The President
Palikir, Pohnpei
Federated States of Micronesia

PRESIDENTIAL COMM. NO. 16-379
FSM CONGRESS

April 19, 2011

The Honorable Isaac V. Figir
Speaker
16th FSM Congress
Palikir, Pohnpei State, FM 96941

Dear Speaker Figir:

I am pleased to inform you that I have designated the following Congressional Act as Public Law No. **16-75:**

> Congressional Act No. 16-78, "AN ACT TO FURTHER AMEND TITLE 54 OF THE CODE OF THE FEDERATED STATES OF MICRONESIA BY ADDING A NEW CHAPTER 7, FOR THE PURPOSE OF ESTABLISHING A FEDERATED STATES OF MICRONESIA UNIFIED REVENUE AUTHORITY FOR THE NATIONAL GOVERNMENT, AND FOR OTHER PURPOSES."

I take this opportunity to express my appreciation to Congress for the support and swift action in passing this Act. This Act paves the way for the creation or formation of a new tax authority called the Unified Revenue Authority to administer and manage the tax affairs for the Nation. This will be an opportunity for the FSM to improve its administration and management of its taxing affairs in the FSM that governments have continued to diligently work hard to progress and succeed.

With the passage of the Unified Revenue Authority Act, I kindly urge Congress to also extend similar consideration and favorable action on the remaining sister tax legislations, which are currently pending before Congress. The passage of the remaining tax legislations will permit the full implementation of the realities of the tax reform efforts.

With warm regards, I remain,

Sincerely,

For Manny Mori
President

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APR 26 2011
FSM Congress
Speakers Office

Enclosures:

xc: Chief Justice, FSM Supreme Court
Secretary, Department of Justice
Director, Office of SBOC
Legislative Counsel, CFSM
Library, CFSM
PIO, FSM

CONGRESS OF THE FEDERATED STATES OF MICRONESIA
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PRESIDENTIAL COMM. NO. 16-379
FSM CONGRESS

Office of the Chief Clerk

RECEIVED
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Office of the President
FSM

April 7, 2011

His Excellency Manny Mori
President
Federated States of Micronesia
Palikir, Pohnpei FM 96941

Dear President Mori:

I have the honor to transmit herewith Congressional Act No. 16-78, "AN ACT TO FURTHER AMEND TITLE 54 OF THE CODE OF THE FEDERATED STATES OF MICRONESIA BY ADDING A NEW CHAPTER 7, FOR THE PURPOSE OF ESTABLISHING A FEDERATED STATES OF MICRONESIA UNIFIED REVENUE AUTHORITY FOR THE NATIONAL GOVERNMENT, AND FOR OTHER PURPOSES.", which was passed by the Sixteenth Congress of the Federated States of Micronesia, Sixth Special Session, 2011, by a two-thirds vote of all the State delegations as required and as duly certified.

Sincerely yours,

Liwiana Ramon Ioanis
Chief Clerk, Congress of the
Federated States of Micronesia

Enclosures

ACT NO. 16-78
(CONGRESSIONAL BILL NO. 16-154, C.D.1)

PRESIDENTIAL COMM. NO. 16-379
FSM CONGRESS

SIXTEENTH CONGRESS OF THE
FEDERATED STATES OF MICRONESIA
SIXTH SPECIAL SESSION
MARCH 21 - 31, 2011

PUBLIC LAW No. 16-75

An Act

TO FURTHER AMEND TITLE 54 OF THE CODE OF THE FEDERATED STATES OF MICRONESIA BY ADDING A NEW CHAPTER 7, FOR THE PURPOSE OF ESTABLISHING A FEDERATED STATES OF MICRONESIA UNIFIED REVENUE AUTHORITY FOR THE NATIONAL GOVERNMENT, AND FOR OTHER PURPOSES.

INTRODUCED BY SENATOR: JOE N. SUKA (BY REQUEST)

DATE: NOVEMBER 16, 2010

REFERRED TO: COMMITTEE ON WAYS AND MEANS

S.C.R. NO. 16-139 – MARCH 29, 2011

FIRST READING: MARCH 30, 2011

SECOND READING: MARCH 31, 2011

Liwiana Ramon Ioanis
Chief Clerk, FSM Congress

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Office of the Speaker

PRESIDENTIAL COMM. NO. 16-379
FSM CONGRESS

ACT NO. 16-78

(CONGRESSIONAL BILL NO. 16-154, C.D.1)

We hereby certify that on March 31 the foregoing act passed Second and Final Reading of the Sixteenth Congress of the Federated States of Micronesia, Sixth Special Session, 2011, by a two-thirds vote of all the State delegations as required under article IX, section 20, of the Constitution of the Federated States of Micronesia.

Isaac V. Figir
Speaker
Congress of the
Federated States of Micronesia

Liwiana Ramon Ioanis
Chief Clerk
Congress of the
Federated States of Micronesia

SIXTEENTH CONGRESS OF THE FEDERATED STATES OF MICRONESIA

FIFTH SPECIAL SESSION, 2010 CONGRESSIONAL BILL NO. 16-154, C.D.1

PUBLIC LAW No. 16-75

AN ACT

To further amend title 54 of the Code of the Federated States of Micronesia by adding a new chapter 7, for the purpose of establishing a Federated States of Micronesia Unified Revenue Authority for the National Government, and for other purposes.

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

Section 1. Title 54 of the Code of the Federated States of Micronesia is hereby further amended by adding a new chapter 7 entitled "FSM Unified Revenue Authority".

Section 2. Title 54 of the Code of the Federated States of Micronesia is hereby amended by adding a new subchapter I to chapter 7 entitled "General Provisions."

Section 3. Title 54 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 701 to subchapter I of chapter 7 to read as follows:

"Section 701. Short title. This chapter may be cited as the Federated States of Micronesia Unified Revenue Authority Act of 2010".

Section 4. Title 54 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 702 to subchapter I of chapter 7 to read as follows:

"Section 702. Definitions.

Wherever used in this chapter, unless the subject matter, context, or sense otherwise requires:

(1) 'Authority' means the Federated States of Micronesia Unified Revenue Authority established by section 711 of this title.

(2) 'Board' means the Board of Directors of the Authority appointed under section 712 of this title.

(3) 'CEO' means the Chief Executive Officer appointed under Section 731 of this title.

(4) 'Congress' means the Congress of the Federated States of Micronesia.

(5) 'CTA' means the FSM Department of Finance and Administration, Division of Customs and Tax Administration.

(6) 'Finance Official' means the Secretary, a Director of Finance, Director of Administration, Director of Administration and Treasury or such other official holding the highest administrative office responsible for matters of finance or taxation within the FSM National Government or the Government of any State.

(7) 'FSM' means the Federated States of Micronesia.

(8) 'Government' means the Government of the Federated States of Micronesia or the Government of a State in the Federated States of Micronesia,

whichever the context appropriately requires.

(9) 'Generally Accepted Accounting Principles' or "GAAP" means those accounting principles currently accepted by certified public accountants, which are utilized by auditors operating within the FSM; PROVIDED, HOWEVER, that in the event International Financial Reporting Standards (IFRS) become generally accepted by the financial/auditing entities within the FSM and as prescribed by law or regulations, then GAAP shall be modified by IFRS.

(10) 'Memorandum of Understanding' means the Memorandum of Understanding entered into between the FSM National Government and the governments of the several States under section 759 of this title.

(11) 'National tax' means a tax or duty imposed under a law referred to in paragraphs (a) or (b) of the definition of "Revenue law" in subsection (17) of this section.

(12) 'Net tax' means the gross collection of tax, penalties, and interest under a revenue law less refunds paid under such law.

(13) 'Net National taxes' means the net tax collected in respect of National taxes.

(14) 'Net State taxes' means the net tax collected in respect of a State's taxes.

(15) 'Prescribed percentage', in relation to the Authority's operations budget, is that percentage determined under sections 752 and 756(2) of this title.

(16) 'Revenue authority' means the CTA as defined in subsection (5) of this section, or the administrative office responsible for matters of finance or taxation within the Government of any State.

(17) 'Revenue law' means:

(a) any chapter under this title;

(b) a law of the FSM imposing a tax or duty if the law provides that the Authority has the responsibility for administering the tax or duty; and

(c) a law of a State imposing a tax which the Authority is allowed to administer by virtue of the laws of such State.

(18) 'Revenue officer' means the CEO and any officer of the Authority appointed under section 732 of this title.

(19) 'Secretary' means the Secretary of the Department of Finance and Administration.

(20) 'State' means a State of the Federated States of Micronesia; and

(21) 'State tax' means a tax imposed under a law referred to in paragraph (c) of the definition of "Revenue law" in subsection (17) of this section."

Section 5. Title 54 of the Code of the Federated States of Micronesia is hereby further amended by adding a new subchapter II to chapter 7 entitled "Establishment, Membership, and Meetings of the Authority."

Section 6. Title 54 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 711 to subchapter II of chapter 7 to read as follows:

"Section 711. Establishment of the Federated States of Micronesia Unified Revenue Authority. The Federated States of Micronesia Unified Revenue Authority is hereby established under the laws of the Federated States of Micronesia. It may hereinafter be referred to as "the Authority".

Section 7. Title 54 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 712 to subchapter II of chapter 7 to read as follows:

"Section 712. Board of Directors of the Authority.

(1) There is a Board of Directors of the Authority that is the governing body of the Authority.

(2) The Board is responsible for monitoring the overall performance of the Authority and for

1 determining policies relating to staffing of and
2 procurement by the Authority.
3 (3) The Board must not intervene in the
4 determination of an assessment, ruling application,
5 liability, objection, or appeal of a person under a
6 revenue law, or in any other operational matter of
7 the Authority."
8 Section 8. Title 54 of the Code of the Federated States
9 of Micronesia is hereby further amended by adding a new
10 section 713 to subchapter II of chapter 7 to read as follows:
11 "Section 713. Appointment and termination of
12 directors.
13 (1) The Board consists of the following
14 directors:
15 (a) the Secretary;
16 (b) a representative of the State of Chuuk
17 appointed pursuant to Chuuk State law;
18 (c) a representative of the State of Kosrae
19 appointed pursuant to Kosrae State law;
20 (d) a representative of the State of Pohnpei
21 appointed pursuant to Pohnpei State law;
22 (e) a representative of the State of Yap
23 appointed pursuant to Yap State law; and
24 (f) a representative of the private sector
25 appointed by a majority of the directors referred

to in paragraphs (a) through (e) of this section.

(2) The person appointed under subsection (1)(f) of this section must be from a pool of candidates from the private sector nominated by the Governors, who in the opinion of the Board, has adequate experience in public administration, or in financial, commercial, tax, or legal matters. Each Governor may nominate no more than two persons from his State.

(3) The following persons are not allowed to be appointed under subsection (1)(f) of this section:

(a) a person who is an undischarged bankrupt;

(b) a person who has been convicted of an offense under a revenue law, or who otherwise has been convicted of any other crime involving moral turpitude;

(c) a person whose affairs under all revenue laws are not up to date; or

(d) a person who is disqualified or suspended from practice of the person's profession for misconduct.

(4) Before appointing a person under subsection (1)(f) of this section, the Board must take into consideration any potential conflicts of interest

that the person may have.

(5) The person appointed as director under subsection (1)(a) of this section shall hold the office for as long as the person holds the office of Secretary.

(6) A person appointed as director under subsection (1)(b), (c), (d), or (e) of this section shall hold office pursuant to the respective State law under which each was appointed.

(7) The person appointed as director under subsection (1)(f) of this section shall hold office for a term not exceeding three years and is eligible for reappointment.

(8) A person appointed as a director under subsection(1)(b), (c), (d), or (e) of this section may be removed from office in accordance with the State law of appointment.

(9) The person appointed as director under subsection (1)(f) of this section may be removed from office by resolution of the Board if the director:

(a) has been absent, without leave of the Board, from three consecutive meetings of the Board;

(b) has become an undischarged bankrupt;

(c) has been convicted of an offense, or has become liable for a penalty, under a revenue law, including section 718 of this chapter, or has been convicted of any other crime involving moral turpitude; or

(d) has become disqualified or suspended from practice of the person's profession for misconduct."

Section 9. Title 54 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 714 to subchapter II of chapter 7 to read as follows:

"Section 714. Chairperson of the Board.

(1) The Chairperson of the Board shall rotate annually among the five FSM governments as determined by the Board.

(2) The Chairperson may authorize, in writing, any director to exercise any power or perform any function conferred on the Chairperson by or under this chapter."

Section 10. Title 54 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 715 to subchapter II of chapter 7 to read as follows:

"Section 715. Meetings of the Board.

(1) The Board must meet as often as may be

1 necessary for the performance of its functions;
2 PROVIDED HOWEVER that it shall meet on no less than
3 four occasions each calendar year; and PROVIDED,
4 FURTHER, that at least two such meetings shall
5 require the physical presence of the directors at a
6 single location.
7 (2) At any meeting, the quorum of the Board shall
8 be four directors. Subject to subsection (1) of
9 this section, participation may be in person, by
10 teleconference, or by other appropriate electronic
11 means in real time. A quorum, once established,
12 shall not be broken by the absence or withdrawal of
13 one or more directors before a meeting is
14 adjourned.
15 (3) Notice of a meeting of the Board must be
16 given to each director and shall be delivered by
17 hand or sent by post, facsimile, electronic mail,
18 or other written message to an address supplied by
19 the director to the Board for this purpose.
20 (4) Subject to subsection (5) of this section,
21 decisions at meetings of the Board are by a simple
22 majority of the directors participating.
23 (5) The director appointed under section
24 713(1)(f) of this section shall be a non-voting
25 member of the Board but is to be taken into account

in determining whether a quorum exists.

(6) Subject to this section, the Board may regulate its own procedure.

(7) The validity of a proceeding of the Board is not affected by a vacancy in the membership, or by any defect in the appointment of a director.

(8) The Board may invite a person to attend a meeting of the Board for the purpose of advising it on any matter under discussion, but the person so attending shall have no right to vote at the meeting."

Section 11. Title 54 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 716 to subchapter II of chapter 7 to read as follows:

"Section 716. Transaction of business without meeting.

(1) A resolution of the Board is valid, even though it was not passed at a meeting of the Board, if:

(a) it is signed or assented to by all five directors of the Board who are appointed under section 713(1)(a),(b),(c),(d), and (e) of this title; and

(b) a notice in writing of the proposed

1 resolution was given to each director."

2 (2) RESERVED

3 Section 12. Title 54 of the Code of the Federated

4 States of Micronesia is hereby further amended by adding a

5 new section 717 to subchapter II of chapter 7 to read as

6 follows:

7 "Section 717. Remuneration of directors.

8 The directors of the Board and persons invited to

9 attend a meeting of the Board under section 715(8)

10 of this title are entitled to such remuneration as

11 may be established by regulation."

12 Section 13. Title 54 of the Code of the Federated

13 States of Micronesia is hereby further amended by adding a

14 new section 718 to subchapter II of Chapter 7 to read as

15 follows:

16 "Section 718. Disclosure of interest.

17 (1) A director of the Board who has a direct or

18 indirect personal interest in the outcome of any

19 matter before the Board must disclose the interest

20 to the Board.

21 (2) The disclosure of an interest under

22 subsection (1) of this section must be recorded in

23 the minutes of the Board.

24 (3) After making a disclosure under subsection

25 (1) of this section, the director:

(a) in the case of a meeting, must withdraw from the meeting before the commencement of deliberations of the Board in respect of the matter referred to in subsection (1) of this section, although the director may be counted for the purposes of forming a quorum of the Board at the meeting; and

(b) in any case, must not vote on the matter.

(4) A director who contravenes this section is guilty of an offense, and upon conviction is subject to a fine not exceeding $1000, imprisonment for not more than one year, or both."

Section 14. Title 54 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 719 to subchapter II of chapter 7 to read as follows:

"Section 719. Minutes of meetings and business transacted.

(1) The Board must keep minutes of all its meetings and business transacted under sections 715 and 716 of this title in a proper form.

(2) The minutes of a meeting, if duly signed by the Chairperson or person presiding, are admissible, in any legal proceedings, as evidence

of the facts stated therein and a meeting of the Board in respect of which minutes have been so signed is treated as having been duly convened and held, and the directors present at the meeting have been duly appointed to act.

(3) Any minutes of a resolution dealt with under section 716 of this title, if duly signed by the Chairperson, are admissible, in any legal proceedings, as evidence of the facts stated therein and that the resolution was properly dealt with in accordance with section 716 of this title."

Section 15. Title 54 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 720 to subchapter II of chapter 7 to read as follows:

"Section 720. Common seal.

(1) The Authority must have a common seal of such design as it may decide.

(2) The common seal must be kept by the Chairperson and its affixing must be authenticated by two directors of the Board generally or specifically authorized by the Authority for the purpose, or by one such director and the Chairperson.

(3) All deeds, documents, and other instruments

1 purporting to be sealed with the common seal and
2 authenticated in accordance with subsection (2) of
3 this section are, unless the contrary is proved,
4 presumed to have been validly executed.
5 (4) The common seal of the Authority must be
6 officially and judicially noticed for all
7 purposes."
8 Section 16. Title 54 of the Code of the Federated
9 States of Micronesia is hereby further amended by adding a
10 new section 721 to subchapter II of chapter 7 to read as
11 follows:
12 "Section 721. Task assignment by Board.
13 (1) The Board may, from time to time, by notice
14 in writing under the hand of the Chairperson,
15 assign to any person or committee a specific task
16 to assist the Board in furtherance of its duties;
17 PROVIDED, HOWEVER, that the Board may not delegate
18 its policy-making power.
19 (2) An assignment under this section may be made
20 to a specified person or committee, or holder for
21 the time being of a specified office or to the
22 holders of offices of a specified class.
23 (3) An assignment may be made subject to such
24 restrictions and conditions as the Board thinks
25 fit, and may be made either generally or in

relation to any particular case or class of case.

(4) A person or committee purporting to be acting under assignment of the Board must, when required to do so, produce satisfactory evidence of such assignment.

(5) A committee established under this section may regulate its own procedure but is subject to direction given by the Board.

(6) Sections 715, 716, 718, and 719 of this title apply equally to members and meetings of a committee established under this section.

(7) The members of a committee and persons invited to attend meetings of the committee to advise the committee are entitled to such allowances and expenses as the Board may fix by regulation.

Section 17. Title 54 of the Code of the Federated States of Micronesia is hereby further amended by adding a new subchapter III of chapter 7 entitled "Service of Authority."

Section 18. Title 54 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 731 to subchapter III of chapter 7 to read as follows:

"Section 731. Appointment of Chief Executive

1 Officer.

2 (1) The Board shall appoint a Chief Executive
3 Officer (CEO) on such terms and conditions as the
4 Board may determine.

5 (2) The CEO:

6 (a) shall serve for a term of four years,
7 subject to reappointment by the Board;

8 (b) is responsible for the administration
9 and enforcement of, and collection of revenue,
10 under the revenue laws;

11 (c) is responsible for the day-to-day
12 operations of the Authority;

13 (d) is responsible for the proper
14 administration and management of the functions and
15 affairs of the Authority in accordance with the
16 policy laid down by the Board; and

17 (e) shall perform such other functions and
18 duties as the Board may determine.

19 (3) Except as provided in subsection (2) of this
20 section, the CEO is not subject to the direction or
21 control of any person.

22 (4) If the CEO is temporarily absent from the
23 FSM, or temporarily unable to perform the duties of
24 his office, the Board may appoint a person to act
25 in the place of the CEO during that period.

(5) The Board may terminate the appointment of the CEO for incapacity, misbehavior, or misfeasance or malfeasance. A CEO whose appointment has been terminated under this subsection may appeal to a Court of competent jurisdiction."

Section 19. Title 54 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 732 to subchapter III of chapter 7 to read as follows:

"Section 732. Appointment of officers and other staff.

The CEO may appoint, on such terms and conditions as the Board may determine, such officers, employees, agents, or consultants as may be necessary or expedient for carrying out the functions and duties of the Authority."

Section 20. Title 54 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 733 to subchapter III of chapter 7 to read as follows:

"Section 733. Delegation of CEO's functions and powers.

(1) Subject to subsection (4) of this section, the CEO may, by written instrument, delegate to a revenue officer any of his or her functions and

1 powers under any revenue law, other than this power
2 of delegation.
3 (2) A reference in a revenue law to the CEO
4 includes, in respect of the exercise of a power or
5 performance of a function delegated to a revenue
6 officer, a reference to the delegate.
7 (3) A delegation under this section is revocable
8 at will and does not prevent the exercise of a
9 power or performance of a function by the CEO.
10 (4) The CEO shall not delegate the functions and
11 powers of tax assessment and collection to any
12 person other than an employee of the Authority;
13 PROVIDED, HOWEVER, that nothing herein shall be
14 deemed as limiting the CEO from retaining legal
15 counsel, or contracting with consultants and others
16 as may be necessary to assist the Authority to
17 perform its duties."
18 Section 21. Title 54 of the Code of the Federated
19 States of Micronesia is hereby further amended by adding a
20 new section 734 to subchapter III of chapter 7 to read as
21 follows:
22 "Section 734. Oath of office.
23 The Board may prescribe an oath of office to be
24 administered to revenue officers."
25 Section 22. Title 54 of the Code of the Federated

States of Micronesia is hereby further amended by adding a new section 735 to subchapter III of chapter 7 to read as follows:

"Section 735. Confidentiality and disclosure of information.

(1) Revenue officers, directors, employees of the Authority, former directors of the Board, former members of a committee of the Board, persons invited to a Board or committee meeting, former employees or contractors of the Authority, and any person formerly or presently engaged by the Authority in any capacity shall not disclose any business or personal document or information received during the performance of duties or in the course of any meeting of the Authority if such document or information is deemed confidential or secret by law or by generally accepted business practices, except that they may disclose a confidential or secret business or personal document or information to the following:

(a) another revenue officer, but only to the extent required by law or as may be necessary for the purposes of any revenue law;

(b) the Secretary, but only in relation to National taxes;

1 (c) a Finance Official of a State, but only
2 in relation to that State's taxes;
3 (d) the Secretary of the FSM Department of
4 Justice or his designee, but only to the extent
5 required for any legal action or claim by or
6 against the National Government;
7 (e) the Attorney General of a State
8 Government or his designee, but only to the extent
9 required for any legal action or claim by or
10 against that State;
11 (f) a court of competent jurisdiction upon
12 order of such court, or to the extent necessary
13 with respect to the enforcement of any revenue law;
14 (g) the National Public Auditor or a person
15 authorized by the National Public Auditor in
16 writing, but only to the extent that the disclosure
17 is necessary for the performance of the audit of
18 the Authority's accounts;
19 (h) a State Public Auditor or a person
20 authorized by a State Public Auditor in writing,
21 but only to the extent that the disclosure is
22 necessary for audit of accounts held by the
23 Authority on behalf of that State;
24 (i) the competent authority of a government
25 of a foreign country with which the FSM National

1 Government has entered into an agreement providing
2 for the exchange of information, but only to the
3 extent permitted under that agreement and
4 applicable law; and
5 (j) a person with the written consent of the
6 person to whom the documents or information relate.
7 (2) If a revenue officer is permitted to disclose
8 documents or information under subsection (1) of
9 this section, the officer must maintain secrecy and
10 confidentiality except to the minimum extent
11 necessary to achieve the object for which the
12 disclosure is permitted.
13 (3) Any person who knowingly or intentionally
14 violates any provision of subsections (1) or (2) of
15 this section, or a duty or obligation imposed
16 therein, shall be guilty of a felony and, upon
17 conviction thereof, shall be fined not less than
18 $500 and not more than $5,000, or be imprisoned for
19 not more than two years, or both."
20 Section 23. Title 54 of the Code of the Federated
21 States of Micronesia is hereby amended by adding a new
22 subchapter IV to chapter 7 entitled "Functions, Duties and
23 Powers of the Authority."
24 Section 24. Title 54 of the Code of the Federated
25 States of Micronesia is hereby further amended by adding a

new section 741 to subchapter IV of chapter 7 to read as follows:

"Section 741. Functions of the Authority.

The primary function of the Authority is to maximize, over time, the collection of tax revenue lawfully owing to the FSM National Government and the States given the resources available to it. Without limiting the generality of the foregoing, the Authority has the following specific functions:

(1) to act as agent in the collection of revenue on behalf of the FSM National Government and the Governments of the several States in accordance with their revenue laws;

(2) to otherwise administer on behalf of the FSM National Government and the Governments of the several States the provisions of the revenue laws as shall from time to time require its action;

(3) to render ancillary services to the FSM National Government and the Governments of the several States in the administration and enforcement of their revenue laws;

(4) to take border security and customs measures as required under chapter 2 of title 54 of the Code of the Federated States of Micronesia or as assigned to the Authority in accordance with law;

1 (5) to ensure that all revenue collected is dealt
2 with in accordance with Section 758 of this title;
3 (6) to promote voluntary compliance with the
4 revenue laws;
5 (7) to take such measures as may be required to
6 improve the standards of service provided to
7 taxpayers with a view to improving efficiency and
8 effectiveness in administration, and maximizing
9 revenue collection;
10 (8) to take such measures as may be required or
11 considered necessary to prevent tax evasion and
12 fraud of any type;
13 (9) to advise the FSM National Government and the
14 Governments of the several States on matters
15 relating to the administration and collection of
16 revenue, and border security, under the revenue
17 laws;
18 (10) as directed by the Secretary, to represent
19 the FSM National Government internationally in
20 respect of matters related to taxation and customs;
21 (11) to perform such other functions, in relation
22 to the collection of National taxes as the
23 Secretary may assign to the Authority; and
24 (12) to perform such other functions in relation
25 to the collection of State taxes as the Finance

1 Official of the relevant State may assign to the
2 Authority."
3 Section 25. Title 54 of the Code of the Federated States
4 of Micronesia is hereby further amended by adding a new
5 section 742 to subchapter IV of chapter 7 to read as follows:
6 "Section 742. Powers of the Authority.
7 (1) In performing the functions authorized
8 pursuant to section 741 of this chapter, the
9 Authority has the following powers:
10 (a) to adopt, alter, and use a seal;
11 (b) to adopt and amend bylaws governing the
12 conduct of its business and the exercise of its
13 powers, subject to the provisions of the revenue
14 laws;
15 (c) to sue and be sued in its name;
16 (d) to acquire, in any lawful manner, any
17 personal property, either tangible or intangible,
18 to hold, maintain, use and operate such property,
19 and to sell, lease or otherwise dispose of such
20 property;
21 (e) to retain and terminate the services of
22 employees, agents, attorneys, auditors, and
23 independent contractors upon such terms and
24 conditions as it may deem appropriate;
25 (f) to make assessments, conduct

1 investigations, initiate judicial proceedings,
2 publish rules and rulings, and to take such other
3 action as may be necessary in connection with its
4 role as a unified tax administration for the FSM
5 National Government and the Governments of the
6 several States; and
7 (g) to do all such other things on its own
8 account or as agent for the FSM National Government
9 and the Governments of the several States as may be
10 deemed incidental to or conducive to the attainment
11 of the functions and responsibilities of the
12 Authority.
13 (2) The Authority is not permitted to own any
14 real property, but may lease real property to the
15 extent necessary for its operation."
16 Section 26. Title 54 of the Code of the Federated
17 States of Micronesia is hereby amended by adding a new
18 subchapter V to chapter 7 entitled "Financial Provisions and
19 Reporting."
20 Section 27. Title 54 of the Code of the Federated
21 States of Micronesia is hereby further amended by adding a
22 new section 751 to subchapter V of chapter 7 to read as
23 follows:
24 "Section 751. Funds of the Authority.
25 (1) *Establishment*. There shall be established a

1 Federated States of Micronesia Special Fund,
2 hereinafter referred to as the "Fund", separate and
3 apart from all public monies or funds of the
4 Federated States of Micronesia, which shall be
5 administered by the Authority exclusively for the
6 purposes of this chapter.
7 (2) *Deposits*. Except as may otherwise be
8 required by grantors in cases of grants, all funds
9 specified under subsection (4) of this section, and
10 all funds derived from deductions made pursuant to
11 section 752 of this section, shall be deposited in
12 the Fund. Any unexpended moneys in this Fund shall
13 neither revert nor lapse to the General Fund, or
14 any other Fund.
15 (3) *Administration*. The Fund shall be
16 administered by the CEO in accordance with the
17 regulations and procedures which the Board shall
18 promulgate as appropriate for the effectuation and
19 implementation of the provisions of this
20 subchapter. Procurement of goods and services to be
21 funded wholly or partially from the Fund shall be
22 subject to the Financial Management Act of 1979 and
23 its subsidiary regulations.
24 (4) *Authority funds*. The funds of the Authority
25 consist of:

(a) money appropriated from time to time by Congress and paid to the Authority;

(b) money derived from the disposal, lease, or hire of, or any other dealing with, any property vested in or acquired by the Authority;

(c) money borrowed by the Authority in accordance with subsection (5) of this section;

(d) income from investments referred to in subsection (6) of this section;

(e) except as provided herein, any other moneys that may become payable to the Authority in respect of any matter incidental to its functions and powers, including but not limited to grants or other donated funding; and

(f) money deducted for the operations of the Authority pursuant to section 752 of this chapter.

(5) The Authority may borrow upon such terms and conditions as the Board may approve, any sums required by the Authority to meet any of its obligations or to perform any of its functions.

(6) The Authority shall, to the extent practicable, maintain its funds in the form of liquid, interest bearing bank deposits.

(7) The Authority shall conserve its funds by

1 performing its functions and exercising its powers
2 under this chapter so as to ensure that the total
3 revenues of the Authority are sufficient to meet
4 all sums properly chargeable to its revenue account
5 including depreciation and interest on capital.
6 (8) The funds of the Authority do not include
7 National and State taxes, or any interest or
8 penalty in relation to such taxes, collected by the
9 Authority on behalf of the FSM National Government
10 or the Governments of the several States."
11 Section 28. Title 54 of the Code of the Federated
12 States of Micronesia is hereby further amended by adding a
13 new section 752 to subchapter V of chapter 7 to read as
14 follows:
15 "Section 752. Funding of Authority operations.
16 (1) Unless otherwise provided by an act of
17 Congress, the Authority shall deduct from the
18 National Government's share of the National taxes
19 collected during the current year an amount not
20 exceeding the prescribed percentage as funds for
21 its operations in collecting National taxes in the
22 ensuing year. Such deductions shall be deemed
23 appropriated as if set forth in the comprehensive
24 budget act for the relevant fiscal year.
25 (2) The Authority's operations in collecting each

state's taxes will be funded pursuant to a Memorandum of Understanding described in section 759 of this title and any law enacted by a state to give effect to such Memorandum of Understanding."

Section 29. Title 54 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 753 to subchapter V of chapter 7 to read as follows:

"Section 753. <u>Taxes collected by the Authority held in trust for National or State Governments</u>.

(1) The National taxes collected by the Authority are held by the Authority in trust for the FSM National Government and the Governments of the several States in the proportion specified in section 758 of this title.

(2) The State taxes collected by the Authority on behalf of a State are held by the Authority in trust for the State in the proportion specified in section 758 of this title.

(3) The amounts referred to in subsections (1) and (2) of this section do not form part of the assets of the Authority available to meet the claims of creditors of the Authority."

Section 30. Title 54 of the Code of the Federated States of Micronesia is hereby further amended by adding a

new section 754 to subchapter V of chapter 7 to read as follows:

"Section 754. Expenditure to be charged on funds of the Authority.

(1) The funds of the Authority shall be expended for the purposes of:

(a) paying any expenditure lawfully incurred by the Authority in the performance of its functions or the exercise of its powers under the revenue laws;

(b) discharging any obligations and liabilities of the Authority and making any payments that the Authority is required or authorized to make; and

(c) paying any expenses for carrying into effect the provisions of the revenue laws.

(2) The FSM National Government and the Governments of the several States are not liable for any debts incurred by the Authority unless all the Governments have agreed otherwise in relation to a particular debt or debts."

Section 31. Title 54 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 755 to subchapter V of chapter 7 to read as follows:

"Section 755. Bank accounts.

(1) The Authority shall maintain one or more bank accounts into which funds of the Authority shall be deposited and from which operational expenses are paid. Funds of the Authority shall be deposited into the appropriate account no later than the next business day following receipt of such funds.

(2) The Authority shall maintain a separate bank account for each Government. The Authority shall deposit the funds held in trust pursuant to section 753 of this title into the respective account of each Government. Such funds collected by the Authority shall be deposited into the appropriate account no later than the next business day following receipt of such funds. The Authority shall not commingle funds.

(3) No withdrawal or payment of money from an account opened under subsection (1) of this section can be made without the signature of the CEO or his/her designee. No withdrawal or payment of money from an account opened under subsection (2) of this section can be made without the signature of the CEO or his/her designee and the signature of the Chief Financial Officer of the Authority or

his/her designee.

(4) No amount can be withdrawn from an account opened under subsection (2) of this section except in making a refund of tax deposited into the account or in the transfer of the balance of the account of the FSM National Government or a State Government in accordance with section 758 of this title.

(5) The Authority shall maintain in each account a sufficient balance to meet minimum bank balance requirements as set by the bank."

Section 32. Title 54 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 756 to subchapter V of chapter 7 to read as follows:

"Section 756. Annual budget and costs of administration.

(1) At such time and in such manner as the Board may prescribe, but not later than six months prior to the close of the current fiscal year, the CEO shall submit to the Board a detailed estimate of the budget for the next ensuing fiscal year for the proper conduct of the Authority. This submission shall include:

(a) for the last completed fiscal year;

1 (i) audited accounts indicating the
2 amount of revenue collected by the Authority on
3 behalf of the FSM National Government and the
4 Governments of the several States;
5 (ii) the amount of other income of the
6 Authority;
7 (iii) the amount of all expenditures
8 incurred by the Authority; and
9 (iv) the closing balance of all bank
10 accounts maintained by the Authority;
11 (b) for the fiscal year in progress, a
12 statement showing the estimated amount of revenue
13 to be collected on behalf of the FSM National
14 Government and the Governments of the several
15 States, the estimated amount of other income of the
16 Authority, and the estimated amount of all
17 expenditures to be incurred by the Authority,
18 together with such summaries, schedules, and
19 supporting data as the Board or the President may
20 require by notice in writing to the CEO; and
21 (c) for the next ensuing fiscal year, a
22 budget showing the estimated amount of revenue to
23 be collected on behalf of the FSM National
24 Government and the Governments of the several
25 States, the estimated amount of other income of the

1 Authority, and the estimated amount of all
2 expenditures to be incurred by the Authority,
3 including salaries and wages, purchases of office
4 supplies, operational expenses, and the cost of
5 maintaining branch offices.
6 (2) The annual budget of the Authority shall be
7 no more than ten percent (10%) of the National
8 Government's share of National taxes, expressed as
9 the prescribed percentage authorized by Congress;
10 PROVIDED, HOWEVER, that the Board may designate in
11 writing a lower budget cap, within the prescribed
12 percentage."
13 Section 33. Title 54 of the Code of the Federated
14 States of Micronesia is hereby further amended by adding
15 a new section 757 to subchapter V of chapter 7 to read as
16 follows:
17 "Section 757. Accounts, annual report, and audit.
18 (1) The Authority must keep accounts of its
19 transactions and financial affairs, and must ensure
20 that:
21 (a) all moneys received by the Authority are
22 properly recorded and accounted for;
23 (b) all payments by the Authority are
24 properly authorized and recorded;
25 (c) adequate control is maintained over the

1 Authority's property and the incurring of
2 liabilities; and
3 (d) the accounts are kept in accordance with
4 Generally Accepted Accounting Principles.
5 (2) Within three months after the end of each
6 fiscal year, the CEO must prepare a report of the
7 Authority's activities during the fiscal year
8 (referred to as the "Annual Report"), and submit a
9 copy of the report to the Board, the President, the
10 Governor of each State, and the Finance Officials.
11 (3) The annual report must contain, among other
12 things:
13 (a) a statement of financial performance,
14 including a statement of the financial position of
15 the Authority;
16 (b) a statement of cash flows;
17 (c) a statement of distribution of revenues
18 to the States pursuant to section 758 of this
19 title;
20 (d) a copy of the most recent budget
21 submitted pursuant to section 756 of this title;
22 (e) a report of the Authority's operations
23 for the year; and
24 (f) such other information as is required to
25 give a true and fair view of the Authority's

1 financial affairs.

2 (4) The annual accounts of the Authority must be
3 audited by the Public Auditor or, if the Public
4 Auditor indicates in writing that an audit cannot
5 be completed within six months of the end of the
6 financial year, by an independent accounting firm
7 satisfactory to the Board. For this purpose, the
8 CEO must, within three months after the end of each
9 financial year, submit to the Auditor:

10 (a) the accounts of the Authority for the
11 year; and

12 (b) the annual report for the year prepared
13 in accordance with subsection (2) of this section.

14 (5) The Board shall cause a copy of the annual
15 report and a copy of the auditor's opinion of the
16 Authority's accounts for a financial year to be
17 laid before Congress and the State legislatures
18 within thirty (30) days following receipt of the
19 Auditor's opinion.

20 (6) The CEO shall, from time to time as the
21 Board may require, and no less than once each
22 fiscal quarter, submit to the Board an interim
23 report accounting for estimated and actual revenue
24 collections, as well as estimated and actual
25 expenditures of the Authority."

1 Section 34. Title 54 of the Code of the Federated
2 States of Micronesia is hereby further amended by adding a
3 new section 758 to subchapter V of chapter 7 to read as
4 follows:
5 "Section 758. Distribution of revenues.
6 (1) The Authority shall pay the following
7 amounts to the treasury of each State Government:
8 (a) one hundred percent (100%) of the net
9 tax collected pursuant to the Value Added Tax Act
10 of the State;
11 (b) one hundred percent (100%) of the net
12 tax collected pursuant to any other taxes imposed
13 by the State;
14 (c) eighty percent (80%) of the net tax
15 collected pursuant to section 221 of this title in
16 relation to the import of gasoline and diesel fuels
17 into the State;
18 (d) fifty percent (50%) of the net tax
19 collected pursuant to section 121 of this title in
20 relation to wages and salaries received by
21 employees in the State;
22 (e) fifty percent (50%) of the net tax
23 collected pursuant to section 221 (other than
24 section 221 of this title in relation to the import
25 of gasoline and diesel fuels into the State) of

this title in relation to the import of goods into the State; and

(f) fifty percent (50%) of the net tax collected pursuant to:

(i) sections 521 and 522 of this title in relation to business carried on through a permanent establishment in the State as determined under section 512 of this title;

(ii) section 524 of this title in relation to the carriage of passengers, livestock, mail, merchandise, or goods embarked in the State or to the insurance of risks in the State; and

(iii) section 525 of this title in relation to interest, royalties, a natural resource amount, or a management fee derived by a non-resident person from sources in the State determined under section 513 of this title on the basis that the reference in that section to FSM is a reference to the State.

(2) The Authority shall pay the following amounts to the treasury of the National Government:

(a) twenty percent (20%) of the net tax collected pursuant to section 221 of this title in relation to the import of gasoline and diesel fuels into the State;

(b) fifty percent (50%) of the net tax collected pursuant to section 121 of this title in relation to wages and salaries received by employees in the State;

(c) fifty percent (50%) of the net tax collected pursuant to section 221 (other than section 221 of this title in relation to the import of gasoline and diesel fuels into the State) of this title in relation to the import of goods into the State; and

(d) fifty percent (50%) of the net tax collected pursuant to:

(i) sections 521 and 522 of this title in relation to business carried on through a permanent establishment in the State as determined under section 512 of this title;

(ii) Section 524 of this title in relation to the carriage of passengers, livestock, mail, merchandise, or goods embarked in the State or to the insurance of risks in the State; and

(iii) section 525 of this title in relation to interest, royalties, a natural resource amount, or a management fee derived by a non-resident person from sources in the State determined under section 513 of this title on the

basis that the reference in that section to FSM is a reference to the State.

(3) All distributions referenced in this section shall include any interest accrued while the funds have been held by the Authority in trust.

(4) The timing of the distribution of revenue shall be as follows:

(a) By no later than the last day of each month the Authority shall distribute to each Government the net taxes collected and deposited by the Authority during the previous month.

(b) Refunds to taxpayers shall be paid from the subsequent month's distribution of revenue to the Governments."

Section 35. Title 54 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 759 to subchapter V of chapter 7 to read as follows:

"Section 759. Memorandum of Understanding.

(1) The FSM National Government and the Governments of the several States shall enter into a Memorandum of Understanding to give effect to each Government's commitments in relation to the establishment of the Authority, including the states' commitments to fund the Authority's

1 operations in collecting state taxes.

2 (2) The amendment of this chapter or the

3 regulations promulgated without the unanimous

4 consent by all parties to the Memorandum of

5 Understanding will constitute a ground for

6 withdrawal by any party from the Memorandum of

7 Understanding."

8 Section 36. Title 54 of the Code of the Federated

9 States of Micronesia is hereby amended by adding a new

10 subchapter VI to chapter 7 entitled "Miscellaneous."

11 Section 37. Title 54 of the Code of the Federated

12 States of Micronesia is hereby further amended by adding a

13 new section 761 to subchapter VI of chapter 7 to read as

14 follows:

15 "Section 761. Limitation of liability.

16 (1) Except as provided in subsection (3) of

17 this section, no civil proceedings shall lie

18 against the Authority or an officer, employee, or

19 director of the Authority for anything done or

20 said, or a failure to do or say anything in the

21 course of the operation of the Authority, unless it

22 is shown that the Authority, director, officer, or

23 employee acted in bad faith or with intentional

24 disregard for the rights or safety of others, or

25 unless it is shown that such action or failure to

act constitutes a violation of a revenue law.

(2) Unless waived, no action for damages shall lie against the FSM National Government or a Government of the several States for any act or omission on the part of the Authority, or any of its directors, revenue officers or of its CEO.

(3) Nothing in this section shall be construed as a limitation on the power of the Authority to sue and be sued in its own name."

Section 38. Title 54 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 762 to subchapter VI of chapter 7 to read as follows:

"Section 762. Authority as agent of the Government.

(1) In exercising its powers and duties under the revenue laws, no action, claim, suit or statement made by the Authority in its own name shall affect its status as agent of the FSM National Government and the Governments of the several States for the purpose of tax collection and revenue administration, and all actions, statements or communications undertaken by the Authority as agent are effective as if made by the Authority in its own name, and vice-versa.

1 (2) To the extent necessary for enforcement, any
2 tax claims administered by the Authority as agent
3 of the FSM National Government or the Governments
4 of the several States are deemed assigned to the
5 Authority for the purpose of collection and
6 administration."
7 Section 39. Title 54 of the Code of the Federated
8 States of Micronesia is hereby further amended by adding a
9 new section 763 to subchapter VI of chapter 7 to read as
10 follows:
11 "Section 763. Claims for and payments of tax
12 refunds.
13 All claims for refunds or offsets made by any
14 person with respect to any sum collected by the
15 Authority on behalf of the FSM National Government
16 or the Governments of the several States shall
17 constitute, first, a claim against those funds held
18 within the trust accounts maintained by the
19 Authority pursuant to section 753(2) of this title
20 that are allocated or allocable to the government
21 or governments for whose benefit the original tax
22 was collected, and second, against the Government
23 itself or the Governments themselves, as the case
24 may be."
25 Section 40. Title 54 of the Code of the Federated

1 States of Micronesia is hereby further amended by adding a
2 new section 764 to subchapter VI of chapter 7 to read as
3 follows:
4 "Section 764. Proceedings conducted by revenue
5 officers.
6 Subject to section 767 of this title, a properly
7 qualified revenue officer authorized in writing by
8 the CEO may appear in civil proceedings in a court
9 of competent jurisdiction on behalf of such
10 Government for the recovery of any unpaid tax under
11 the respective revenue law."
12 Section 41. Title 54 of the Code of the Federated
13 States of Micronesia is hereby further amended by adding a
14 new section 765 to subchapter VI of chapter 7 to read as
15 follows:
16 "Section 765. Vesting of assets and liabilities,
17 contracts and proceedings; transitional provisions.
18 (1) All property, except real property or such
19 property as the CEO may determine, that immediately
20 before the commencement of this chapter was vested
21 in the FSM National Government for the use of the
22 CTA for the purpose of giving effect to the taxes
23 and duties imposed under title 54 of the Code of
24 the Federated States of Micronesia is, on the date
25 of commencement of this chapter, and without

further assurance, vested in the Authority subject to all interests, liabilities, charges, obligations and trusts affecting the property.

(2) Except as otherwise provided in subsection (1) of this section in relation to property, all contracts, debts, engagements and liabilities of the FSM National Government attributable to the CTA remain vested in the FSM National Government and may be enforced by or against the FSM National Government.

(3) All legal proceedings and claims in respect of taxes and duties imposed under title 54 of the Code of the Federated States of Micronesia pending at the commencement of this chapter are to be continued or enforced by or against the Authority in the same manner as they would have been continued or enforced if this chapter had not been enacted.

(4) The Authority will offer contracts of employment to all existing revenue authority employees in good standing provided that the Authority is not required to hire the employees at the same salaries or to fill the same positions. In the event employees of a pre-existing revenue authority are employed by the Authority, all

accrued benefits, sick leave, annual leave and other contractual obligations owed by the pre-existing revenue authority to its employees remain the obligation of that authority and are not assumed by the Authority, except to the extent directed by the Board.

(5) The employees of the Authority are not subject to the requirements or rights contained in title 52 of the Code of the Federated States of Micronesia, the National Public Service System Act, or any of its subsidiary regulations.

(6) Subject to satisfactory arrangements with the FSM National Government and the governments of the several States, the Authority is to acquire, lease or otherwise take over in any lawful manner the books, property, and operations of any preexisting revenue authority; PROVIDED, HOWEVER, that ownership of books and records herein conveyed, and the right of access thereto, shall remain with each respective government."

Section 42. Title 54 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 766 to subchapter VI of chapter 7 to read as follows:

"Section 766. <u>References in other laws</u>.

A reference in any other legislation, regulation, order, or other enactment or in any agreement, deed, instrument, application, notice, or other document whatsoever to:

(1) the person charged with the responsibility of enforcement of a revenue law to which this chapter applies must be read as a reference to the CEO; or

(2) a preexisting revenue authority must be read as a reference to the Authority."

Section 43. Title 54 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 767 to subchapter VI of chapter 7 to read as follows:

"Section 767. Controlling laws.

(1) Notwithstanding anything in this chapter to the contrary, no policy or procedure adopted, decision made, business transacted, or action taken by or under the authority of the Board, CEO, or the Authority shall be valid, insofar as applying to the administration or enforcement of a revenue law of a government, unless such policy, procedure, decision, business transaction, or action is not inconsistent with a revenue law of such government.

(2) The applicability of and consistency with a

law of a Government shall be determined by the chief legal officer of such Government."

Section 44. Title 54 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 768 to subchapter VI of chapter 7 to read as follows:

"Section 768. Regulations.

The Board shall adopt such regulations as may be necessary for the enforcement of this chapter, and such regulations shall have the force and effect of law if they are not in conflict with the express provisions of this chapter or other applicable laws."

Section 45. Title 54 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 769 to subchapter VI of chapter 7 to read as follows:

"Section 769. Commencement of Administration.

(1) The provisions of this chapter become effective on October 1, 2011.

(2) The Authority shall commence administration of the revenue laws twelve months after this chapter becomes law."

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Section 46. This act shall become law upon approval by the President of the Federated States of Micronesia or upon its becoming law without such approval.

April 19, 2011

For

Manny Mori
President
Federated States of Micronesia