A BILL FOR AN ACT

To amend title 51 of the Code of the Federated States of Micronesia by repealing chapter 1 in its entirety and enacting a new chapter 1 for the purposes of revising restrictions on the employment of nonresident labor and creating the Resident Workers' Training Fund of the Federated States of Micronesia, and for other purposes.

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

Section 1. Chapter 1 of title 51 of the Code of the Federated States of Micronesia is hereby repealed in its entirety, and a new chapter 1 is enacted to read as follows:

"Section 111. Short title. This chapter is known and may be cited as the 'Nonresident and Resident Workers Act.'"

Section 112. Definitions. For purposes of this chapter, unless it is otherwise provided or the context requires a different construction, application or meaning,

(1) 'Division of Labor' means the Division of Labor of the Federated States of Micronesia Department of Resources and Development.

(2) 'Employer' means any individual, partnership, association, or corporation hiring employees in the Federated States of Micronesia and any individual who has in his employ a domestic servant, but does not include any branch or agency of any government.

(3) 'Fund' means the Resident Workers' Training Fund.

(4) 'Nonresident worker' means any person who is capable of performing services or labor and who is not a citizen of the Federated States of Micronesia or an immigrant alien admitted to the Federated States of Micronesia for permanent residence under title 50 of this Code, including persons acting in a professional, managerial, or executive capacity.

(5) 'Resident worker' means any person who is capable of performing services or labor and who is a citizen of the Federated
States of Micronesia or an immigrant alien admitted to the Federated States of Micronesia for permanent residence under the provisions of title 50 of this Code, including persons acting in a professional, managerial, or executive capacity.

(6) 'Tax' means the Nonresident Workers' Employment Tax.
(7) 'Total cost' means the cost of hiring a nonresident worker, including salary and any of the following which are provided to a nonresident worker by an employer: cost of recruitment; transportation to and from point of hire; shipping of household effects to and from point of hire; storage of household effects; insurance; housing; meals; utilities; use of a vehicle for personal use in the Federated States of Micronesia; and any other goods or services other than gifts with a total value per year of under one hundred dollars ($100).

Section 113. Statement of purpose. The Congress of the Federated States of Micronesia declares that it is essential to the long-term development of a balanced, stable, and prosperous economy in the Federated States of Micronesia that Federated States of Micronesia resident workers be given preference in employment in occupations and industries in the Federated States of Micronesia, and that the long-term public interest requires that the employment of non-resident workers in such occupations and industries not impair the wages and working conditions of resident workers. Nevertheless, the Congress realizes that nonresident workers are needed over time due to a lack of training and technology and a shortage of skilled resident workers, and finds that restrictions on nonresident labor
which were in effect prior to the effective date of this act are having a deleterious short-term effect on economic development. The purpose of this act is to revise those restrictions which unduly impair economic development, while at the same time establishing an economic incentive, in the form of a Nonresident Workers' Employment Tax, for employers to give preference to resident workers. In order to enable resident workers to become more skilled and decrease the need for nonresident workers, this act also establishes a Resident Workers' Training Fund to be funded by the Tax.

Section 114. Repatriation deposit. Any employer hiring a nonresident worker must give the Federated States of Micronesia National Government a deposit of funds sufficient to pay for the employee's return transportation to his home country. If, at the time a nonresident worker's contract is renewed, transportation costs have increased, an additional deposit must be made to cover this increase. These deposits shall be placed in an interest-bearing account to be administered by the Division of Labor. Money may be withdrawn from this account only for the following two purposes:

(1) To return an employer's deposit with such interest as has been earned, if a nonresident employee terminates employment in the Federated States of Micronesia and is repatriated at the employer's expense; or

(2) To pay for repatriation or deportation if an employer
does not pay for transportation at the time a nonresident employee terminates his employment. Interest earned on a deposit may be used to pay for any increase in air fare when money is withdrawn for this purpose.

Section 115. Nonresident Workers’ Employment Tax. Each employer employing one or more nonresident workers shall pay a Nonresident Workers’ Employment Tax equal to one-half of one percent of the total cost of employing the nonresident worker or workers.

Section 116. Resident Workers’ Training Fund. There is hereby created a Resident Workers’ Training Fund, to be administered by the Division of Labor. All revenues collected under the Nonresident Workers’ Employment Tax shall be deposited in this Fund.

Section 117. Grants from Fund. The Division of Labor may make grants from this Fund to occupational training programs administered by the Federated States of Micronesia National Government or any State, municipal, or traditional government within the Federated States of Micronesia.

Section 118. Loans from Fund. The Division of Labor may make loans from the Fund to private organizations which provide occupational training within the Federated States of Micronesia, and to resident workers who will use the loans to participate in occupational training programs.

Section 119. Criteria for grants and loans. The primary criteria to be used in determining grant and loan recipients is the likelihood that persons receiving the training so funded will obtain
employment as a result of the training.

Section 120. Reports from grant and loan recipients. Any training program, whether public or private, which receives a grant or loan, must furnish the Division of Labor with quarterly reports containing a list of all resident workers who are currently participating in the program or who have completed the program within the past year, and indicating each participant's current employment status. If less than eighty percent of the students who successfully complete a training program have not obtained employment within 90 days of such completion, the program will not be eligible to receive further grants or loans from the Fund.

Section 121. Certification. Every program receiving grants or loans from the Fund must develop a means of certifying that resident workers who have successfully completed its program have achieved a sufficient level of skill to engage in the trade or occupation they received training in.

Section 122. Rules and regulations. The Division of Labor may promulgate any rules and regulations necessary to implement this act in a manner consistent with its purposes.

Section 123. Management of funds. All funds placed in the nonresident workers' repatriation account and the Resident Workers' Training Fund shall be managed in accordance with the Financial Management Act of 1979, except to the extent of any direct conflict between this chapter and that Act.

Section 124. Reports to Congress. The Division of Labor shall
report to Congress on a quarterly basis regarding all activities it has undertaken and all monies it has received or spent pursuant to this chapter."

Section 2. This act shall take effect 6 months after its approval by the President of the Federated States of Micronesia, or 6 months after its becoming law without such approval.

Date: 10/16/85

Introduced by:

Pedro Harris