of this chapter
shall be liable to the Government of Micronesia for a civil
penalty.

(2) The amount of the civil penalty shall not exceed
$75,000 for each violation. Each day of a continuing violation
shall constitute a separate offense.

(3) In determining the amount of such penalty, the Na-
tional Court of the Government of Micronesia shall take into
account the nature, circumstances, extent, and gravity of the
prohibited acts committed and, with respect to the violator,
the degree of culpability, any history of prior offenses,
and such other matters as justice may require.

(4) The Attorney General is authorized to initiate all
proceedings under this section and to recover the amount
assessed as a civil penalty.

(5) The proceeds of civil penalties shall be deposited
with the Authority Department of Resources and Development
and expended in accordance with section 510 of this chapter."

Section 17. Section 505 of title 24 of the Code of the Federated
States of Micronesia is hereby amended to read as follows:

"Section 505. Forfeitures - Jurisdiction: - The National
Court of the Government of Micronesia shall have jurisdiction,
upon application by the Attorney General of the Authority on
behalf of the Government of Micronesia, to order any forfeiture authorized under section 504 of this chapter."

Section 18. Section 507 of title 24 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 507. Forfeitures - Disposition of property. - The forfeited vessel, gear, furniture, appurtenances, stores, cargo, and fish may be sold and the proceeds deposited with the authority Department of Resources and Development for use in accordance with section 510 of this chapter, or may be retained for use by, or at the direction of, the Government of Micronesia."

Section 19. Section 510 of title 24 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 510. Revenue from fines and forfeitures.

(1) All fines and the proceeds of sale of all forfeitures collected pursuant to the provisions of this title shall be divided on a fifty-fifty basis between the State affected and the authority Department of Resources and Development. 

(2) The authority Department of Resources and Development shall apply its share of said proceeds for use and the costs of enforcement of the provisions of this title."

Section 20. This act shall become law upon approval by the President of the Federated States of Micronesia or upon its becoming law
without such approval.

Date: 2/1/82

Introduced by: Jack Fritz

for the next Congress