

AN ACT

To repeal Sections 251, 252, 253, 254, 255, and 256 of Chapter 11 of Title 67 of the Trust Territory Code and to enact new sections in lieu thereof to provide for the preservation of the cultures, customs, traditions, and historic places within the Federated States of Micronesia through the establishment of the Institute for Micronesian History and Culture, and for other purposes.

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

1 Section 1. Section 251 of Chapter 11 of Title 67 of the Trust
2 Territory Code is hereby repealed, and a new Section 251 is enacted to
3 read as follows:

4 "Section 251. Declaration of Policy. It is the policy of the
5 Federated States of Micronesia to protect and preserve the
6 diverse cultural heritage of the peoples of Micronesia and, in
7 furtherance of that policy, to assist in the identification
8 and maintenance of those areas, sites, and objects of histori-
9 cal significance within the Federated States of Micronesia."

10 Section 2. Section 252 of Chapter 11 of Title 67 of the Trust
11 Territory Code is hereby repealed, and a new Section 252 is enacted to
12 read as follows:

13 "Section 252. Definitions. Whenever used in this Chapter
14 unless the subject matter, context, or sense otherwise requires:

15 (1) 'Historic property' means sites, structures, buildings,
16 objects, and areas of significance in local history, archeology,
17 or culture.

18 (2) 'Cultural attribute' means all aspects of local
19 culture, tradition, arts, crafts, all social institutions, forms
20 of expression, and modes of social interaction.

21 (3) 'Historical artifact' means an object produced by
22 human beings 30 or more years previously."

1 Section 3. Section 253 of Chapter 11 of Title 67 of the Trust Territory
2 Code is hereby repealed, and a new Section 253 is enacted to read as follows:

3 "Section 253. The Institute for Micronesian History and Culture
4 Established. The Institute for Micronesian History and Culture
5 (hereinafter referred to as the 'Institute') is hereby established.
6 The Institute shall be staffed with professional and paraprofes-
7 sional personnel trained in fields relevant to the identification,
8 conservation, and protection of historic properties and cultural
9 attributes within the Federated States of Micronesia through
10 the effective administration of funds from various sources. The
11 activities of the Institute shall be under the supervision of
12 a director who shall be appointed by the President with the
13 advice and consent of the Congress. The director serves at the
14 pleasure of the President. The Institute shall be guided in its
15 undertakings by an advisory panel of not more than 9 persons
16 to be appointed by the President of the Federated States of
17 Micronesia, with the advice and consent of the Congress. Each
18 state of the Federated States of Micronesia shall be represented
19 on the panel and no less than 5 of the panel members shall
20 possess either professional or practical expertise in
21 Micronesian history and culture. Members of the advisory
22 panel shall receive no compensation for their service, but shall
23 be entitled to per diem at standard rates and other expenses
24 incidental to travel when discharging the responsibilities and
25 duties attendant to membership. The Institute shall have the

1 following powers and duties:

2 (1) To provide professional assistance to historic and
3 cultural preservation programs in the several states;

4 (2) To provide professional guidance regarding historic
5 and cultural affairs and recommendations to all levels of govern-
6 ment and the agencies thereof, as well as to foreign governments
7 and private businesses operating in Micronesia;

8 (3) To advise the Executive and Legislative Branches of
9 the national government concerning public and private actions
10 which may affect historic properties or cultural attributes;

11 (4) To secure and administer grants and contracts for
12 research and other activities promoting the preservation of
13 Micronesian historic properties and cultural attributes;

14 (5) To prepare and submit a report at least once a year to
15 the President and the Congress of the Federated States of Micro-
16 nesia setting forth the activities of the Institute during the
17 period since its last report and its plans for the future;

18 (6) To establish facilities and acquire equipment and
19 supplies as may be necessary for the effective implementation of
20 its mandate, taking all reasonable steps to guard against
21 unnecessary duplication of facilities and materials at the state
22 and national level;

23 (7) To establish and maintain a national archives for the
24 Federated States of Micronesia at the Community College of
25 Micronesia, to be a depository for documents and other articles

1 of historic or cultural significance and to be made available
2 to scholars and others interested in researching the history
3 and cultures of the Federated States of Micronesia.

4 (8) To monitor the activities of the national government
5 and its agencies and private individuals or groups of
6 individuals which could have an impact on historic properties or
7 cultural attributes;

8 (9) To prepare and promulgate rules, regulations, and
9 guidelines necessary to the effective implementation of this
10 Section; and

11 (10) To engage in such other activities as are not
12 inconsistent with the purposes of this Chapter."

13 Section 4. Section 254 of Chapter 11 of Title 67 of the Trust Terri-
14 tory Code is hereby repealed, and a new Section 254 is enacted to read
15 as follows:

16 "Section 254. Procedures.

17 (1) The national government of the Federated States of
18 Micronesia and its agencies, as well as agencies or other parties,
19 public or private, foreign or domestic, operating with the
20 financial assistance or permission of the national government,
21 shall submit plans and proposals for any undertaking as early
22 as is possible to the Institute for its review and shall conduct
23 such studies or assist the Institute and the appropriate state
24 preservation program in conducting such studies, as may be
25 necessary to determine the effects of their undertakings on

1 historic properties and cultural attributes. Whenever the
2 Institute is notified or learns of any activity or proposed
3 activity of the national government of the Federated States of
4 Micronesia and its agencies, as well as agencies or other parties,
5 public or private, foreign or domestic, operating with the finan-
6 cial assistance or permission of the national government which
7 may have an impact on historic properties or cultural attributes
8 it shall take all steps reasonable and necessary to determine the
9 nature and magnitude of the impact such activities are likely to
10 have on the historic property or cultural attribute. Should the
11 Institute determine that significant effects are likely, the
12 Institute shall initiate consultations with the agency or
13 individual engaging or proposing to engage in the activity, other
14 concerned agencies, the coordinators of affected state preserva-
15 tion programs, as well as the public, to clearly identify the
16 historic properties or cultural attributes subject to impact.
17 It shall be the goal of the Institute to maximize beneficial
18 effects and eliminate or mitigate any harmful effects to Micro-
19 nesian historic properties or cultural attributes. Any agency
20 or party, public or private, foreign or domestic, operating with
21 the financial assistance or permission of the national government,
22 upon receipt of notification that consultation is necessary in
23 the opinion of the Institute, shall enter into such consultation.
24 Action on the undertaking which is the subject of consultation
25 shall be suspended if there is a threat of immediate and

1 irreparable harm to an historic property or artifact. Any under-
2 taking so suspended shall not be resumed until approval of the
3 undertaking has been given by the President.

4 (2) If an irresolvable conflict arises between the
5 preservation of historic properties or cultural attributes and the
6 plans of an agency or a party, the Institute and the agency or
7 party concerned shall prepare and submit reports setting forth
8 the facts of the situation and all other relevant facts, opinions,
9 and recommendations to the President of the Federated States of
10 Micronesia. The President shall review both sides of the conflict
11 and prepare a ruling within seven days resolving the conflict,
12 such ruling to be binding on both the Institute and the agency or
13 party.

14 (3) The President, in reaching a decision, shall take into
15 account the value of the undertaking in question to the economic
16 and general development of the Federated States of Micronesia or
17 to its defense and the value of the historic property or
18 cultural attribute involved to the maintenance of Micronesia's
19 cultural integrity and to the scientific and humanistic under-
20 standing of Micronesia's cultures and history.

21 (4) Upon reaching a decision in any dispute referred to
22 him, the President shall issue a public announcement setting forth
23 the decision and its bases. Such decisions shall be binding on
24 the parties concerned."

25 Section 5. Section 255 of Chapter 11 of Title 67 of the Trust

1 Territory Code is hereby repealed, and a new Section 255 is enacted to
2 read as follows:

3 "Section 255. Cooperative Agreements. The Institute is
4 authorized to enter into cooperative agreements with, and to seek
5 and accept financial, technical, or other assistance from any
6 agency of the government of the Federated States of Micronesia,
7 agencies of local or state governments, any educational or
8 scientific institution, any corporation or foundation, any
9 private party, or any foreign government and its agencies,
10 provided such assistance or cooperation is not in conflict with
11 a specific provision contained in a Compact of Free Association
12 between the government of the Federated States of Micronesia and
13 the government of the United States of America. Any agreement
14 or contract with a foreign government or its agencies shall be
15 negotiated in conjunction with the Executive Branch of the govern-
16 ment of the Federated States of Micronesia and consummated only
17 with the express written permission of the President of the
18 Federated States of Micronesia."

19 Section 6. Section 256 of Chapter 11 of Title 67 of the Trust Terri-
20 tory Code is hereby repealed, and a new Section 256 is enacted to read as
21 follows:

22 "Section 256. Destruction, Transportation or Exportation of
23 Historical Artifacts Prohibited.

24 (1) No person shall willfully transport any historical
25 artifacts in interstate or foreign commerce without the express

1 written permission of the Governor of the state in which such
2 artifacts were found.

3 (2) No person shall willfully deface, disfigure, disturb,
4 or destroy any historic property within the control and juris-
5 diction of the national government of the Federated States of
6 Micronesia without the express written permission of the President.

7 (3) Upon receiving a request for permission to export, deface,
8 disfigure, disturb, or destroy any historic property or artifact
9 within the control and jurisdiction of the national government of
10 the Federated States of Micronesia, the President shall consult
11 with the Institute to determine the appropriateness of granting
12 such permission."

13 Section 7. A new Section 257 of Chapter 11 of Title 67 of the Trust
14 Territory Code is hereby enacted to read as follows:

15 "Section 257. Penalties. Any person violating any provision of
16 Section 256 of this Chapter or the rules and regulations issued
17 pursuant to authority vested by this Chapter shall be punished by
18 a fine of no less than \$300 nor more than \$1,000 for each violation."

19 Section 8. Effective Date. This act shall become law upon approval by
20 the President of the Federated States of Micronesia, or upon its becoming
21 law without such approval.

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September 28, 1979



Tosiwo Nakayama
President
Federated States of Micronesia