A BILL FOR AN ACT

To amend title 51 of the Code of the Federated States of Micronesia by amending sections 114 and 125 and by adding a new section 144 to prohibit nonresident workers from being employed for more than two years in any one State, to limit the number of nonresident workers for each employer, and for other purposes.

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

Section 1. Section 114 of title 51 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 114. Preference. Resident workers shall be given preference in employment in the Federated States of Micronesia in any industry or occupation for which such workers are qualified and available.

Nonresident workers shall be employed only to supplement the labor force of available and qualified resident workers. A nonresident worker shall not be employed in any one State of the Federated States of Micronesia for a period of more than two years. At the end of such two year period, an employer may, upon a showing that no qualified resident workers are yet available for a position held by a nonresident worker, be granted a single extension, with respect to that nonresident, permitting continued employment in the State for a period of time not to exceed two additional years. The time limitations imposed by this section shall not apply to nonresidents engaged in engineering, accountancy, law, medicine, dentistry, optometry or other healing arts, or such other professions requiring a high degree of technical training as the chief may designate by regulation. The restrictions of this chapter shall not be interpreted to apply to citizens of the United States of America or their dependents, so as to restrict any rights afforded to such citizens pursuant to
section 142 of the Compact of Free Association. Except as
otherwise specifically provided for, nothing in this chapter
shall be construed to apply to employees of the National or
State Governments.

Section 2. Section 135 of title 51 of the Code of the Federated
States of Micronesia is hereby amended to read as follows:

"Section 135. Nonresident employment agreements.

(1) For those positions for which the chief has
determined that nonresident workers may be hired, he shall
require that a nonresident employment agreement be entered
into between the employer and the President of the Federated States of Micronesia, which
agreement shall authorize the employer to hire nonresident
workers.

(2) The agreement shall be signed by the chief, as
representative of the Federated States of Micronesia Government, and by the employer or his
authorized representative.

(3) The agreement shall contain the following
provisions, in addition to any other provisions the chief
deems necessary in the circumstances:

(a) a statement that the employer requires such
nonresident workers for immediate employment;

(b) a statement of the wages the employer is
paying or intends to pay the nonresident workers for each
occupational classification he is importing an alien to 
fill;

(c) a statement that the employer agrees to 
comply with the minimum employment conditions and other 
requirements consistent with the provisions of this chapter 
and other applicable laws of the Federated 
States of Micronesia;

(d) a statement of the period of time for which 
the employer will be allowed to fill each position with a 
nonresident worker before he must attempt to fill the 
position with a resident worker by filing a new application 
with the Employment Service; #858

(e) a statement of the employer’s responsibility 
for return transportation to the place of origin of each 
nonresident worker so employed;\ and

(f) A statement that the employer acknowledges 
the provisions of section 114 of this title which requires 
that a nonresident employee shall not be employed in any 
one State for a period of more than two years.

(4) Upon execution of the agreement required under 
subsections (1) through (3) of this section, the chief 
shall notify the Office of Immigration Control.

(5) The chief shall provide each nonresident worker 
covered by this chapter with a copy of the nonresident 
workers’ agreement which authorized his employer to hire
Section 3. Title 51 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 144 to read as follows:

"Section 144. Number of nonresident workers permitted each employer.

(1) Each employer who employs a total of ten employees or less shall be permitted to hire no more than one nonresident alien worker at any one time.

(2) Each employer who employs more than ten employees shall be permitted to employ nonresident alien workers not to exceed ten percent of the total number of employees at any one time.

(3) Any violation of section 144(1) or 144(2) of this title shall be treated in the same manner as prescribed in section 143(2) of this title.

(4) An employer may obtain a waiver of the provisions of this section upon establishing to the satisfaction of the chief of the Division of Labor that there is not a sufficient number of citizens of the Federated States of Micronesia with the necessary skills or proficiency in such skills to meet the requirements.

(5) The provisions of this section shall not apply to employers engaged in engineering, accountancy, law, medicine, dentistry, optometry or other healing arts, or
such other professions requiring a high degree of technical
training as the chief may designate by regulation."

Section 4. This act shall take effect on July 1, 1994.

Employment contracts in existence prior to this date will be
unaffected by the provisions of this act.

Section 5. 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: March 03, 1994

Introduced by: Redley Kilian

Waiger

Lawrence