

HESA

A BILL FOR AN ACT

To further amend title 53 of the Code of the Federated States of Micronesia, as amended, by repealing chapter 10 (sections 1001 through 1002) in its entirety, and by enacting a new chapter 10 for the purpose of expanding the scope of authorized investments that may be made by the Social Security Board with the assets of the Social Security Retirement Fund, and for other purposes.

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

1 Section 1. Repeal. Chapter 10 (sections 1001 through 1002) of
2 title 53 of the Code of the Federated States of Micronesia is hereby
3 repealed in its entirety.

4 Section 2. Title 53 of the Code of the Federated States of
5 Micronesia, as amended, is hereby further amended by enacting a new
6 chapter 10 to be entitled "Retirement Fund".

7 Section 3. Title 53 of the Code of the Federated States of
8 Micronesia, as amended, is hereby further amended by enacting a new
9 section 1001 to read as follows:

10 "Section 1001. Establishment of Fund. There shall be
11 established a Federated States of Micronesia Social
12 Security Retirement Fund, hereinafter referred to as the
13 'Fund', separate and apart from all public monies or
14 funds of the Federated States of Micronesia, which shall
15 be administered by the Social Security Administration
16 exclusively for the purposes of this subtitle."

17 Section 4. Title 53 of the Code of the Federated States of
18 Micronesia, as amended, is hereby further amended by enacting a new
19 section 1002 to read as follows:

20 "Section 1002. Investments.

21 (1) Investment of Fund.

22 (a) The Social Security Retirement Fund shall
23 consist of funds or assets transferred from the Territory
24 Social Security Retirement Fund, employee's
25 contributions, employer's contributions, penalties and

1 interest collected, gifts, donations, and Fund transfers
2 authorized by law, plus interest, dividends and other
3 earnings from the investments of the Fund, less benefit
4 payments and expenses incurred in the operation of the
5 Social Security System, hereinafter referred to as the
6 'System'.

7 (b) The reserves of the Fund, in excess of the
8 requirements for the current operations, shall be invested
9 and reinvested by or under the authority of the Board. The
10 Board shall invest its reserves to ensure the greatest
11 return commensurate with sound financial policies.

12 (c) The Board shall have the full power to manage
13 the investments as in its considered judgment seems most
14 appropriate to the requirements and objectives of the
15 system, including but not limited to, the power:

16 (i) to hold, sell, purchase, convey, assign,
17 transfer, dispose of, lease, subdivide, or partition any
18 asset held or proceeds thereof;

19 (ii) to execute or cause to be executed
20 relevant documents;

21 (iii) to enter into protective agreements,
22 execute proxies, or grant consent; and

23 (iv) to do all other things necessary or
24 appropriate to its position as an owner or creditor.

25 (d) All proceeds and income from investments, of

1 whatever nature, shall be credited to the account of the
2 Fund. Transactions in marketable securities shall be
3 carried out at the prevailing market prices.

4 (e) The Board may comingle securities and monies,
5 subject to the crediting of receipts and earnings, and
6 the charging of payments to the appropriate accounts
7 established by this act.

8 (f) No member of the Board and no employee of the
9 Board, nor anyone in the immediate family of such member
10 or employee, shall have any direct or indirect interest
11 in the income, gains or profits of any investments made
12 by the Board, nor shall any such person receive any pay
13 or emolument for services in connection with any
14 investment made by the Board. Participation in the Fund
15 under the terms of this act shall not be construed to
16 include interest, pay or emolument within the meaning of
17 this subsection.

18 (g) No member, employee or agent of the Board, nor
19 any person in the immediate family of such member,
20 employee or agent, shall become an endorser or surety, or
21 in any manner an obligator of investments made by the
22 Fund, nor shall any member, employee or agent be held
23 liable for actions taken in good faith while in the
24 performance of his/her duties.

25 (h) Investments may be held as physical securities

HESA

11-87

C.B. NO. _____

1 in either bearer form, or registered in the name of the
2 Fund or in the name of the nominee of the custodian.
3 Non-physical securities may be held on book entry at a
4 depository institution selected by the custodian, or at
5 one of the twelve U.S. Federal Reserve Banks.

6 (i) Due bills may be accepted from brokers against
7 payment for securities purchased, pending delivery,
8 within a reasonable period of time, of certificates
9 representing such investments.

10 (2) Fund custodian.

11 (a) The Board shall engage one or more Fund
12 custodians to assume responsibility for the physical
13 possession of the Fund assets or evidences of assets.
14 The custodian shall submit such reports, accountings and
15 other information in such form and at such time as
16 requested by the Board. The custodian shall hold all
17 assets for the account of the Fund, and shall act only
18 upon the instructions of the Administrator as so
19 authorized by the Board.

20 (b) No Fund custodian shall be engaged unless it:

21 (i) is a bank duly chartered to transact
22 business in the Federated States of Micronesia, or a
23 United States Bank or Trust Company regulated by the
24 Federal Reserve Board, a state authority, or the federal
25 comptroller of the currency as is appropriate;

HESA

C.B. NO. 11-87

1 (ii) has a net worth in excess of \$10,000,000;
2 (iii) has the capacity to clear securities
3 transactions through the Depository Trust Company I.D.
4 System; and
5 (iv) has at least ten years experience as a
6 custodian of financial assets.
7 (c) The contract between the Board and the Fund
8 custodian shall be of no specific duration and is
9 voidable at any time by either party after a thirty day
10 notice has been given.
11 (d) The costs of services under this subsection
12 shall be paid out of the Fund.
13 (3) Investment consultant.
14 (a) No person, firm or corporation shall be
15 engaged as investment consultant unless:
16 (i) the person, firm or corporation is
17 actively involved in the performance measurement
18 investment consulting business, and its principals in
19 aggregate either possess prerequisite degrees in finance,
20 accounting or economics or have independent professional
21 certifications;
22 (ii) the person, firm or corporation,
23 or its principals in aggregate have a minimum of ten full
24 years of experience providing investment consulting
25 services; and

1 (iii) the person, firm or corporation certifies
2 in writing that it provides investment consulting
3 services to clients whose assets total at least
4 \$500,000,000.

5 (b) The Board shall engage an investment
6 consultant to provide ongoing assistance to the Board in:

7 (i) the supervision, retention and
8 termination of the investment advisors/managers; the
9 maintenance and updating of the dynamic investment
10 policy; asset allocation decisions, and any other matters
11 involving the investment of the assets which the Board
12 may desire;

13 (ii) providing quarterly reports of the
14 performance of the investment advisors/managers which
15 must provide time weighted rates of return for a minimum
16 of five years in each asset category;

17 (iii) providing comparisons of the Fund's
18 performance with that of the markets as well as
19 comparisons with other investment advisors/managers
20 managing similar types of assets; and

21 (iv) providing at least four reports annually,
22 two to be delivered in person.

23 (c) The Administrator shall, at all times,
24 maintain a dialogue with the investment consultant in
25 order to facilitate efficient management.

1 (d) The contract between the Board and the
2 investment consultant shall be of no specific duration
3 and is voidable at any time by either party after a
4 thirty day notice has been given.

5 (e) All costs incurred for the services provided
6 under this subsection shall be paid out of the Fund.

7 (4) Investment advisor/manager.

8 (a) The Board shall engage one or more investment
9 advisors/managers to assume the responsibility and
10 direction for the purchase and sale decisions of all
11 assets or evidences of assets charged to them.

12 (b) No person, firm or corporation shall be
13 engaged as investment advisor/manager unless:

14 (i) the person, firm or corporation is a
15 registered investment advisor/manager with the U.S.
16 Securities and Exchange Commission in accordance with the
17 Investment Advisors Act of 1940;

18 (ii) the principal business of the person,
19 firm or corporation is of rendering investment management
20 supervisory services;

21 (iii) the person, firm or corporation has been
22 in business for a minimum of ten full years as an active
23 advisor/manager of security portfolios; and

24 (iv) the person, firm or corporation certifies
25 in writing that the assets under its direct investment

HESA

11-87

C.B. NO.

1 supervision are in excess of \$500,000,000.

2 (c) The Administrator shall, at all times,
3 maintain a dialogue with the investment advisors/managers
4 in order to facilitate efficient management and timely
5 investment actions.

6 (d) The contract between the Board and the
7 investment advisors/managers shall be of no specific
8 duration and is voidable at any time by either party
9 after a thirty day notice has been given.

10 (e) All costs incurred for the services provided
11 under this subsection shall be paid out of the Fund.

12 (5) Authorized investments. Investments may be made in:

13 (a) Government obligations. Obligations issued or
14 guaranteed as to principal and interest by the National
15 Government and/or the State governments of the Federated
16 States of Micronesia or by the Government of the United
17 States, PROVIDED that the principal and interest on each
18 obligation are payable in the currency of the United
19 States.

20 (b) Corporate obligations and mortgage backed
21 securities. Obligations of any public or private entity
22 or corporation created or existing under the laws of the
23 Federated States of Micronesia, or of the United States
24 or any state, territory or commonwealth thereof, or
25 obligations of any other government or economic community

HESA

11-87

C.B. NO. _____

1 which are payable in United States dollars, or pass-
2 through and other mortgage backed securities, PROVIDED
3 that:

4 (i) the obligation is of an agency of the
5 United States Government; or

6 (ii) the obligation is of an agency of the
7 Federated States of Micronesia Government; or

8 (iii) the obligation is rated in one of the
9 four highest categories by at least one of the nationally
10 recognized rating agencies; and

11 (iv) the fixed income portfolio of each
12 investment manager shall be suitably diversified as to
13 any single issuer or class of issuers so that an
14 adversity affecting a particular issuer or sector will
15 not impact a substantial share of the total portfolio.

16 (c) Preferred and common stocks. Shares of
17 preferred or common stocks of any corporation created or
18 existing under the laws of the Federated States of
19 Micronesia or under the laws of the United States or any
20 state, territory or commonwealth or American Depository
21 Receipts (ADR) listed on the major U.S. Exchanges
22 thereof, PROVIDED that:

23 (i) the purchase of such shares shall be
24 considered reasonable and prudent by the investment
25 advisor at the time of purchase;

1 (ii) not more than five percent of the market
2 value at purchase of the portfolio managed by any
3 investment advisor shall be invested in the stock of any
4 one corporation; and

5 (iii) equity portfolios shall be diversified
6 among issuers and industry classifications.

7 (d) Insurance company obligations. Contracts and
8 agreements supplemental thereto providing for
9 participation in one or more accounts of a life insurance
10 company authorized to do business in the Federated States
11 of Micronesia or in any state, territory or commonwealth
12 of the United States, PROVIDED that the total market
13 value of these investments at no time shall exceed ten
14 percent of the total market value of all investments of
15 the Fund."

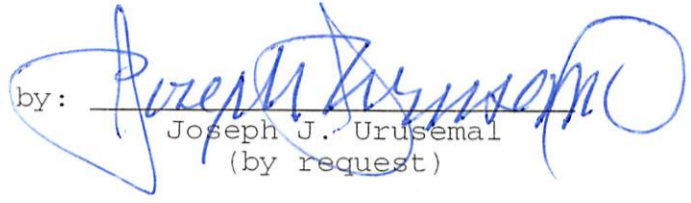
16 Section 5. Severability. If any provision of this act or
17 application thereof to any individual or circumstance is held
18 invalid, the invalidity does not affect other provisions or
19 applications of the act which can be given effect without the
20 invalid provision or application, and to this end the provisions of
21 this act are severable.

HESA

C.B. NO. 11-87

1 Section 6. This act shall become law upon approval by the
2 President of the Federated States of Micronesia or upon its becoming
3 law without such approval.

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5 Date: 10/14/99

Introduced by: 
Joseph J. Urusemal
(by request)

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