

Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

**ENEWETAK/UJELANG ATOLL
DEVELOPMENT AUTHORITY (EUADA) ACT
2023.**

Introduced by:

MINISTER JACK J. ADING

Approved:

SPEAKER KENNETH A. KEDI

SIGNATURE

NB No. 96

1 **NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS**
 2 **44TH CONSTITUTIONAL REGULAR SESSION, 2023**

3 Republic of the Marshall Islands
 4 *Jepilpilin Ke Ejukaan*

**ENEWETAK/UJELANG ATOLL DEVELOPMENT
 AUTHORITY (EUADA) ACT 2023.**

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44TH CONSTITUTIONAL REGULAR SESSION, 2023**

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Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

**ENEWETAK/UJELANG ATOLL DEVELOPMENT
AUTHORITY (EUADA) ACT 2023.**

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A BILL FOR AN ACT to create a new Chapter, Chapter 18 under the MIRC to provide for the administration of the Enewetak/Ujelang Atoll Development Authority and for related matters.

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BE IT ENACTED BY THE NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS

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§1701. Short title.

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This Act may be cited as the Enewetak/Ujelang Atoll Development Authority (EUADA) Act 2023.

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§1702. Purpose.

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It is the intent of this legislation to create a vehicle by which the people of Enewetak/Ujelang Atoll may themselves:

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(a) develop and implement programs and projects for social, economic and cultural betterment of the Enewetak/Ujelang Atoll;

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(b) address the nuclear issues and other related issues affecting Enewetak/Ujelang people; and

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(c) address the special needs of the Enewetak/Ujelang Community at Majuro Atoll and other Enewetak/Ujelang Communities within the Marshall Islands and United States, with responsible and appropriate review by the government of the Republic of the Marshall Islands to ensure fiscal

1 responsibility and consistency with the development policies
2 of the Government of the Republic.

3 **§1703. RESERVED.**

4 **§1704. Interpretation.**

5 In this Chapter, unless the context otherwise requires:

- 6 (a) “**the Government**” means the Government of the Republic of
7 the Marshall Islands;
- 8 (b) “**the Authority or EUADA**” means the Enewetak/Ujelang
9 Atoll Development Authority established under this Chapter;
- 10 (c) “**the Board**” means the Board established under Section 1707
11 of this Chapter;
- 12 (d) “**Government Agency**” means any corporation or statutory
13 body established by the Government for the purpose of
14 development generally or with respect to any particular
15 locality or subject;
- 16 (e) “**a member of the Board**” includes the chairman of the Board;
17 and

18 **§1705. Application of Article VII of the Constitution.**

19 Article VII of the Constitution shall not apply or relate to the Authority, its
20 Board or employees.

21 **PART II - CONSTITUTION, ORGANIZATION AND**
22 **MANAGEMENT**

23 **§1706. Constitution of the Authority.**

- 24 (1) There is hereby established the Enewetak/Ujelang Atoll Development
25 Authority (“the Authority”).
- 26 (2) The Authority:
- 27 (a) is a body corporate with perpetual succession;
- 28 (b) shall have a common seal;
- 29 (c) may acquire, hold, charge, and dispose of property; and

- 1 (d) may sue and be sued in its corporate name.
- 2 (3) Common Seal:
- 3 (a) all courts, judges and persons acting judicially shall take
4 judicial notice of the common seal of the Authority affixed to
5 any document and shall presume that it was duly affixed;
- 6 (b) the common seal of the Authority shall be in the custody of the
7 Authority;
- 8 (c) the common seal of the Authority may only be altered in such
9 a manner as may be determined by the Authority;
- 10 (d) the common seal of the Authority shall not be affixed to any
11 document except in the presence of (i) the Chairman of the
12 Board, or (ii) a member of the Board or an officer of the
13 Authority authorized by the Board to act on behalf of the
14 Chairman.
- 15 (4) The provisions of the Associations Law, Title 52 MIRC, shall not
16 apply or relate to the Authority.

17 **§1707. Organization and Management.**

- 18 (1) The powers and duties of the Authority are hereby vested in and
19 shall be exercised by the Board.
- 20 The Board shall consist of Nine (9) members nominated and
21 appointed as follows:
- 22 (a) Enewetak/Ujelang Atoll representative in the Nitijela or
23 his designee;
- 24 (b) The Mayor for Enewetak/Ujelang Atoll Local
25 Government;
- 26 (c) One (1) council member of the Enewetak/Ujelang Atoll
27 Local Government, nominated by the Mayor and
28 appointed by the Enewetak/Ujelang Atoll
29 representative to the Nitijela
- 30 (d) One (1) Iroij of Enewetak/Ujelang on rotation basis;
- 31 (e) Two (2) Alaps of Enewetak/Ujelang Atoll nominated by
32 the Irojjs and appointed by Enewetak/Ujelang Atoll
33 representative to the Nitijela;

- 1 (f) One (1) community representative, nominated by
2 Enewetak/Ujelang representative to the Nitijela and
3 appointed by the President;
- 4 (g) Executive Director of EUADA pursuant to Section
5 1715(1)(a), sitting as ex officio; and
- 6 (h) Chief Secretary or his designee, sitting as an ex officio.
- 7 (2) Meetings of the Board shall be held at such times and at such places
8 as may be designated by the Board.
- 9 (3) Every member of the Board shall, subject to Section 1709, hold office
10 for a term of four (4) years and shall, unless removed from office, be
11 eligible for re-appointment.

12 §1708. Compensation.

- 13 (1) Any member of the Board, other than a member appointed under
14 Sections 1707(1)(a)(d)(f) and (g) of this Chapter, or a member who
15 otherwise holds a salaried Government office, shall be entitled to
16 receive such compensation for his services as the Board may
17 determine.
- 18 (2) Any member of the board shall be entitled to receive per diem and
19 travel expenses and other expenses at such rates and upon such
20 terms and conditions as may be determined by the Board;
- 21 (3) The duly elected and acting Chairman of the Board shall be paid an
22 annual salary in an amount to be determined by the Board; provided,
23 however, that the exceptions of Subsection (1) of this Section shall
24 apply, as determined by the Board.

25 §1709. Vacation of office.

- 26 (1) A member of the Board vacates his office:
- 27 (a) upon death;
- 28 (b) by submitting a letter of resignation as provided for in
29 Subsection (2) of this Section;
- 30 (c) by ceasing to hold that elective office which was basis for his
31 appointment; or
- 32 (d) by being removed from office as provided for in Subsection (3)
33 of this Section.

- 1 (2) A resignation under Subsection 1(b) of this Section shall take effect
2 when it is received by the Board Chairman or on such later date as
3 may be agreed by the Board Chairman and the member concerned.
4 A resignation by the Board Chairman shall take effect when it is
5 received by the President.
6
- 7 (3) The Board may, for cause, remove any member of the Board from
8 office; provided, however, that in the event good cause exists, and the
9 Board fails to take appropriate action, the President shall remove
10 such member. The Board, or President, in the event the Board does
11 not take appropriate action, may suspend any member of the Board
12 from office pending a decision for removal as provided herein above.
- 13 (4) In the event the vacation of office be any member, the President may
14 in accordance with Section 1707(1) of this Section, appoint another
15 person in his place. Any person appointed in place of such member
16 shall hold office during the period of the unexpired term of the
17 member who he succeeds.
- 18 (5) If any member of the Board is temporarily unable to discharge the
19 duties of his office on account of ill-health or absence from the
20 country, or any other cause, the President, may appoint another
21 person to act in his place.
- 22 (6) No act or proceeding of the Board shall be invalid by reason only of
23 the existence of any vacancy among its members or any irregularity
24 in the nomination or appointment of a member thereof.

25 **§1710. Delegation by the Board.**

- 26 (1) The Board may by written instrument, delegate any of its powers and
27 functions except the power to make by-laws under Section 1714 of
28 this Chapter, to any person.
- 29 (2) A delegation under Subsection (1) of this Section may relate:
- 30 (a) to the whole or any part of the EUADA specified in the
31 instrument of delegation; or
- 32 (b) to all activities conducted by the Authority or in which the
33 Authority is concerned, or to such of them as are specified in
34 the instrument of delegation.

1 (3) A delegation under Subsection (1) of this Section, may be made
2 subject to limitations and conditions.

3 (4) a delegation under this Section shall be revocable at will by written
4 instrument, and no such delegation shall prevent the exercise or
5 performance of any power or function by the Board.

6 §1711. Procedures of the Board.

7 Subject to this Chapter and the by-laws made under Section 1714 of this
8 Chapter, the Board shall determine its own procedures.

9 §1712. Disclosure of, and disqualification for, interest.

10 (1) If a member of the Board has any personal interest in the subject
11 matter of any question before a meeting of the Board:

12 (a) he shall disclose such interest at the meeting; and

13 (b) he shall not participate in the deliberations (except as directed
14 by the Board), or in the decision of the Board on the question.

15 (2) A disclosure under Subsection (1) of this Section shall be recorded in
16 the minutes.

17 (3) Unless the Chief Secretary or designee under Section 1707 (1)(g) for
18 cause otherwise directs, failure to comply with the requirements of
19 Subsection (1) or (2) of this Section shall not invalidate any act or
20 proceedings of the Board.

21 §1713. Misconduct in public office.

22 A failure to comply with Section 1712 of this Chapter shall be deemed to be
23 misconduct in public office within the meaning of 31 MIRC §146.

24 §1714. By-laws.

25 (1) Subject to this Chapter, the Board shall adopt by-laws to govern and
26 regulate the operations of the Authority and the Board.

27 (2) The by-laws shall provide for:

28 (a) the quorum at, and the conduct of, meetings of the Board;

29 (b) the appointment and duties of officers of the Board; and

- 1 (c) any other matters relating to the Board and the operations of
2 the Authority which the Board may deem appropriate.

3 **§1715. Staff of the Authority.**

- 4 (1) The Authority:
5 (a) shall employ an executive officer who shall be a person with a
6 sound knowledge and experience of commerce, industry,
7 administration, business management or investment; and
8 (b) may employ such other employees, agents, consultants,
9 attorneys, accountants, or advisers as may be necessary to
10 carry out the purpose of the Authority.
11 (2) persons referred to in Subsection (1) of this Section shall be employed
12 on such terms and conditions as may be determined by the Board.

13 **§1716. Application of bribery law.**

14 Every member of the Board and employee of the Authority shall be subject
15 to the provisions of 31 MIRC §240.1 with respect to any act in the
16 performance of his duties under the Authority, and any such act shall be
17 deemed to be an official act within the meaning of the aforementioned
18 provisions of the Marshall Islands Revised Code herein referred to.

19 **§1717. Immunity for official acts.**

- 20 (1) No suit or prosecution shall lie:
21 (a) against the Authority for any act which in good faith is done,
22 or purported to be done, by the Authority under this Chapter,
23 or any regulation made under this Chapter; or
24 (b) against any member of the Board, officer, servant, or agent of
25 the Authority for any act which in good faith is done, or
26 purported to be done, by him under this Chapter, or any
27 regulations made under this Chapter, or on the direction of the
28 Authority.
29 (2) Any expenses incurred by the Authority in any suit or prosecution
30 brought by or against the Authority before any court shall be paid
31 out of the Fund (as defined in §1721 of this Chapter) of the Authority,
32 and any costs paid to or recovered by the Authority in any such suit

1 or prosecution shall be credited to the Fund (as defined in §1721 in
2 this Chapter) of the Authority.

3 (3) Any expenses incurred by any such person as is referred in
4 Subsection 1(b) of this Section in any suit or prosecution brought
5 against him before any court in respect of any act which is done or
6 purported to be done by him under this Chapter, or any regulations
7 made under this Chapter, or in the direction of the Authority shall, if
8 the court holds that such act was done in good faith, be paid out of
9 the Fund (as defined in §1721 if this Chapter) of the Authority unless
10 such expenses are recovered by him in such or prosecution.

11 (4) No writ against person or property shall be issued against a member
12 of the Board in any action brought against the Authority.

13 **PART III - POLICIES, POWERS, AND FUNDS OF THE AUTHORITY**

14 **§1718. Policies of the Authority.**

15 Subject to this Chapter, the Authority shall be responsible for determining
16 its own policies for carrying out its functions; provided, however, that such
17 policies shall be in conformity with the development policies of the
18 Government.

19 (1) The primary functions of the Authority under this Chapter shall be:

20 (a) to investigate, study, develop, implement, and provide
21 assistance in financing of health, education, social, economic
22 and cultural development programs and projects for the
23 betterment of the people of Enewetak/Ujelang by itself or
24 jointly with other government or private organizations or
25 agencies; and

26 (b) to develop and implement a comprehensive Enewetak/Ujelang
27 Atoll Development Plan to develop and improve the quality of
28 life for people of Enewetak/Ujelang where they reside.

29 (2) For the purposes stated in Subsection (1) of this Section, the
30 Authority shall encourage or develop, and may conduct or manage
31 activities of health, education, social, economic or cultural importance
32 of the people of Enewetak/Ujelang.

1 (3) In the conduct of any activity under Subsection (2) of this Section, the
2 Authority shall comply with sound business and accounting
3 practices. In the conduct of any activity authorized by this Chapter.

4 (4) The Authority shall also perform any other function as required by
5 law.

6 §1720. Powers of Authority.

7 (1) Subject to this and any other law, the Authority shall have any power
8 as are necessary or convenient for carrying out its purposes.

9 (2) Without prejudice to the generality of the powers conferred by
10 Subsection (1) of this Section, the Authority may:

11 (a) identify, promote, assist, or engage in any new or existing
12 economic development projects designated to increase the
13 economic and social welfare of the people of
14 Enewetak/Ujelang;

15 (b) acquire by lease, sublease, easement, or as otherwise allowed
16 by the law, any improved or unimproved land or interest in
17 land, within the area where people of Enewetak/Ujelang reside
18 or may reside, for the purpose of development, conservation,
19 or rehabilitation;

20 (c) acquire by purchase, lease, sublease, easement, or otherwise
21 allowed by law, any improved or unimproved land or interest
22 in land situated within the Republic of the Marshall Islands
23 and outside the Republic of the Marshall Islands for
24 investment purposes;

25 (d) erect any building or structure required or property belonging
26 to or administered by the Authority;

27 (e) alter or reconstruct any building or property belonging to or
28 administered by the Authority;

29 (f) construct any residential buildings or commercial buildings on
30 land belonging people of Enewetak/Ujelang or administered
31 by the Authority;

32 (g) dispose of by sale, lease, sublease, or easement, any building
33 or interest therein;

34 (h) dispose of by lease, sublease, or easement any land or interest
35 therein;

- 1 (i) acquire by purchase, lease, or sublease any personal property
2 or license which the Authority considers necessary or
3 convenient for carrying out its purposes;
- 4 (j) dispose of by sale, or any other manner allowed by law, any
5 personal property or license of the Authority;
- 6 (k) borrow money and accept advances, contributions, gifts, or
7 other assistance in accordance with Section 1725 of this
8 Chapter;
- 9 (l) lend money, invest or reinvest its funds from time to time and
10 take and hold any property as security for the payment of
11 funds loaned or invested;
- 12 (m) insure or provide for the insurance of any property, project, or
13 operation against any or all risks;
- 14 (n) expend funds for the study and implementation of programs
15 or projects determined by the Authority in the area of health,
16 education, social, economic or cultural which will benefit the
17 people of Enewetak/Ujelang;
- 18 (o) appoint agents, attorneys or accountants in the Marshall
19 Islands or abroad; and
- 20 (p) make contracts and other instruments that the Board may
21 consider necessary or convenient for the exercises and
22 performance of the powers and duties of the Authority.

23 PART IV - FINANCE

24 §1721. Enewetak/Ujelang Atoll Development Authority Fund.

- 25 (1) There shall be established the Enewetak/Ujelang Atoll Development
26 Authority Fund (in this Chapter also referred to as "the Fund").
- 27 (2) the Fund shall be a fund other than the Marshall Islands General
28 Fund as same is defined in Article VIII, Section 3 of the Constitution.
- 29 (3) the fund shall be held in any bank(s) or trust company as may be
30 determined by the Board from time to time.
- 31 (4) Notwithstanding anything to the contrary, there shall be paid into
32 the Fund:

- 1 (a) any money received by the Government under the Compact of
2 Free Association between the Government of the Republic of
3 the Marshall Islands and the Government of the United States
4 of America (“the Compact”);
- 5 (b) any money appropriated by the Nitijela for the purposes of the
6 Authority, either generally or relating to any particular
7 purposes;
- 8 (c) any money received by the Authority through loans, advances,
9 contributions, gifts, or assistance in accordance with this
10 Chapter; and
- 11 (d) any money received by the Authority as profits, dividends or
12 raised by the Authority through sale, mortgage, lease,
13 sublease, easement, or otherwise from any other source,
14 including repayment of loans and income from any business,
15 investment or other enterprise.
- 16 (5) The Authority shall separately account for each of the sources of
17 money referred to in Subsection (4) of this Section.

18 **§1722. Funds to be Paid Promptly.**

19 Funds received by the RMI under Section 1721, and any and all other
20 Compact Funds intended for EUADA shall be promptly transferred by the
21 RMI, within 3 months or less.

22 **§1723. Payments out of the Fund.**

- 23 (1) Payments may be made out of the Fund for the following:
- 24 (a) to carry out the purposes of the Authority;
- 25 (b) to pay the costs of any expenses of the Authority;
- 26 (c) to provide working capital, petty cash, and similar
27 purposes; and
- 28 (d) to pay the costs of administering this Chapter and any other
29 Act that confers any power or duty on the Authority.
- 30 (2) No money shall be withdrawn from the fund except:
- 31 (a) in accordance with the law and duly adopted by-laws of the
32 Authority; and

- 1 (b) with the approval of the Board which shall satisfy itself that
2 the withdrawal is made in accordance with the law and the
3 duly adopted by-laws of the Authority.

4 **§1724. RESERVED.**

5 **§1725. Borrowing, etc.**

- 6 (1) With the approval of the Cabinet, and subject to such conditions and
7 with such limits as the Cabinet may impose, and subject to
8 Subsections (3) and (4) of this Section, the Authority may borrow
9 money from the Government, a bank, or any other lending institution
10 or individual necessary and convenient to carry out its purposes.
- 11 (2) Except as provided in Subsection (3) of this Section, the Authority
12 may accept advances, grants, contributions, gifts, and other forms of
13 financial assistance to carry out its purposes from any person or
14 organization in the Marshall Islands and abroad.
- 15 (3) No money may be borrowed nor may any advance, grant,
16 contribution, gift and other assistance be accepted by the Authority
17 from the Government of the United States or any of its agencies, or
18 from any other source outside the Marshall Islands, except with the
19 consent of the Cabinet.
- 20 (4) where any money is borrowed or any advance, grant, contribution,
21 gift, or assistance is received for a specific purpose, or subject to any
22 conditions as to its use, it may be expended or used only for that
23 purpose or subject to those conditions.

24 **§1726. Bank accounts.**

- 25 (1) The authority shall open an account, or accounts with a banking
26 institution, which is a member of the United States Federal Deposit
27 Insurance Corporation or the United States Federal Savings & Loan
28 Insurance Corporation.
- 29 (2) Separate accounts shall be maintained for each of the following:
30 (a) each business, enterprise, project, investment or program in
31 which the Authority is actively engaged; and
32 (b) any other function which the Authority may perform and
33 which involves expenditures by the authority.

§1727. Accounts and records.

- (1) The Authority shall maintain proper accounts and records, in a form satisfactory to the Secretary of Finance, for the following:
 - (a) the Fund;
 - (b) the expenditures of money from the fund; and
 - (c) the property and financial transactions of the Authority.
- (2) The accounts which shall be submitted to the Nitijela by the Minister of Finance pursuant to Article VIII, Section 5(4), of the Constitution, shall include all accounts relating to the Authority.
- (3) The accounts and records referred to in Section 1726 of this Chapter and Subsection (1) of this Section shall be audited by the Auditor-General as provided for in Article VII, Section 15, of the Constitution.

§1728. Investment.

With the approval of the Board, money in the Fund, or withdrawn from the Fund in accordance with Section 1723(2) of this Chapter, and not immediately expended, may be invested as follows:

- (a) on deposits or on call with a bank or other financial institution as provided for in this Chapter; or
- (b) in any other manner authorized by the Constitution or law for investment of the Fund.

§1729. Reports.

- (1) The Board shall, as soon as practicable after each thirtieth day of June occurring after the commencement of this Chapter, prepare and furnish to the Cabinet a report on the operations of the Authority during the preceding year, together with financial statements for that year in such form as the Secretary of Finance approves.
- (2) The Authority shall also submit a copy of the report, referred to in Subsection (1) of this Section to the Auditor-General who shall report to the Cabinet as to:
 - (a) whether the statements are based on proper accounts and records;

- 1 (b) whether the statements are in agreement with the accounts
2 and records and show fairly the financial operations and state
3 of the affairs of the Authority;
- 4 (c) whether the receipts, expenditures, and investment of money,
5 and the acquisition and disposal of assets by the Authority
6 during the previous year have been in accordance with this
7 Chapter; and
- 8 (d) such other matters as the Auditor-General considers
9 appropriate.

10 **§1730. Other reports.**

11 Notwithstanding Section 1729 of this Chapter, the Cabinet may require the
12 Authority to submit to it a report in such a form and as to such matter as the
13 Cabinet deems appropriate.

14 **§1731. Tax exemption.**

- 15 (1) Subject to Subsection (2) of this Section, the income, property, and
16 transactions of the Authority shall not be subject to any tax, rate,
17 charge, or impost under any law.
- 18 (2) Subsection (1) of this Section shall not apply in respect to any
19 licensing fee or similar fee that is reasonably in proportion to the
20 administrative expenses involved.

21 **PART V - MISCELLANEOUS**

22 **§1732. Compliance with other laws.**

23 The Authority, and any business or enterprise in which the Authority is
24 engaged, shall comply with all laws, including licensing, to be prescribed in
25 the regulations for carrying this Chapter into effect.

26 **§1733. Effective date.**

27 This Chapter shall take effect on the date of certification in accordance with
28 Article IV, Section 21 of the constitution

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**NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS
44TH CONSTITUTIONAL REGULAR SESSION, 2023**

**ENEWETAK/UJELANG ATOLL DEVELOPMENT
AUTHORITY (EUADA) ACT 2023.**


BILL SUMMARY

This Bill proposes to create a new chapter under Title 10 of MIRC to provide for the creation of the Enewetak/Ujelang Development Authority (EUADA) in order to provide for the administration and development aspects, and to implement programs and projects for health, education, social, economic and cultural betterment of the People of Enewetak/Ujelang. Furthermore to administrator and manage funds appropriate by the Government for the development of People of Enewetak/Ujelang, and funds appropriate by the Government under the Compact of Free Association between the Government of the Republic of the Marshall Islands and the Government of the United States of America (the Compact) for the Economic and Social Development of People of Enewetak/Ujelang.

1 NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS
2 44TH CONSTITUTIONAL REGULAR SESSION, 2023

ENEWETAK/UJELANG ATOLL DEVELOPMENT
AUTHORITY (EUADA) ACT 2023.

3 SIGNATURES

4 DATE: 2/01/23 INTRODUCED BY JACK J. ADING _____
5 *Print Name*  *Signature*

6 DATE: _____ INTRODUCED BY _____
7 *Print Name* *Signature*

8 DATE: _____ INTRODUCED BY _____
9 *Print Name* *Signature*

10 DATE: _____ INTRODUCED BY _____
11 *Print Name* *Signature*

12 DATE: _____ INTRODUCED BY _____
13 *Print Name* *Signature*
14