

A BILL FOR AN ACT

To further amend sections 1202, 1208 and 1217 of title 55 of the Code of the Federated States of Micronesia, as enacted by Public Law No. 10-150 and amended by Public Law No. 12-16, for the purposes of placing one member of each government on the Board of Trustees, establishing State sub-accounts in the FSM Trust Fund, and for other purposes.

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

1 Section 1. Section 1202 of title 55 of the Code of the Federated
2 States of Micronesia, as amended by Public Law No. 12-16, is
3 hereby further amended to read as follows:

4 "Section 1202. Definitions. Unless otherwise specified
5 or clear from the context, words and phrases used in
6 this chapter shall have the following meanings:

7 (1) 'Baseline Funding' means the amount of Compact of
8 Free Association assistance provided to a government in
9 fiscal year 2001, adjusted for inflation to the final
10 year of the first Compact;

11 (2) 'Board' means the Board of Trustees of the Fund;

12 (3) 'Contributing government' means the government of
13 any State of the FSM or the National Government once such
14 government has made a contribution of funds to the S
15 Account;

16 (4) 'FSM' means the sovereign nation of the Federated
17 States of Micronesia;

18 (5) 'Financial year' means the fiscal year of the Fund,
19 which shall be the twelve-month period ending on the last

1 day of each December;

2 (6) 'Fiscal year' means the fiscal year of the
3 National Government;

4 (7) 'Fund' means the FSM Trust Fund created by this
5 chapter, including the accounts therein;

6 (8) 'Fund custodians' means the one or more firms
7 selected by the Board to assume responsibility for the
8 physical possession of the Fund assets or evidences of
9 assets;

10 (9) 'Fund managers' means the one or more firms
11 selected by the Board to manage the investment and
12 reinvestment of the Fund's resources;

13 (10) 'Fund returns' means the returns accruing to the
14 Fund by way of income generated from the Fund's
15 resources and the capital appreciation of those
16 resources;

17 (11) 'Long-term Trust Account' means a Trust Fund or
18 Trust Account similar or identical in structure to the
19 terms of this Trust Fund, wherein an Account is designed
20 for the principal to be maintained through long-term
21 investments.

22 [~~11~~] (12) 'National Government' means the National
23 Government of the FSM;

24 [~~12~~] (13) 'Other participating government' means a State
25 [~~or local~~] government of the FSM [~~participating pursuant~~

1 ~~to a memorandum of understanding with the National~~
2 ~~Government~~];

3 ~~[(13)]~~ (14) 'Real value' means the value of contributions to
4 the Fund when adjusted to reflect inflation and population
5 change. For purposes of determining 'real value' at any
6 one time, the value of a contribution in the form of a
7 loan shall be the principal balance then owing. The
8 inflation adjustment shall be made to current prices in
9 line with movements in the US Consumer Price Index.

10 Population refers to the number of FSM citizens residing
11 in the FSM. When current population figures are not
12 available, the Board shall use such estimates thereof as
13 it finds to be reasonable. Such estimates may be
14 extrapolated from the most recent population census based
15 on the population growth rate prior thereto;

16 ~~[(14)]~~ (15) 'Reinvestment' means the process whereby Fund
17 returns, whether in the form of income or appreciation,
18 become part of the capital of the Fund; and

19 ~~[(15)]~~ (16) 'Renewal Compact' means the renewed economic
20 assistance provisions contained in Title Two of the
21 Compact of Free Association."

22 Section 2. Section 1208 of title 55 of the Code of the
23 Federated States of Micronesia, as enacted by Public Law No. 10-150,
24 is hereby amended to read as follows:

25 "Section 1208. Board.

1 ~~[(1) The Fund shall have a Board of Trustees~~
2 ~~consisting of five trustees appointed and removable~~
3 ~~by the President of the FSM with the advice and~~
4 ~~consent of the Congress of the FSM. Nominations to~~
5 ~~the Board shall take into account the need to have~~
6 ~~adequate geographical representation from within~~
7 ~~the FSM, representation of other participating~~
8 ~~governments with substantial accounts,~~
9 ~~representation of substantial foreign contributors~~
10 ~~to the Fund, and complementary experience in the~~
11 ~~fields of investment management and public finance.~~
12 ~~Each trustee shall serve for a term of four years~~
13 ~~or until a successor is appointed, provided,~~
14 ~~however, that two of the trustees on the initial~~
15 ~~board shall be appointed to two year terms. The~~
16 ~~Board shall elect a chairman from among its own~~
17 ~~members.]~~

18 (1) The Fund shall have a Board of Trustees consisting
19 of five trustees one member shall be appointed by the
20 President of the Federated States of Micronesia with the
21 advice and consent of Congress. The Governor of each
22 State of the Federated States of Micronesia shall appoint
23 one member of the Board with the advice and consent of the
24 respective State legislative bodies. The Minimum
25 qualification for services as a member of the Board shall

1 be a bachelor's degree in finance or related field, and
2 five years of experience in the area of finance. Board
3 members shall serve a term of four years. The President
4 of the Federated States of Micronesia may recall the
5 National Government appointee to the Board. The Governor
6 of the respective State may recall its appointee to the
7 Board. The Board shall elect a Chairman from amongst its
8 members.

9 (2) All powers of the Fund shall be vested in and
10 exercisable by the Board.

11 (3) The functions of the Board shall include:

- 12 • (a) obtaining, along with others, contributions to
13 the Fund;•
14 (b) operation, supervision and management of the
15 Fund; and
16 • (c) investment and distribution of resources of the
17 Fund.•

18 (4) Trustees shall serve as such without payment of
19 compensation from the Fund or any other source. Reasonable
20 expenses of the Board itself shall be provided for
21 annually in the national budget of the FSM and not paid
22 out of the Fund.

23 (5) The Board shall meet at least once per year and
24 additionally as necessary, and reasonable notice shall be
25 given of meetings.

1 (6) For the purposes of meetings of the Board, three-
2 fifths of trustees shall constitute a quorum.

3 (7) Except where otherwise provided in this chapter,
4 questions before the Board shall be decided by a majority
5 of votes of trustees present and voting at the meeting.

6 (8) The Board shall establish its own bylaws and rules of
7 procedure."

8 Section 3. Section 1217 of title 55 of the Code of the
9 Federated States of Micronesia, as amended by Public Law No. 12-16,
10 is hereby further amended to read as follows:

11 "Section 1217. Other participating government accounts.

12 ~~[Contributions may be made to the Fund for the benefit~~
13 ~~of other participating governments in the FSM, in~~
14 ~~which case the Board shall establish separate A, B and~~
15 ~~S Accounts within the Fund in the name of each such~~
16 ~~government. Such accounts shall be subject to this~~
17 ~~chapter and administered in the same manner as the~~
18 ~~National Government A, B and S Accounts except that~~
19 ~~distributable funds or assets shall be made available~~
20 ~~to the other participating governments rather than the~~
21 ~~National Government. Fund expenses shall be~~
22 ~~prorated between the accounts of different governments~~
23 ~~in proportion to their relative share of the total~~
24 ~~Fund.]~~

1 (1) There are hereby created State sub-accounts,
2 including A and B sub-accounts, for each of the States of
3 the Federated States of Micronesia.

4 (2) Any donor, including the State and National
5 governments may make contributions to a State sub-account
6 or sub-accounts.

7 (3) National Government contributions to State sub-
8 accounts shall only be to the long-term, A sub-account of
9 that State or States.

10 (4) Contributions to a State sub-account made by the
11 National Government shall remain the property of the
12 National Government, with the relevant State being the
13 beneficiary of the proceeds subject to the conditions of
14 the A account. In the event the corpus of the A sub-
15 account is withdrawn or disbursed for any reason other than
16 to cover administrative or operating expenses or other
17 requirements of section 1213, or is to be transferred into
18 another Long-Term Trust Account created by the National
19 Government, then the contribution shall be reimbursed to
20 the National Government. Such accounts shall be subject to
21 this chapter and administered in the same manner as the
22 National Government A, B and S Accounts except that
23 distributable funds or assets shall be made available to
24 the other participating governments rather than the
25 National Government.

