A BILL FOR AN ACT

To amend titles 6, 10, 11, 18, 32, 52, 54 and 55 of the Code of the Federated States of Micronesia and Public Law No. 2-50 to correct certain errors therein, and for other purposes.

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

Section 1. Section 131 of title 6 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 131. Jurisdiction over acts of nonresidents. Any person, corporation, or legal entity, whether or not a citizen or resident of the Trust Territory, who in person or through an agent does any of the acts enumerated in this subchapter, thereby submits himself or its personal representative to the jurisdiction of the courts of the Trust Territory as to any cause of action arising from:

(1) the transaction of any business within the Trust Territory;

(2) the operation of a motor vehicle within the Trust Territory;

(3) the operation of a vessel or craft within the territorial waters or airspace of the Trust Territory;

(4) the commission of a tortious act within the Trust Territory;

(5) contracting to insure any person, property, or risk located within the Trust Territory at the time of contracting;

(6) the ownership, use, or possession of any real estate within the Trust Territory;

(7) entering into an express or implied contract, by mail or otherwise, with a resident of the Trust Territory.
to be performed in whole or in part by either party in the
Trust Territory;

(8) acting within the Trust Territory as director,
manager, trustee, or other officer of any corporation
organized under the laws of or having a place of business
within the Trust Territory, or as executor or administrator
of any estate within the Trust Territory;

(9) causing injury to persons or property within the
Trust Territory arising out of an act or omission
outside of the Trust Territory by the defendant, provided
in addition, that at the time of the injury either:

(a) the defendant was engaged in the
solicitation or sales activities within the Trust
Territory/ or

(b) products, materials, or things processed,
serviced, or manufactured by the defendant anywhere were
used or consumed within the Trust Territory; and

(10) living in the marital relationship within the
Trust Territory notwithstanding subsequent departure from
the Trust Territory, as to all obligations arising for
alimony, child support or property rights under chapter 16
of this title, if the other party to the marital
relationship continues to reside in the Trust Territory."

Section 2. Section 703 of title 6 of the Code of the Federated
States of Micronesia is hereby amended to read as follows:
"Section 703. Extent of court's jurisdiction. The jurisdiction of the court shall extend to any set-off, affirmative defense, counterclaim, or other claim or demand whatever pleaded by the National Government of the Federated States of Micronesia, or other properly joined party to such action, against any plaintiff commencing an action under this chapter."

Section 3. Section 301 of title 10 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 301. Statement of purpose. Micronesia became an observer at the United Nations Law of the Sea Conference by virtue of a resolution of the General Assembly of the United Nations. As an observer, the Federated States of Micronesia will be expected to participate fully in the deliberations and proceedings of the conference and has important interests to pursue in that forum. It is therefore the sense of the Congress of the Federated States of Micronesia that a joint delegation of the Federated States of Micronesia to the United Nations Law of the Sea Conference should be established to cooperate with the executive branch of the Government of the Federated States in formulating policy for the conference, to attend sessions of the conference, and to participate in the review and consideration of any treaties or international agreements which are produced by the conference."
Section 4. Section 917 of title 11 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 917. Sexual abuse.

(1) Sexual abuse. A person commits the offense of sexual abuse if he intentionally has sexual contact with another person who is less than thirteen years old or causes such a person to have sexual contact with him.

(2) Definition. 'Sexual contact' means any touching of the sexual or other intimate parts of a person not married to the defendant, done with the intent of gratifying the sexual desire of either party.

(3) Defense. It is an affirmative defense that the defendant reasonably believed the child to be older than thirteen.

(4) A person convicted under this section shall be punished by imprisonment for not more than five years."

Section 5. Section 921 of title 11 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 921. Kidnapping.

(1) A person commits the offense of kidnapping if he unlawfully removes another from his place of residence or business, or a substantial distance from the vicinity where he is found, or if he unlawfully confines another for a substantial period in a place of isolation, with any of the following purposes:
(a) to hold for ransom or reward, or as a shield
or hostage; or
(b) to facilitate commission of any felony or
flight thereafter; or
(c) to inflict bodily injury on or to terrorize
the victim or another; or
(d) to interfere with the performance of any
governmental or political function.
(2) A removal or confinement is unlawful under this
section if it is accomplished by force, threat, or
deception, or, in the case of a person who is under the age
of fourteen or incompetent, without the consent of a
parent, guardian, or other person responsible for general
supervision of his welfare.
(3) A person convicted under this section shall be
punished:
(a) by imprisonment for a maximum term of ten
years unless the person committing the offense voluntarily
releases the victim alive and in a safe place prior to
trial; or
(b) otherwise, by imprisonment for not more than
five years."
Section 6. Section 932 of title 11 of the Code of the Federated
States of Micronesia is hereby amended to read as follows:
"Section 932. Definitions. As used in this chapter:
(1) 'Deprive' means:

(a) to withhold property of another permanently or for so extended a period as to appropriate a
major portion of its economic value, or with intent to
restore only upon payment of reward or other compensation;
or

(b) to dispose of the property so as to make it
unlikely that the owner will recover it.

(2) 'Financial institution' means a bank, insurance
company, credit union, building and loan association,
investment trust, or other organization held out to the
public as a place of deposit of funds or medium of savings
or collective investment.

(3) 'Government' means the Federated States of
Micronesia, and any department, agency, or subdivision
thereof, or any corporation or other association carrying
out the functions of Government.

(4) 'Movable property' means property, the location
of which can be changed, including things growing on,
affixed to, or found in land, and documents, although the
rights represented thereby have no physical location.
'Immovable property' is all other property.

(5) 'Obtain' means:

(a) in relation to property, to bring about a
transfer or purported transfer of a legal interest in the
property, whether to the obtainer or another; or

(b) in relation to labor or service, to secure performance thereof.

(6) 'Property' means anything of value, including real estate, tangible and intangible personal property, contract rights, choses-in-action, and other interests in or claims to wealth, admission/ or transportation tickets, captured or domestic animals, food and drink, electric or other power.

(7) 'Property of another' includes property in which any person other than the defendant has an interest which the actor is not privileged to infringe, regardless of the fact that the defendant also has an interest in the property and regardless of the fact that the other person might be precluded from civil recovery because the property was used in an unlawful transaction or was subject to forfeiture as contraband. Property in possession of the defendant shall not be deemed property of another who has only a security interest therein, even if legal title is in the creditor pursuant to a conditional sales contract or other security agreement."

Section 7. Section 934 of title 11 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 934. Theft by deception.

(1) A person commits theft if he purposely obtains
property of another by deception. A person deceives if he
purposely:

(a) creates or reinforces a false impression,
including false impressions as to law, value, intention, or
other state of mind; but deception as to a person's
intention to perform a promise shall not be inferred from
the fact alone that he did not subsequently perform the
promise; or

(b) prevents another from acquiring information
which would affect his judgment of a transaction; or

(c) fails to correct a false impression which
the deceiver previously created or reinforced, or which the
deceiver knows to be influencing another to whom he stands
in a fiduciary or confidential relationship; or

(d) fails to disclose a known lien, adverse
claim, or other legal impediment to the enjoyment of
property which he transfers or encumbers in
consideration for the property obtained, whether such
impediment is or is not valid, or is or is not a matter of
official record.

(2) The term 'deceive' does not, however, include
falsity as to matters having no pecuniary significance, or
puffing by statements unlikely to deceive ordinary persons
in the group addressed."

Section 8. Section 311 of title 18 of the Code of the Federated
States of Micronesia is hereby amended to read as follows:

"Section 311. Definitions. As used in this chapter, the
following terms shall have the meanings respectively
ascribed to them in this section:

1. 'Hovering vessel' means any unlicensed vessel
which is found or kept off any island, islet, atoll, or
reef of the Trust Territory, within the territorial waters
of the Trust Territory, if, from the history, conduct,
character, or location of the vessel, it is reasonable to
believe that such vessel is being used or may be used to
violate any of the provisions of this chapter or any law or
regulation of the Trust Territory.

2. 'Innocent passage' means navigation through
territorial waters for the purpose either of traveling it
bona fide en route from one point to another on the usual
course for such travel, wind and weather permitting,
without entering inland waters, or of proceeding to inland
waters at a point of entry, or of making for the high sea
from inland waters, and includes stopping or anchoring only
if incidental to ordinary navigation or in an emergency.

3. 'Territorial waters' means the waters of the
Territorial Sea as defined and described in section 22102
of this title.

4. 'Unlicensed vessel' means any vessel not operating
under license, grant, or express permission of the High
Commissioner of the Trust Territory, except public vessels
of the United States traveling under proper orders and not
engaged in commercial activities, outrigger vessels of all
kinds, and vessels propelled by outboard motors."

Section 9. Section 210 of the Code of the Federated
States of Micronesia is hereby amended to read as follows:

"Section 210. Application - Business with interstate or
international character. If the Board determines that the
applicant's business falls within one or more of the
categories set out in section 209 of this chapter, the
procedures set forth in sections 211 through 215 of
this chapter shall apply."

Section 10. Section 166 of title 52 of the Code of the
Federated States of Micronesia is hereby amended to read as follows:

"Section 166. Performance increase. When an employee's
performance, as determined through an objective evaluation,
has met accepted standards of productivity during a
specified period, his base salary may be increased by one
step in the appropriate level of the base salary schedule.
For an increase to step 2, 3, or 4, the required period
shall be fifty-two calendar weeks; for an increase to 5, 6,
or 7, the required period shall be one hundred four
calendar weeks. No employee shall have a base salary
above the maximum step prescribed for his pay level unless
he was receiving such compensation on the effective date of
this section."

Section 11. Section 124 of title 54 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 124. Source of wages; Apportionment.

(1) If an employee is credited or paid salaries or wages derived from, or attributable to, personal services performed or rendered both within and without the Federated States of Micronesia during any given month, then the whole of the salaries or wages shall be presumed to have been earned within the Federated States of Micronesia.

(2) The employer paying the tax or the employee whose compensation is taxed may file for an apportionment of the tax on a form prescribed by the Secretary and the tax shall be levied only on that portion of the salary or wages which is attributable to personal services performed or rendered within the Federated States of Micronesia."

Section 12. Section 803 of title 54 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 803. Rules and regulations — Promulgation by Secretary of Finance.

(1) The Secretary of Finance, with the approval of the President of the Federated States of Micronesia, shall prescribe such rules and regulations as are necessary to collect all taxes, fees, and charges levied or imposed under this title and all such taxes, fees, and charges
shall be deposited in the General Fund of the Federated
States of Micronesia for appropriation by the Congress of
the Federated States of Micronesia.

(2) Such rules and regulations shall wherever
practicable require payment in full of all taxes, fees, and
charges immediately upon assessment, and in the case of
import taxes, no later than fifteen days after the
departure of the vessel or aircraft on which the
products subject to import taxes arrived and before any
merchandise is released by the carrier or his agent to the
importer and, in the case of export taxes, before any
merchandise is loaded on any vessel or aircraft."

Section 13. Section 805 of title 54 of the Code of the
Federated States of Micronesia is hereby amended to read as follows:

"Section 805. Distribution of revenues.

(1) The treasurer of the Trust Territory, or his
successor, shall pay eighty percent of the net taxes
collected pursuant to section 201(4)(9) of this title,
and fifty percent of all other net taxes collected pursuant
to sections 121, 141, and 201 of this title, into the
treasury of the State government to which the taxes are
attributable for appropriation by the State legislature.

(2) 'Net taxes' as used in subsection (1) of this
section means gross collections of taxes, penalties,
interest, or other related charges less refunds and less
the cost of administration.

(3) 'Cost of administration' as used in subsection
(2) of this section means the cost determined to be
allocatable to each State by the Congress of the Federated
States of Micronesia when making appropriations for the
operating expenses of the Revenue Division.

(4) The revenue office in each State may administer
the taxes of the State in which located, but those duties
shall not interfere with the administration of taxes
imposed by the laws of the Federated States of Micronesia.
All costs in excess of those funded by appropriations of
the Congress of the Federated States of Micronesia required
for the administration of State taxes shall be borne
entirely by the State."

Section 14. Section 215 of title 55 of the Code of the
Federated States of Micronesia, as amended by Public Law Nos. 2-69,
3-23, 3-28 and 4-77, is hereby further amended to read as follows:
"Section 215. Allotment of funds - Allotees. Unless
otherwise specifically required by law, funds shall be
allotted as follows:

(1) The President of the Federated States of
Micronesia, or his designee(s), shall be the allottee of
all funds appropriated for the operations or activities of
the executive branch of the Federated States of Micronesia
Government.
(2) The Speaker of the Congress of the Federated States of Micronesia, or his designee(s), shall be the allottee of all funds appropriated for the operations or activities of the Congress.

(3) The Chief Justice of the Supreme Court of the Federated States of Micronesia, or his designee(s), shall be the allottee of all funds appropriated for the operations or activities of the judicial branch of the Federated States of Micronesia Government.

(4) The Public Auditor shall be the allottee of all funds appropriated to the Public Auditor.

(5) The Governor of a State, or his designee(s), shall be the allottee of all funds appropriated to the State.

(6) The President of the Federated States of Micronesia, or his designee(s), shall be the allottee of any funds appropriated for any activity, entity, or person not included within the provisions of subsections (1) through (5) of this section."

Section 15. Section 3 of Public Law No. 2-50 is hereby amended to read as follows:

"Section 3. Definitions.

(1) The term 'chief' means the chief of the Division of Education of the Federated States of Micronesia.

(2) The term 'institution of higher education' means
an educational institution which:
   (a) Admits as regular students only persons
        having a certificate of graduation from a school providing
        secondary education;
   (b) Is legally authorized to provide a program
        of education beyond secondary education; #76
   (c) Provides an educational program for which it
        awards a bachelor's degree or provides not less than a
        two-year program which is acceptable for full credit toward
        such a degree;
   (d) Is a public or other nonprofit institution;
        and
   (e) Is accredited by a recognized accrediting
        agency approved by the chief or is an institution whose
        credits are accepted on transfer by not less than three
        institutions which are so accredited for credit on the same
        basis as if transferred from an institution so accredited.

(3) The term 'full-time student' means a student who
    is carrying a full-time academic work load in terms of
    course work or other required activities as determined by
    the institution.

(4) The term 'full-time attendance' means compliance
    by a full-time student with policies and regulations
    regarding attendance in effect at the institution in which
    he or she is enrolled.
(5) The term 'professional' or 'graduate student' means, in general, a student who is enrolled in an academic program of instruction above the college level which is provided at an institution of higher education. The term includes:

(a) That portion of any program involving a period of study beyond 4 academic years of study at the college level; or

(b) Any portion of a program leading to:

(i) A degree beyond the bachelor's or first professional degree; or

(ii) A first professional degree when at least 3 years of study at the college level are required for entrance into a program leading to such degree.

(6) The terms 'satisfactory standing' and 'good standing' mean the eligibility of a student to continue in attendance at the institution where he or she is enrolled as a student in accordance with the institution's standards and practices.

(7) The term 'academic year' or its equivalent means the number of credit hours which a student must acquire during any one school year in order to secure the degree or certificate toward which he or she is working in the number of semesters or terms normally taken therefor at the institution where he is pursuing a course of study.
(8) The term 'fund' means the National Student Loan Revolving Fund."

Section 16. Section 7 of Public Law No. 2-50 is hereby amended to read as follows:

"Section 7. Establishing the Student Loan Revolving Fund.

There is hereby established a Student Loan Revolving Fund (hereinafter the 'fund'), separate from the General Fund or other funds. All appropriations for student loans shall be deposited in this account. In addition all repayments of principal and interest from loans made from this fund shall be deposited back into the fund for the purposes stated in section 2. Further, all loan repayments of interest and principal for funds received from appropriations made pursuant to:

(1) Public Law No. 1-22, as amended by Public Law No. 1-57; #40

(2) Public Law No. 1-106; #40

(3) Public Law No. 1-125; and

(4) Public Law No. 2-21, as amended by Public Laws Nos. 2-26, 2-38, and 2-39;

shall be deposited in the fund. Any unexpended money in this account shall not revert to the General Fund or lapse at the end of the fiscal year."

17 of 18
Section 17. 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: 4/02/87

Introduced by: John R. Haglegren
(by request)