A BILL FOR AN ACT

To amend title 32 of the Code of the Federated States of Micronesia by amending section 213 and by adding a new section 214 and a new section 215 for the purpose of changing the factors to be considered by the Foreign Investment Board in its review of applications for foreign-investment permits; to renumber sections 214 through 232; and for other purposes.

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

1. Section 1. Section 213 of title 32 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 213. Application - Decision by board. Upon receipt of the information and recommendations called for in sections 211 and 212 of this chapter, or upon expiration of the time set for submission of such information and recommendations, whichever occurs first, the Board shall, within an additional thirty days, decide whether or not to grant the foreign investment permit, based on all relevant factors including the factors given in sections 214 and 215 of this chapter."
Section 2. Title 32 of the Code of the Federated States of Micronesia is hereby amended by the addition of a new section 214 to read as follows:

"Section 214. Application - Decision by board - Certain businesses.

(1) If a foreign investment permit is sought for the purpose of engaging in any of those businesses enumerated in sub-section (2) below, the Board shall base its decision on all relevant factors, including the following:

(a) The economic, social, or environmental need for the business activity to be performed;

(b) The extent to which such activities will use or
deplete a nonrenewable natural resource, or will disturb the
environmental balance or the conservation of renewable natural
resources, or will pollute the atmosphere or water;

(c) The extent of participation by citizens at the
outset in the ownership and management of the enterprise, and in
the case of an applicant which is a corporation chartered outside
the Federated States, the degree of willingness and specific plans
to form a Federated States corporation in the future and to offer
at least fifty-one percent of the ownership and capital to citizens;
PROVIDED, however, that there must be at least twenty percent local
participation by way of equity ownership;

(d) The specific plans of the applicant to give
employment preference to citizens for positions in management and
at other levels by instituting training programs, and the applicant's
financial commitment to training citizens;

(e) The extent to which an operation will contribute
to the overall economic well-being of the Nation and each State
affected and the extent to which any interest, including economic,
social, traditional, or environmental, of any State or the Nation
may be affected; and

(f) The recommendations, if any, made by the State
authorities.

(2) This section shall apply to all foreign-investment
permit applications in which the applicant seeks to engage in any
of the following businesses:
1 (a) Transportation, including air transportation;
2 (b) Sale or storage of fuel;
3 (c) Utilities and power generation;
4 (d) Construction of roads, harbors, and airports;
5 (e) Finance and banking;
6 (f) Communications;
7 (g) Wholesale or retail business;
8 (h) Insurance;
9 (i) Undersea mining; or
10 (j) Tuna and billfish fishing.

Section 3. Title 32 of the Code of the Federated States of Micronesia
is hereby amended by the addition of a new section 215 to read as follows:

"Section 215. Application - Decision by board - Other business.
If a foreign-investment permit application is not for a business
named in section 214 (2) of this chapter, the Board shall base its
decision on the following factors:

(1) Whether the applicants are financially sound;

(2) Whether the business is legal;

(3) The extent to which the business will damage the
environment of the Federated States of Micronesia or deplete the
Federated States of Micronesia's natural resources;

(4) Whether or not the equity capital of non-citizen investors
comes from outside the Federated States of Micronesia; and

(5) The ability of the applicant to accomplish its purpose
and to bring funds and equipment needed for the purpose into the
Federated States of Micronesia."

Section 4. Sections 214 through 232 of title 32 of the Code of the Federated States of Micronesia are hereby renumbered as sections 216 through 234.

Section 5. This act shall not apply to foreign-investment permit applications pending before the Board on its effective date; PROVIDED, however, that an applicant may withdraw and resubmit an application in order to come within the provisions of this act. In the event of such a withdrawal and resubmission, the Board may waive repetition of any steps in the application process which were completed to the Board's satisfaction prior to such withdrawal and resubmission.

Section 6. 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: 10/10/75

Introduced by Pedro Harris