AN ACT

To further amend title 50 of the Code of the Federated States of Micronesia, as amended, by amending sections 103, 104, 112 and 113 of chapter 1, by enacting a new section 116 of chapter 1, and to amend title 51 of the Code of the Federated States of Micronesia by amending sections 141 and 142 of chapter 1, to modify the entry and/or work permit process for foreign workers, long term residents and spouses of citizens of the Federated States of Micronesia, and for other purposes.

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

Section 1. Section 103 of title 50 of the Code of the Federated States of Micronesia, as amended by Public Law No. 10-14, is hereby further amended to read as follows:

"Section 103. Entry permits – Types.

(1) A permit is not required for a person visiting for thirty days or less. For a visit in excess of thirty days, a permit may be issued for an additional period not to exceed sixty days; except that, with respect to citizens and nationals of the United States of America, for the effective period of the Compact of Free Association, and with respect to citizens and nationals of the Republic of the Marshall Islands and the Republic of Palau, a permit is not required for the duration of the visit, which shall not exceed 365 days.

(2) A visitor's permit for any lawful purpose, including performance of necessary services on a short-term contractual basis, may be issued for a period of
specified duration reflecting the time necessary to accomplish the purpose.

(3) A student permit shall be issued for a specified duration reflecting a student's enrollment in a school or educational program.

(4) A foreign government official's permit may be issued to any official, employee, or contractual personnel of a foreign government or governmental regional or international organization who wishes to enter the Federated States of Micronesia for purposes of official governmental activities and who is not entitled to enter the Federated States of Micronesia without a permit under section 102 of this chapter.

(5) Notwithstanding any provision of subsections (1) and (2) of this section, a person entering the Federated States of Micronesia for the purpose of engaging in wholesale or retail sales of goods or services, or for the purpose of taking orders for the purchase of goods or services, without establishing a place of habitation or a place of business within the Federated States of Micronesia, shall be issued a salesperson's permit; PROVIDED, however, that this subsection shall not apply to any person who has a foreign investor's permit pursuant to subsection (7) of this section.

(6) An alien worker's permit shall be issued to a
noncitizen entering the Federated States of Micronesia
upon compliance with all National laws relating to
private or governmental employment for the period in
which the employment of the alien worker is authorized
by contract. The permit shall be renewed upon extension
or renewal of the alien's lawful employment status.

(7) A foreign investor's entry permit shall be issued
for a specified duration and may be renewed upon renewal
or extension of such foreign investor's business permit.

(8) A researcher's entry permit shall be issued for
research in the fields of endeavor that the President
deems in the best interest of and for the well-being of
the citizens of the Federated States of Micronesia;
PROVIDED that the President receives from the
researcher's intended place of stay prior permission for
his entry. The President may attach thereto such
conditions or restrictions as he deems necessary.

(9) A missionary's permit shall be issued to a duly
ordained, licensed, and certified minister or clergyman.

(10) An entry permit shall be issued to a lawful spouse
of a citizen.

(a) A spouse permit may be revoked or denied, in
accordance with the provisions of this chapter, upon a
finding that (i) the parties are divorced, the parties
are irreconcilably separated, or the citizen-spouse is
deceased; and (ii) the revocation or denial is in the best interests of the Federated States of Micronesia. 

(b) Except in extraordinary circumstances, no action to revoke or deny a spouse permit on the grounds of death of the citizen-spouse shall be taken for a period of six months from the date of death of the citizen-spouse.

(11) A dependent's entry permit may be issued to an unmarried child, under the age of 18, of a citizen or a noncitizen spouse, subject to the conditions in subsection (10) of this section.

(12) A spouse or unmarried child under the age of eighteen of any noncitizen principal listed in this section, except subsection (11), may be issued an entry permit for the duration of the principal's entry permit and may be renewed upon renewal of the principal's entry permit."

Section 2. Section 104 of title 50 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 104. Entry permits – Duration; Habitual residence; Change of status.

(1) Duration. Unless otherwise specified, all entry permits are limited to one year maximum period, with provision for renewal; except that, entry permits may be
issued for a period not to exceed 5 years for citizens and nationals of the United States of America who, immediately prior to issuance of the permit, have resided continuously in the Federated States of Micronesia for at least 5 years.

(2) Habitual residence.

(a) A noncitizen who remains in the Federated States of Micronesia as a visitor under section 103(1) of this chapter for one year or more shall be classified as a habitual resident.

(b) A habitual resident may be present in the Federated States of Micronesia only for 30 day visits as permitted by section 103(1) of this chapter or for a longer period of time as permitted by section 103(2), (3), (4), (5), (6), (7), (8), (9), (10), (11) or (12) of this chapter.

(3) Change of Status.

(a) The immigration status of a noncitizen entering the Federated States of Micronesia as a visitor under section 103(1) or 103(2) of this chapter may not be changed during his stay in the Federated States of Micronesia. The immigration status of any noncitizen entering or residing in the Federated States of Micronesia under any other provision of this chapter may not be changed during his stay in the Federated States
of Micronesia, except in accordance with the provisions of this title.

(b) For a noncitizen to change status, he shall be required to apply for a permit reflecting his changed status and pay a fee, except that citizens and nationals of the United States of America, for the duration of the Compact of Free Association, and citizens and nationals of the Republic of the Marshall Islands or the Republic of Palau shall not be required to pay a fee to change immigration status.

(c) The amount of the fee required by subsection (b) of this section, which shall not be less than $1,000, and the circumstances under which a change in immigration status may be granted shall be set forth in regulations issued pursuant to section 102(1) of title 17 of the Code of the Federated States of Micronesia. Payment of such fee is required in addition to, and not as a substitute for, any requirements of the desired new status.

(d) The President may impose additional conditions for such change of status.

(4) Waiver. The provisions of this section shall not be waived by the President or his designee."

Section 3. Section 112 of title 50 of the Code of the Federated States of Micronesia, as enacted by Public Law No. 10-
1 14, is hereby amended to read as follows:
2    "Section 112.  Fees.
3    In addition to any other fee required by the provisions
4    of this chapter, each application for an entry permit or
5    an entry permit renewal shall be accompanied by the
6    payment of a fee. The President shall, by executive
7    order or regulation, establish the amount of such fee
8    and may establish different fees for application or
9    renewal."

10 Section 4.  Section 113 of title 50 of the Code of the
11 Federated States of Micronesia, as amended by Public Law No. 10-
12 35, is hereby further amended to read as follows:
13    "Section 113.  Entry Permit Revolving Fund.
14    (1) There is created and established the Entry Permit
15    Revolving Fund separate from the General Fund of the
16    Federated States of Micronesia and all other funds.
17    (2) The purpose of the Entry Permit Revolving Fund is
18    to establish an ongoing revolving fund to allow revenue
19    from the issuance and renewal of entry permits and other
20    relevant fees to be used for entry permit issuance and
21    renewal, when so designated by the Congress of the
22    Federated States of Micronesia, and for training FSM
23    citizens to assume positions in the FSM workforce
24    currently held by noncitizen workers.
25    (3) All revenues received from the issuance and
renewal of entry permits and from the payment of any fee required under this chapter or chapter 1 of title 51 of the Code of the Federated States of Micronesia shall be deposited in the Entry Permit Revolving Fund. Any unexpended monies in the Entry Permit Revolving Fund shall not revert to the General Fund, nor lapse at the end of the fiscal year.

(4) The Entry Permit Revolving Fund shall be administered by the Chief of the Division of Immigration, under the supervision of the Secretary of the Department of Justice. The Chief shall, not later than 30 days after the close of each governmental fiscal year, submit to the Secretary a complete report of the activities and condition of the Entry Permit Revolving Fund for the fiscal year just closed, and any plans for use of the Fund for the fiscal year just started. The Secretary shall, within 30 days of receipt of the report from the Chief, forward the report to the President and the Congress of the Federated States of Micronesia.

(5) The Public Auditor shall audit the Entry Permit Revolving Fund at such times as the Public Auditor deems appropriate."

Section 5. Title 50 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 10-14, 10-35, 10-140 and 11-21, is hereby further amended by enacting a new section 116
"Section 116. Hearing and appeal.

(1) Any person aggrieved by a decision of the Division of Immigration and Labor shall be entitled to a hearing, as set forth in regulations issued pursuant to section 111 of this chapter. Unless otherwise required to preserve national security, hearings shall be conducted in accordance with the administrative procedures set forth in title 17 of the Code of the Federated States of Micronesia, except that hearings may be conducted on an expedited basis when provided for by regulation.

(2) Regulations implementing subsection (1) of this section shall provide for an informal hearing before the officer in charge of the local immigration office. Appeals from the decision of the officer in charge of the local immigration office shall be heard by a committee consisting of the Chief of Immigration or, in the event of a conflict of interest on the part of the Chief, his designee, the Secretary of the Department of Justice or his designee, and a representative of the Department of Foreign Affairs. The decisions of the appeal committee shall constitute final agency action for the purposes of title 17 of the Code of the Federated States of Micronesia."
Federated States of Micronesia is hereby amended to read as follows:

Section 141. Outside employment for compensation.

(1) It shall be unlawful for any nonresident worker admitted into the Trust Territory under the provisions of this title to engage in any other employment for compensation or for profit other than for the employer who has contracted with the chief for the employment of such nonresident worker in the Trust Territory, except in accordance with the provisions of this section.

(2) A nonresident worker who is under a labor contract with an employer may work for or be employed by a second employer during the term of such contract if all of the following conditions are met:

   (a) the nonresident worker has filed an 'Application for Permission to Engage in Additional Employment for Compensation or Profit' with the Chief, which application shall be in the form required by the Chief in regulations issued pursuant to section 102(1) of title 17 of the Code of the Federated States of Micronesia;

   (b) the original employer and the prospective second employer have entered into a 'Contract for Services' whereby the first employer agrees to allow the second employer to use the services of the nonresident
worker. Such contract shall be filed with the Chief and shall contain, at a minimum, such provisions as the Chief shall, by regulation, require; and (c) the second employer has met all of the requirements of this chapter for hiring nonresident workers and has paid a fee, the amount of which shall not be less than $1,000 and shall be set forth in regulations issued pursuant to section 102(1) of title 17 of the Code of the Federated States of Micronesia. (3) Any employment of a nonresident worker in a manner not provided for by this section shall constitute sufficient ground and cause for deportation and the Chief of the Division of Labor shall communicate to the Secretary of the Department of Justice any violation of this section and the Secretary shall institute deportation proceedings against the alien worker if in the opinion of the District Administrator such would be in the best interest of the public. (4) Violation of the provisions of this section by an employer or nonresident worker shall also be subject to penalties prescribed by section 167 of this title."

Section 7. Section 142 of title 51 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 142. Change of employment."
(1) A nonresident worker who is under a labor contract with an employer shall not change his employer during the term of such contract, except in accordance with the provisions of this section.

(2) Before a nonresident worker can work for or be employed by an employer different than his previous employer, he shall first be required to apply for a permit reflecting his change of employment and pay a fee, except that citizens and nationals of the United States, for the duration of the Compact of Free Association, and citizens and nationals of the Republic of the Marshall Islands or the Republic of Palau shall not be required to pay a fee.

(3) The amount of the fee required by subsection (b) of this section, which shall not be less than $1,000, and the circumstances under which a change in employment status may be granted shall be set forth in regulations issued pursuant to section 102(1) of title 17 of the Code of the Federated States of Micronesia. Fees collected as a result of this section shall be deposited into the fund established by section 113 of title 50 of the Code of the Federated States of Micronesia."
Section 8. This act shall become law upon approval by the President of the Federated States of Micronesia or upon its becoming law without such approval.

December 26, 2002

/s/ Leo A. Falcam
Leo A. Falcam
President
Federated States of Micronesia