

A BILL AN ACT

To further amend title 55 of the Code of the Federated States of Micronesia, as amended by Public Law No. 12-16, by amending sections 1202, 1208, and 1217, 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
2 Federated States of Micronesia, as enacted by Public Law No.
3 10-150, and amended by Public Law No. 12-16, is hereby further
4 amended to read as follows:

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

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

13 (2) 'Board' means the Board of Trustees of the
14 Fund;

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

1 (4) 'FSM' means the sovereign nation of the
2 Federated States of Micronesia;

3 (5) 'Financial year' means the fiscal year of the
4 Fund, which shall be the twelve-month period ending on
5 the last day of each December;

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

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

10 (8) 'Fund custodians' means the one or more firms
11 selected by the Board to assume responsibility for
12 the physical possession of the Fund assets or
13 evidences of assets;

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

17 (10) 'Fund returns' means the returns accruing to
18 the Fund by way of income generated from the Fund's
19 resources and the capital appreciation of those
20 resources;

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

1 ~~(11)~~ (12) 'National Government' means the National
2 Government of the FSM;

3 ~~(12)~~ (13) 'Other participating government' means a
4 State ~~or local~~ government of the FSM ~~participating~~
5 ~~pursuant to a memorandum of understanding with the~~
6 ~~National Government;~~

7 ~~(13)~~ (14) 'Real value' means the value of contributions
8 to the Fund when adjusted to reflect inflation and
9 population change. For purposes of determining 'real
10 value' at any one time, the value of a contribution in
11 the form of a loan shall be the principal balance then
12 owing. The inflation adjustment shall be made to
13 current prices in line with movements in the US Consumer
14 Price Index. Population refers to the number of FSM
15 citizens residing in the FSM. When current population
16 figures are not available, the Board shall use such
17 estimates thereof as it finds to be reasonable. Such
18 estimates may be extrapolated from the most recent
19 population census based on the population growth rate
20 prior thereto;

21 ~~(14)~~ (15) 'Reinvestment' means the process whereby Fund
22 returns, whether in the form of income or appreciation,
23 become part of the capital of the Fund; and

24 ~~(15)~~ (16) 'Renewal Compact' means the renewed
25 economic assistance provisions contained in Title Two

1 of the Compact of Free Association."

2 Section 2. Section 1208 of title 55 of the Code of the
3 Federated States of Micronesia, as enacted by Public Law 10-150,
4 is hereby amended to read as follows:

5 "Section 1208. Board.

6 (1) The Fund shall have a Board of Trustees consisting
7 of five trustees appointed and removable by the
8 President of the FSM with the advice and consent of the
9 Congress of the FSM. The Board shall consist of one
10 member from the National Government, who shall act as
11 Chairman of the Board; and one member from each of the
12 four States of the FSM. Nominations for Board members
13 who shall represent a State Government shall be made to
14 the President by the Governor of the State that the
15 nominee will represent. ~~Nominations to the Board shall~~
16 ~~take into account the need to have adequate geographical~~
17 ~~representation from within the FSM, representation of~~
18 ~~other participating governments with substantial~~
19 ~~accounts, representation of substantial foreign~~
20 ~~contributors to the Fund, and complementary experience~~
21 ~~in the fields of investment management and public~~
22 ~~finance.~~ Each trustee shall serve for a term of four
23 years or until a successor is appointed, ~~provided,~~
24 ~~however, that two of the trustees on the initial board~~
25 ~~shall be appointed to two year terms.~~ The Board shall

1 ~~elect a chairman from among its own members.~~

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

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

5 • (a) obtaining, along with others, contributions to
6 the Fund;•

7 (b) operation, supervision and management of the
8 Fund; and

9 • (c) investment and distribution of resources of
10 the Fund.•

11 (4) Trustees shall serve as such without payment of
12 compensation from the Fund or any other source.

13 Reasonable expenses of the Board itself shall be
14 provided for annually in the national budget of the FSM
15 and not paid out of the Fund.

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

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

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

25 (8) The Board shall establish its own bylaws and rules

1 of procedure."

2 Section 3. Section 1217 of title 55 of the Code of the
3 Federated States of Micronesia, as enacted by Public Law No. 10-
4 150, and amended by Public Law No. 12-16, is hereby amended to
5 read as follows:

6 "Section 1217. Other participating government accounts.

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

10 (2) Any donor, including the State and National
11 governments may make contributions to a State sub-
12 account or sub-accounts.

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

16 (4) Contributions to a State sub-account made by the
17 National Government shall remain the property of the
18 National Government, with the relevant State being the
19 beneficiary of the proceeds subject to the conditions of
20 the A account. In the event the corpus of the A sub-
21 account is withdrawn or disbursed for any reason other
22 than to cover administrative or operating expenses or
23 other requirements of section 1213, or is to be
24 transferred into another Long-Term Trust Account created
25 by the National Government, then the contribution shall

