
A BILL FOR AN ACT

To further amend title 52 of the Code of the Federated States of Micronesia, as amended, to create the Pension Plan for the National Government of the Federated States of Micronesia, by adding a new chapter 6 thereof, that provides for the guidelines, eligibilities, management and administration of the pension plan, establishes the obligations and benefits arising there from, and the appropriation of public funds to support the pension plan, and for other purposes.

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

1 Section 1. Title 52 of the Code of the Federated States of
2 Micronesia, as amended, is hereby further amended by creating a
3 new chapter 6, entitled "FSM Pension Plan of 2015".

4 Section 2. Short title. Title 52 of the Code of the
5 Federated States of Micronesia, as amended, is hereby amended by
6 inserting new section 601 under chapter 6 to read as follows:

7 "Section 601. This Act shall be known as the 'National
8 Pension Plan Act of 2015'."

9 Section 3. Title 52 of the Code of the Federated States of
10 Micronesia, as amended, is hereby further amended by inserting new
11 section 602 under chapter 6 to read as follows:

12 "Section 602. Purpose.
13 The purpose of this chapter is to establish a defined
14 contribution pension plan as supplemental source of
15 retirement income of national government employees. By
16 regulation, persons employed by employers other than the
17 National Government may participate in the pension plan

1 in accordance with the regulation promulgated under this
2 chapter."

3 Section 4. Title 52 of the Code of the Federated States of
4 Micronesia, as amended, is hereby further amended by inserting new
5 section 603 under chapter 6 to read as follows:

6 "Section 603. Effective date.

7 This act shall become law in accordance with section
8 606, provided, that contributions to the pension plan
9 shall not be required or permitted in respect of
10 contributory earnings until such date as established by
11 the Board through regulation."

12 Section 5. Title 52 of the Code of the Federated States of
13 Micronesia, as amended, is hereby further amended by inserting new
14 section 604 under chapter 6 to read as follows:

15 "Section 604. Legal form and financial year.

16 The plan shall have the legal form of a trust, which
17 shall operate on a not-for-profit basis under the laws
18 of the Federated States of Micronesia. The financial
19 year of the plan shall be the 12-month period ending on
20 December 31."

21 Section 6. Title 52 of the Code of the Federated States of
22 Micronesia, as amended, is hereby further amended by inserting new
23 section 605 under chapter 6 to read as follows:

24 "Section 605. Definitions.

25 As used in this title, unless it is otherwise provided
26 or the context requires a different construction,

1 application, or meaning:

2 'benefit' includes a pension benefit, ancillary benefit
3 and any other benefit payable under the terms of the
4 plan;

5 'Board' means the board of the plan, established in
6 accordance with section 606;

7 'dependent child' means a child below 18 years of age
8 and considered as such in accordance with the law of the
9 state in which a member is domiciled. A 'child' shall
10 include only the member's biological children and such
11 adopted children whose confirmed petition for adoption
12 by the member has been presented to the Board;

13 'employee' means an individual employed to do work or
14 provide a service, other than as an independent
15 contractor, who is in receipt of or entitled to
16 remuneration for the work or service;

17 'employer' in relation to a member of the plan, means
18 the National Government of the Federated States of
19 Micronesia in respect to national government employees
20 or a State Government or a person or organization,
21 whether incorporated or unincorporated, from which the
22 member receives or received remuneration in respect of
23 which benefits under the plan are provided;

24 'individual account' means an account maintained by the
25 plan for the benefit of a member and the member's
26 beneficiaries;

1 'interest' means interest, gains and losses credited to
2 employer and member contributions calculated in the
3 prescribed manner;

4 'joint and survivor pension benefit' means a pension
5 benefit that continues until the later of the death of
6 the member and the spouse of the member;

7 'member' means an employee or former employee who is
8 entitled to benefits under the plan;

9 'OECD' means the Organization for Economic Co-operation
10 and Development;

11 'other plan beneficiary' means a person other than a
12 member who has become entitled to a benefit under the
13 plan;

14 'participating employer' means an employer participating
15 in the plan in accordance with section 631;

16 'pension fund' means the fund established under
17 subsection 7 of section 611 maintained to provide
18 benefits under or related to the plan;

19 'plan' means the pension plan established in this act;
20 and

21 'spouse' means a lawful spouse in accordance with the
22 applicable state law; and

23 'State Government' means any of the state governments of
24 the Federated States of Micronesia."

25 Section 7. Title 52 of the Code of the Federated States of
26 Micronesia, as amended, is hereby further amended by inserting new

1 section 606 under chapter 6 to read as follows:

2 "Section 606. Establishment of the Board.

3 There is hereby established a Board, the members of
4 which shall be appointed by the President subject to the
5 advice and consent of Congress, to administer the plan
6 and the pension fund in accordance with the provisions
7 of this chapter."

8 Section 8. Title 52 of the Code of the Federated States of
9 Micronesia, as amended, is hereby further amended by inserting new
10 section 607 under chapter 6 to read as follows:

11 "Section 607. Membership of the Board.

12 (1) The Board shall consist initially of five members;
13 three (3) appointed from the executive, one (1) from the
14 legislative, and one (1) from the judicial branches of
15 the National Government of the Federated States of
16 Micronesia.

17 (2) Additional of up to two members for no more than
18 seven total members may be appointed to the board in
19 accordance with section 606 whenever participating
20 employers other than the National Government become part
21 of the plan.

22 (3) Members of the Board shall have adequate knowledge
23 and experience on pensions, financial matters, or
24 investments, have the ability to comply with the prudent
25 person rule described in paragraph 3(c) of 611, and
26 shall not have been convicted of a crime.

1 (4) For the initial creation of the Board, the
2 President shall designate the chair from among the
3 members of the Board."

4 Section 9. Title 52 of the Code of the Federated States of
5 Micronesia, as amended, is hereby further amended by inserting new
6 section 608 under chapter 6 to read as follows:

7 "Section 608. Term of Board membership.

8 (1) Except as provided in subsection (2), a member of
9 the Board shall be appointed for a term of three years
10 and is eligible for reappointment.

11 (2) The President may remove any board member if:

12 (a) The member is incompetent, unfaithful to the
13 duties of the Board, or does not fulfill the
14 qualification criteria described in paragraph 3 of
15 section 607; or

16 (b) If not less than three other members of the
17 Board recommend to the President that the member be
18 removed because of poor attendance, conflicts of
19 interest, or failure to appropriately carry out the
20 duties of the Board."

21 Section 10. Title 52 of the Code of the Federated States of
22 Micronesia, as amended, is hereby further amended by inserting new
23 section 609 under chapter 6 to read as follows:

24 "Section 609. Meetings of the Board.

25 (1) The Board shall meet as often as may be required,
26 at such times, places and with such prior notice as the

1 Board shall prescribe, but not less frequently than once
2 in every three months.

3 (2) Any member of the Board may request a special
4 meeting upon giving at least twenty-four hours' notice
5 to the Chairman.

6 (3) A majority of the members of the Board shall
7 constitute a quorum. Decisions shall be adopted by a
8 simple majority of the votes of the members present."

9 Section 11. Title 52 of the Code of the Federated States of
10 Micronesia, as amended, is hereby further amended by inserting new
11 section 610 under chapter 6 to read as follows:

12 "Section 610. Compensation of Board members.

13 (1) Board members shall not receive a salary or fee in
14 respect of their membership.

15 (2) Board members may be reimbursed for reasonable
16 expenses incurred in the performance of their duties.
17 They may also receive an allowance for attending a
18 meeting of the Board that is held outside of normal
19 working hours. Any such reimbursement and allowances
20 shall be paid in accordance with regulation prescribed
21 by the Board and approved by the President."

22 Section 12. Title 52 of the Code of the Federated States of
23 Micronesia, as amended, is hereby further amended by inserting new
24 section 611 under chapter 6 to read as follows:

25 "Section 611. Duties of the Board.

26 (1) The Board shall administer the plan and the

1 pension fund in accordance with the National Pension
2 Plan Act and any other legislation and regulations to
3 which they might be subject.

4 (2) An employer shall provide the Board with any
5 information that is required by the Board to comply with
6 legislation, regulations or the terms of the plan.

7 (3) The Board:

8 (a) Stands in a fiduciary relationship to members
9 and other plan beneficiaries;

10 (b) Shall act honestly, in good faith, and in the
11 best interests of the members and other plan
12 beneficiaries; and

13 (c) Shall exercise the degree of care, diligence
14 and skill that a person of ordinary prudence would
15 exercise in dealing with the property of another person.

16 (4) Each member of the Board shall employ all relevant
17 knowledge and skill that the person possesses or ought
18 to possess by reason of the person's business or
19 profession.

20 (5) Each member of the Board shall become acquainted
21 with all aspects of their fiduciary duties and
22 obligations.

23 (6) The Board shall collectively possess the skills,
24 capability and dedication necessary to fulfill its
25 responsibilities. Where appropriate, the Board shall
26 seek information and advice from qualified external

1 advisors.

2 (7) The Board shall establish a pension fund for the
3 purpose of holding assets of the pension plan. The
4 pension fund is held in trust for the benefit of members
5 and other plan beneficiaries.

6 (8) The Board shall cause the assets of the pension
7 fund of the plan to be invested:

8 (a) in accordance with section 629 and any other
9 legislation and regulations to which it might be subject
10 and the statement of investment policies and procedures;

11 (b) in the manner that a reasonable and prudent
12 person would invest a portfolio of investments made on
13 behalf of another person to whom a fiduciary duty is
14 owed; and

15 (c) in such a manner as to satisfy the purpose of
16 the plan."

17 Section 13. Title 52 of the Code of the Federated States of
18 Micronesia, as amended, is hereby further amended by inserting new
19 section 612 under chapter 6 to read as follows:

20 "Section 612. Conflicts of interest.

21 (1) A member of the Board is deemed to face a conflict
22 of interest in any circumstance related to such person's
23 duties respecting the plan that might result in or
24 create the appearance of any of the following
25 conditions:

26 (a) Using membership of the Board for private

1 gain;

2 (b) Giving preferential treatment to any person;

3 (c) Impeding the efficiency or economy of the
4 Board or the plan;

5 (d) Losing complete independence or impartiality;

6 (e) Making a Board decision outside of official
7 channels;

8 (f) Affecting adversely the confidence of the
9 members, other plan beneficiaries, participating
10 employers, or the Government in the integrity of the
11 Board or the plan; or

12 (g) Affecting adversely the reputation of the
13 pensions sector.

14 (2) The Board shall establish rules and procedures for
15 addressing conflict of interest.

16 (3) Any conflict of interest shall be declared to the
17 Board in writing, and shall be addressed in accordance
18 with the Board's rules and procedures.

19 (4) A member who has a conflict of interest shall not
20 participate in a decision or transaction on behalf of
21 the Board."

22 Section 14. Title 52 of the Code of the Federated States of
23 Micronesia, as amended, is hereby further amended by inserting new
24 section 613 under chapter 6 to read as follows:

25 "Section 613. Plan amendments and regulations.

26 (1) Any amendment to the plan shall be made by

1 legislation.

2 (2) The Board shall recommend such amendments, as it
3 may consider necessary to achieve the purpose of the
4 plan.

5 (3) An amendment shall be void if it would reduce the
6 amount or value of benefits accrued with respect to
7 employment before the effective date of the amendment.
8 However, such an amendment shall not be void if it is
9 necessary under the tax or pension legislation of the
10 Federated States of Micronesia or has been consented to
11 by a majority of the affected members and a majority of
12 the affected other plan beneficiaries.

13 (4) The Board shall timely and properly coordinate,
14 facilitate and provide notice of the adoption of an
15 amendment affecting rights and benefits or obligations,
16 to all members, beneficiaries and participating
17 employers, within 60 days after the adoption of the
18 amendment.

19 (5) The Board shall make regulations to facilitate the
20 administration of the plan. Such regulations shall be
21 consistent with the terms of the plan. Regulations shall
22 include, but are not limited to, making specifications
23 called for by the plan."

24 Section 15. Title 52 of the Code of the Federated States of
25 Micronesia, as amended, is hereby further amended by inserting new
26 section 614 under chapter 6 to read as follows:

1 "Section 614. Annual report.

2 (1) The Board shall prepare an annual report on the
3 operation of the plan every plan year.

4 (2) The annual report shall include the financial
5 statements of the plan, which shall be prepared in
6 accordance with either the generally accepted accounting
7 principles prescribed for agencies of the Government of
8 the United States of America or such other accounting
9 standards as may be adopted by the National Government
10 of the Federated States of Micronesia.

11 (3) The financial statements of the plan shall be
12 audited by either the National Public Auditor or a
13 qualified, independent auditor appointed by the Board.
14 The audit shall be performed in accordance with either
15 the auditing standards prescribed for agencies of the
16 Government of the United States of America or the
17 International Standards of Auditing.

18 (4) The annual report shall be submitted to the
19 President not later than six months after the end of the
20 plan year. A copy of annual report shall be provided to
21 each participating employer and available for inspection
22 by any member or other beneficiary."

23 Section 16. Title 52 of the Code of the Federated States of
24 Micronesia, as amended, is hereby further amended by inserting new
25 section 615 under chapter 6 to read as follows:

26 "Section 615. Information to be provided.

1 (1) The Board shall ensure that the information
2 prescribed by this Section is provided to the persons
3 indicated within the specified times.

4 (2) A summary of the plan shall be provided to each
5 active member of the plan and any other person who is
6 eligible to join the plan, within 60 days after
7 commencement of employment or the date of eligibility,
8 whichever is earlier.

9 (3) An annual statement containing the following
10 information shall be provided to each member of the
11 plan, within 6 months after the end of the plan year:

12 (a) name of plan;

13 (b) contact information of Board and plan
14 administrator;

15 (c) member's name and date of birth;

16 (d) period covered by the statement;

17 (e) membership date and date of employment;

18 (f) normal retirement date;

19 (g) name of spouse;

20 (h) name of designated beneficiary;

21 (i) member's required contributions made during
22 the period;

23 (j) member's additional voluntary contributions
24 made during the period;

25 (k) amounts transferred in from another pension
26 plan during the period;

1 (l) employer contributions allocated to the
2 member during the period;

3 (m) accumulated value of member's required
4 contributions to end of the period;

5 (n) accumulated value of member's additional
6 voluntary contributions to end of period;

7 (o) accumulated value of amounts transferred in
8 from another pension plan to end of period;

9 (p) accumulated value of employer contributions
10 to the end of the period;

11 (q) rate and amount of interest credited during
12 the period;

13 (r) if members may make investment choices from
14 among various options, the names of the funds in which
15 the member's individual account is invested and, for
16 each such fund, the number of units held, the value of
17 each unit, the total value, and the rate of return;

18 (s) expenses allocated in accordance with section
19 625;

20 (t) right to access to plan information; and

21 (u) the names of the members of the Board.

22 (4) An individual statement regarding benefit
23 entitlements containing the information described in
24 subsection (3) together with the type and amount of the
25 benefit to which the person is entitled, any options
26 available with respect to the form of benefit, and a

1 description of the procedures to be followed by the
2 person to elect an option and claim the benefit, to the
3 following:

4 (a) Any plan member who terminates employment,
5 within 60 days after the member's termination of
6 employment;

7 (b) Any plan member who retires, within 60 days
8 prior to the member's normal retirement date or 60 days
9 after the date at which the member has indicated that
10 the member intends to retire; and

11 (c) Any person entitled to death benefits upon
12 the death of the member, within 60 days after the date
13 at which the Board or the plan administrator received
14 notice of the member's death.

15 (5) Where an individual statement has been provided to
16 a member or other plan beneficiary under subsection (4),
17 the member or other beneficiary has ninety (90) days to
18 advise the Board or the plan administrator of their
19 benefit election, failing which the default form for the
20 relevant type of benefit shall be applied.

21 (6) Where the Board or the plan administrator has been
22 advised of a benefit election under subsection (5), the
23 plan shall complete the settlement within 60 days
24 following the receipt of all documentation necessary to
25 process the transaction."

26 Section 17. Title 52 of the Code of the Federated States of

1 Micronesia, as amended, is hereby further amended by inserting new
2 section 616 under chapter 6 to read as follows:

3 "Section 616. Inspection of plan information.

4 (1) The following individuals are entitled to inspect
5 the plan information described in subsection (3):

6 (a) a member;

7 (b) the spouse of a member;

8 (c) any other plan beneficiary;

9 (d) a participating employer; or

10 (e) an agent of a member, spouse, beneficiary,
11 any other plan beneficiary or a participating employer.

12 (2) Upon written request, individuals who are entitled
13 to inspect plan information may inspect the plan information
14 once per plan year without charge at a place agreed upon by
15 the individual and the Board or plan administrator, or
16 request copies of plan information once per calendar year
17 for a reasonable fee that may be waived.

18 (3) The following plan information shall be available
19 for inspection:

20 (a) The provisions of the plan and any
21 amendments;

22 (b) Any trust deed or agreement, insurance
23 contract, bylaw or resolution relating to the plan;

24 (c) The provisions of any document setting out a
25 participating employer's responsibilities with respect
26 to the plan;

1 (d) Any document whereby the administration of
2 the plan or pension fund is delegated;

3 (e) Copies of any statement of investment
4 policies and procedures established for the pension
5 fund;

6 (f) Copies of any audited financial statement or
7 audit report for the plan or the pension fund;

8 (g) Copies of any information returns, financial
9 information, or report filed with any regulatory
10 authority to which the plan is subject; and

11 (h) Copies of correspondence in respect of the
12 plan between such regulatory authority and the Board or
13 the plan administrator within 7 years preceding the date
14 of the request, except that information pertaining to
15 ongoing examinations by a regulatory authority is exempt
16 from this provision while the examination is ongoing."

17 Section 18. Title 52 of the Code of the Federated States of
18 Micronesia, as amended, is hereby further amended by inserting new
19 section 617 under chapter 6 to read as follows:

20 "Section 617. Complaints.

21 (1) Any complaint by a member, spouse, dependent
22 child, other plan beneficiary or participating employer
23 concerning the administration of the plan or a benefit
24 entitlement under the plan shall first be made in
25 writing to the Board. The Board shall consider such
26 complaints within sixty (60) days of receipt and shall

1 advise the complainant of its decision and of the
2 grounds for this decision in writing. The complainant or
3 such person's representative must be allowed to be
4 present at any hearing of the matter by the Board.

5 (2) A complainant may seek resolution of the complaint
6 in a court of competent jurisdiction after receipt of a
7 written decision from the Board or after the passage of
8 sixty (60) days from the filing of a written complaint,
9 whichever is earlier."

10 Section 19. Title 52 of the Code of the Federated States of
11 Micronesia, as amended, is hereby further amended by inserting new
12 section 618 under chapter 6 to read as follows:

13 "Section 618. Service providers.

14 (1) The Board may employ or retain a person, including
15 an actuary, to carry out aspects of the administration
16 of the plan where it is reasonable and prudent to do so,
17 including any professional or other advisor retained by
18 the Board to provide advice in respect of the plan or
19 pension fund.

20 (2) The Board shall be accountable for the proper
21 selection and supervision of any such person employed or
22 retained to carry out aspects of the administration of
23 the plan. The duties, responsibilities and compensation
24 of such person shall be documented in a legally-
25 enforceable written agreement, which shall also specify
26 the remedies for breaches of the agreed duties and

1 responsibilities.

2 (3) A person employed or retained by the Board to
3 carry out aspects of the administration of the plan
4 shall, in the performance of their duties respecting the
5 plan or pension fund, be held to the same standard of
6 care and avoidance of conflicts of interest as is the
7 Board.

8 (4) A person employed or retained by the Board to
9 carry out aspects of the administration of the plan may
10 not delegate their duties, or responsibility for their
11 duties, respecting the plan or pension fund to another
12 person without the prior authorization of the Board."

13 Section 20. Title 52 of the Code of the Federated States of
14 Micronesia, as amended, is hereby further amended by inserting new
15 section 602 under chapter 6 to read as follows:

16 "Section 619. Auditor.

17 (1) The Public Auditor may serve as auditor of the
18 Plan.

19 (2) The auditor shall provide an annual audit of the
20 financial statements of the plan and the pension fund.

21 (3) If requested by the Board, the auditor shall
22 provide an audit of the benefit calculations and
23 payments."

24 Section 21. Title 52 of the Code of the Federated States of
25 Micronesia, as amended, is hereby further amended by inserting new
26 section 602 under chapter 6 to read as follows:

1 "Section 620. Plan administrator.

2 (1) The Board may employ or retain a person to serve
3 as plan administrator.

4 (2) The duties of a plan administrator shall include
5 the following:

6 (a) Enroll new members;

7 (b) Maintain records of member information;

8 (c) Maintain the primary information on
9 contributions, benefits, and individual accounts;

10 (d) Update and maintain data as supplied from
11 time-to-time by the members or participating employers;

12 (e) Process terminations, deaths, and
13 retirements, including:

14 (i) Calculations;

15 (ii) Production of option forms;

16 (iii) Coordinating, facilitating and
17 communicating to the members and beneficiaries;

18 (iv) Preparation of payment authorization
19 forms;

20 (f) Upon request by a participating employer,
21 discuss with members and beneficiaries their options and
22 assist with completion of the option forms;

23 (g) Submit payment authorizations to the
24 custodian, and communicate with the custodian as needed;

25 (h) Respond to enquiries from the participating
26 employers' administration staff;

1 (i) Prepare periodic reconciliations of custodian
2 reports;

3 (j) Produce annual member statements; and

4 (k) Upon request by the Board, assist in the
5 preparation of the annual financial statements of the
6 plan.

7 (l) Perform other task as assigned by the Board."

8 Section 22. Title 52 of the Code of the Federated States of
9 Micronesia, as amended, is hereby further amended by inserting new
10 section 621 under chapter 6 to read as follows:

11 "Section 621. Investment manager.

12 (1) The Board may employ or retain one or more persons
13 to serve as investment manager.

14 (2) The duties of an investment manager shall include:

15 (a) Invest the assets of the pension fund in
16 accordance with the statement of investment policies and
17 procedures and subject to any limitations prescribed in
18 the specific investment mandate given to the investment
19 manager by the Board;

20 (b) Ensure that the asset mix policy of the
21 pension fund, as specified in the statement of
22 investment policies and procedures, is adhered to, to
23 the extent that this can be controlled by the investment
24 manager in view of the specific investment mandate given
25 to the investment manager by the Board;

26 (c) At all times comply with applicable laws and

1 regulations; and

2 (d) Meet regularly with the Board to review
3 investment performance and other investment issues
4 relevant to the investment manager's portfolio, at such
5 frequency as requested by the Board."

6 Section 23. Title 52 of the Code of the Federated States of
7 Micronesia, as amended, is hereby further amended by inserting new
8 section 622 under chapter 6 to read as follows:

9 "Section 622. Custodian.

10 (1) The Board may employ or retain one or more persons
11 to serve as custodian. If more than one person serves as
12 custodian, the Board shall designate one such person as
13 the primary custodian.

14 (2) The duties of a custodian shall include:

15 (a) Provide safekeeping for the assets of the
16 pension fund;

17 (b) Provide record keeping for the pension fund;

18 (c) Perform valuations of the assets of the
19 pension fund not less frequently than monthly;

20 (d) Monitor investments for compliance with the
21 statement of investment policies and procedures and
22 applicable laws and regulations and refrain from any
23 transactions that would contravene any such policies,
24 procedures, laws, or regulations;

25 (e) Ensure that the asset mix policy of the
26 pension fund, as specified in the statement of

1 investment policies and procedures, is adhered to,
2 rebalancing the assets among the investment managers as
3 necessary;

4 (f) Receive contributions and allocate them to
5 the investment managers in accordance with the asset mix
6 policy of the pension fund and the investment choices of
7 members, if members are permitted to make investment
8 choices;

9 (g) Monitor the receipt of contributions and
10 notify the Board of any overdue required contributions,
11 not later than two days after the date they were due;

12 (h) Process payments that have been properly
13 authorized, communicating with the plan administrator as
14 needed."

15 Section 24. Title 52 of the Code of the Federated States of
16 Micronesia, as amended, is hereby further amended by inserting new
17 section 623 under chapter 6 to read as follows:

18 "Section 623. Investment advisor.

19 (1) The Board may employ or retain one or more persons
20 to serve as investment advisor.

21 (2) The duties of an investment advisor may include:

22 (a) Assist in the preparation of the statement of
23 investment policies and procedures, and in annual or
24 more frequent reviews of it;

25 (b) Assist in the review of investment manager
26 performance, services and costs;

1 (c) Monitor investment performance and provide
2 performance reports;

3 (d) Review and monitor custodian reports; and

4 (e) Provide advice related to investment
5 management issues.

6 (3) Upon request by the Board, an investment advisor
7 may assist in the selection of, negotiations with, and
8 monitoring of other service providers."

9 Section 25. Title 52 of the Code of the Federated States of
10 Micronesia, as amended, is hereby further amended by inserting new
11 section 624 under chapter 6 to read as follows:

12 "Section 624. Plan records.

13 (1) Records respecting the plan which are in the
14 possession or custody of the Board, a participating
15 employer or any other person (other than a plan member)
16 shall be retained for the longer of:

17 (a) the period within which a member or former
18 member may exercise rights under limitations legislation
19 in the jurisdiction of employment, and

20 (b) a period of at least:

21 (i) in the case of a record relating to a
22 person entitled to benefits under the plan, five years
23 after the date all rights or entitlements of the person
24 under the plan are paid, settled or extinguished;

25 (ii) in the case of any document that creates
26 or supports the plan, five years after the date upon

1 which the last assets of the pension fund are
2 distributed; and

3 (iii) in the case of any other record, five
4 years after the later of the date of the last
5 transaction to which the record relates or the date when
6 the record ceases to be operative.

7 (2) On written request of the Board, a person with
8 possession or custody of any information, not considered
9 as confidential under the law, necessary for the
10 administration of the plan shall provide the information
11 to the Board. If the person to whom the request is
12 directed does not provide the information requested
13 within the specified time, the Board may apply to the
14 court for an order compelling the provision of the
15 information."

16 Section 26. Title 52 of the Code of the Federated States of
17 Micronesia, as amended, is hereby further amended by inserting new
18 section 625 under chapter 6 to read as follows:

19 "Section 625. Expenses of administering the plan.

20 (1) Initial expenses in establishing the plan and
21 making it operational shall be paid by the National
22 Government of the Federated States of Micronesia.

23 (2) Expenses directly related to the investment of the
24 pension fund shall be paid by the pension fund. If
25 members are permitted to make investment choices, such
26 expenses shall be allocated in an equitable manner, as

1 determined by the Board, among the various investment
2 options.

3 (3) All expenses other than those described in
4 subsections (1) and (2) shall be allocated in an
5 equitable manner, as determined by the Board, among the
6 participating employers."

7 Section 27. Title 52 of the Code of the Federated States of
8 Micronesia, as amended, is hereby further amended by inserting new
9 section 626 under chapter 6 to read as follows:

10 "Section 626. Budget appropriation.
11 The Congress of the Federated States of Micronesia
12 shall include appropriations in the annual budgets of
13 the National Government of the Federated States of
14 Micronesia that are sufficient to cover the expenses
15 for which it is responsible under section 625 and the
16 employer contributions for which it is responsible
17 under section 645."

18 Section 28. Title 52 of the Code of the Federated States of
19 Micronesia, as amended, is hereby further amended by inserting new
20 section 627 under chapter 6 to read as follows:

21 "Section 627. Statement of investment policy and
22 procedures.

23 (1) The pension fund shall be invested in accordance
24 with a statement of investment policy and procedures
25 adopted by the Board, which shall contain a description
26 of the factors that may affect the value of the assets

1 of the plan as a whole, and the relationship of those
2 factors to the investment policies and procedures,
3 including the following:

4 (a) Categories of investments;

5 (b) Diversification of the investment portfolio;

6 (c) Asset mix and rate of return expectations;

7 (d) Liquidity of investments;

8 (e) The lending of cash or securities;

9 (f) The retention or delegation of voting rights
10 acquired through investments;

11 (g) The method of, and the basis for, the
12 valuation of investments that are not regularly traded
13 at a public exchange; and

14 (h) Related party transactions if permitted, and
15 the criteria to be used in establishing whether a
16 transaction is nominal or immaterial to the plan.

17 (2) The Board shall review the statement of investment
18 policies and procedures not less frequently than once
19 every plan year and update it as necessary."

20 Section 29. Title 52 of the Code of the Federated States of
21 Micronesia, as amended, is hereby further amended by inserting new
22 section 628 under chapter 6 to read as follows:

23 "Section 628. Investment choices by members.

24 (1) The Board may determine that members may make
25 investment choices from among various options.

26 (2) If members are permitted to make investment

1 choices:

2 (a) The statement of investment policies and
3 procedures shall, in addition to the items specified in
4 section 627, also contain a description of the
5 relationship of the factors that may affect the value of
6 the assets of the plan as a whole to the types of
7 investment options offered to and rate of return
8 expectations of such options;

9 (b) The investment options offered must be
10 diversified, involve varying degrees of risk and
11 expected return, and allow the creation of portfolios
12 that are generally well-adapted to the needs of the
13 members;

14 (c) The Board may prescribe limitations to the
15 choices that may be made by members and to the timing
16 and frequency at which investment options can be
17 changed; and

18 (d) The Board shall specify appropriate default
19 investment options, for members who do not make
20 choices."

21 Section 30. Title 52 of the Code of the Federated States of
22 Micronesia, as amended, is hereby further amended by inserting new
23 section 629 under chapter 6 to read as follows:

24 "Section 629. Limitations on investments.

25 The investments of the pension fund shall be made in:

26 (1) Government obligations. Obligations issued or

1 guaranteed as to principal and interest by the National
2 Government and/or the State Government or by the
3 Government of the United States, or any state, territory
4 or commonwealth thereof, or obligations of any other
5 government or economic community, whether denominated in
6 United States dollars or other currency.

7 (2) Corporate obligations and mortgaged backed
8 securities. Obligations of any public or private entity
9 corporations created or existing under the laws of the
10 Federated States of Micronesia or of the United States
11 or any state, territory or commonwealth thereof, or
12 obligations or any other government or economic
13 community, or pass through and other mortgaged backed
14 securities, provided that:

15 (a) The obligation is on an agency of the United
16 States Government, or

17 (b) The obligation is on an agency of the
18 Federated States of Micronesia Government, or

19 (c) The obligation is investment grade rated by
20 one of two nationally recognized rating agencies; and

21 (d) No investment under this heading exceeds ten
22 percent (10%) of the market value of the Pension Fund or
23 ten percent (10%) of the outstanding value of the issue
24 at the time of purchase.

25 (e) Preferred and common stocks of any
26 corporations created or existing under the laws of the

1 Federated States of Micronesia or under the laws of the
2 United States or any state, territory or commonwealth
3 thereof, or any other nation, may be purchased, provided
4 that:

5 (i) The purchase of such shares shall be
6 considered reasonable and prudent by the investment
7 advisor at the time of purchase;

8 (ii) Not more than five percent of the market
9 value of the pension fund shall be invested in the stock
10 of any one corporation; and

11 (iii) Not more than twenty-five percent of the
12 market value of the pension fund shall be invested in
13 any one industry group.

14 (f) Such shares are readily marketable and
15 actively traded on a recognized national or regional
16 stock exchange, physical or electronic.

17 (3) Insurance company obligations. Contracts and
18 agreements supplemental thereto providing for
19 participation in one or more accounts or a life
20 insurance company authorized to do business in the
21 Federated States of Micronesia or in any state,
22 territory or commonwealth of the United States, provided
23 that the total market value of these investments at no
24 time shall exceed ten percent of the total market value
25 of all investments of the pension fund.

26 (4) Pooled investment funds, provided that:

1 (a) The underlying assets of such funds are
2 clearly identified;

3 (b) The underlying assets of such funds are of
4 the types acceptable under subsection (1), (2) and (3);
5 and

6 (c) The amounts of the underlying assets of such
7 funds shall be considered together with the other
8 investments of the pension fund when applying the
9 limitations under subsection (2) and (3)."

10 Section 31. Title 52 of the Code of the Federated States of
11 Micronesia, as amended, is hereby further amended by inserting new
12 section 630 under chapter 6 to read as follows:

13 "Section 630. Title and custody of investments.

14 (1) The investments of the pension fund shall be held
15 in the name of the plan, by a custodian under a trust
16 agreement or in an insurance contract.

17 (2) A trust agreement shall be constituted under the
18 laws of either the Federated States of Micronesia or a
19 member state of the OECD.

20 (3) Any custodian used by the plan shall:

21 (a) Be a financial institution that is regulated
22 either by the Banking Board of the Federated States of
23 Micronesia or a relevant authority of a member state of
24 the OECD;

25 (b) Be authorized by legislation and the
26 respective regulatory authority to provide custodial

1 services; and

2 (c) Provide custodial services to the plan in
3 either the Federated States of Micronesia or the member
4 state of the OECD in which it is regulated.

5 (4) Any insurance contract used by the plan shall be
6 issued by an insurance company that is registered or
7 licensed by the Insurance Board of the Federated States
8 of Micronesia."

9 Section 32. Title 52 of the Code of the Federated States of
10 Micronesia, as amended, is hereby further amended by inserting new
11 section 631 under chapter 6 to read as follows:

12 "Section 631. Participating employers.

13 (1) The National Government of the Federated States of
14 Micronesia shall be a participating employer.

15 (2) The State Governments and other employers carrying
16 on business in the Federated States of Micronesia may
17 elect to become participating employers, subject to such
18 conditions as shall be prescribed regulation by the
19 Board."

20 Section 33. Title 52 of the Code of the Federated States of
21 Micronesia, as amended, is hereby further amended by inserting new
22 section 632 under chapter 6 to read as follows:

23 "Section 632. Categories of employees eligible for
24 membership.

25 (1) An employee of the National Government of the
26 Federated States of Micronesia who is employed in any of

1 the following categories, and whose nature of employment
2 is eligible under section 633, shall be eligible to be a
3 member of the plan:

4 (a) National public service employees

5 (b) Special service contract employees

6 (c) Exempted positions

7 (d) Expatriates employees working within the
8 Federated States of Micronesia.

9 (2) Participating employer other than the National
10 Government of the Federated States of Micronesia shall
11 specify the categories of its employees eligible to be a
12 member of the plan, subject to prescribed regulations by
13 the Board."

14 Section 34. Title 52 of the Code of the Federated States of
15 Micronesia, as amended, is hereby further amended by inserting new
16 section 633 under chapter 6 to read as follows:

17 "Section 633. Eligible nature of employment.

18 (1) An employee of the National Government of the
19 Federated States of Micronesia who is employed in an
20 eligible category, and whose nature of employment is any
21 of the following, shall be eligible to be a member of
22 the plan:

23 (a) Full-time, whether permanent or temporary

24 (b) Less than full-time, whether permanent or
25 temporary.

26 (2) A participating employer other than the National

1 Government of the Federated States of Micronesia shall
2 specify the eligible nature of employment for its
3 employees in eligible categories of employment, subject
4 to such conditions as may be prescribed by the Board."

5 Section 35. Title 52 of the Code of the Federated States of
6 Micronesia, as amended, is hereby further amended by inserting new
7 section 634 under chapter 6 to read as follows:

8 "Section 634. Mandatory membership.
9 Membership in the plan is mandatory for each eligible
10 employee of each participating employer."

11 Section 36. Title 52 of the Code of the Federated States of
12 Micronesia, as amended, is hereby further amended by inserting new
13 section 635 under chapter 6 to read as follows:"

14 "Section 635. Active member.
15 A member shall be considered an active member if the
16 member is either:

- 17 (a) Actively at work;
18 (b) On sick leave with pay; or
19 (c) On a leave of absence, including maternity
20 leave, with pay."

21 Section 37. Title 52 of the Code of the Federated States of
22 Micronesia, as amended, is hereby further amended by inserting new
23 section 636 under chapter 6 to read as follows:

24 "Section 636. Suspended member.
25 A member shall be considered a suspended member if the
26 member is on a leave of absence without pay."

1 Section 38. Title 52 of the Code of the Federated States of
2 Micronesia, as amended, is hereby further amended by inserting new
3 section 637 under chapter 6 to read as follows:

4 "Section 637. Deferred member.

5 A deferred member is a former active or suspended member
6 whose employment terminated for any reason other than
7 death or retirement and whose individual account has not
8 been fully paid out, but who has not reached the normal
9 retirement date."

10 Section 39. Title 52 of the Code of the Federated States of
11 Micronesia, as amended, is hereby further amended by inserting new
12 section 638 under chapter 6 to read as follows:

13 "Section 638. Normal retirement date.

14 The normal retirement date of a member who is an
15 employee or a former employee of the National Government
16 of the Federated States of Micronesia is the date at
17 which the member attains 60 years of age.

18 Section 40. Title 52 of the Code of the Federated States of
19 Micronesia, as amended, is hereby further amended by inserting new
20 section 639 under chapter 6 to read as follows:

21 "Section 639. Retirement date.

22 (1) The retirement date of an active member or a
23 suspended member is later of the following:

24 (a) The normal retirement date; or

25 (b) The date at which the member becomes disabled
26 or is considered as medically retired.

1 (2) The retirement date of a deferred member is the
2 normal retirement date."

3 Section 41. Title 52 of the Code of the Federated States of
4 Micronesia, as amended, is hereby further amended by inserting new
5 section 640 under chapter 6 to read as follows:

6 "Section 640. Retired member.

7 A retired member is a member who has reached the
8 retirement date and whose individual account has not
9 been fully paid out."

10 Section 42. Title 52 of the Code of the Federated States of
11 Micronesia, as amended, is hereby further amended by inserting new
12 section 641 under chapter 6 to read as follows:

13 "Section 641. Contributory earnings.

14 (1) The contributory earnings of a member who is an
15 employee of the National Government of the Federated
16 States of Micronesia shall be the base salary of the
17 member.

18 (2) A participating employer other than the National
19 Government of the Federated States of Micronesia shall
20 specify the basis for determining the contributory
21 earnings of members employed by such employer, subject
22 to prescribed regulations by the Board."

23 Section 43. Title 52 of the Code of the Federated States of
24 Micronesia, as amended, is hereby further amended by inserting new
25 section 642 under chapter 6 to read as follows:

26 "Section 642. Required member contributions.

1 (1) A member who is an employee of the National
2 Government of the Federated States of Micronesia is
3 required to contribute three percent (3%) of
4 contributory earnings to the pension fund.

5 (2) A member who is an employee of a participating
6 employer other than the National Government of the
7 Federated States of Micronesia is required to contribute
8 the percentage of contributory earnings as specified by
9 such employer to the pension fund, which specification
10 shall be subject to such conditions as may be prescribed
11 by the Board."

12 Section 44. Title 52 of the Code of the Federated States of
13 Micronesia, as amended, is hereby further amended by inserting new
14 section 643 under chapter 6 to read as follows:

15 "Section 643. Additional voluntary member
16 contributions.

17 (1) A member may elect to make additional voluntary
18 contributions to the pension fund through payroll
19 deduction, subject to the following:

20 (a) The total of the required contribution rate
21 and the additional voluntary contribution rate shall not
22 exceed twenty percent (20%) of a member's contributory
23 earnings; and

24 (b) The additional contribution rate may be
25 changed from time-to-time by a member, but not more
26 frequently than twice each plan year and only at such

1 dates as may be prescribed by the Board.

2 (2) In addition to making contributions to the plan
3 via a payroll deduction, Participants of the Plan are
4 eligible to make non-payroll contributions to the plan
5 in order to better secure enough funds for a comfortable
6 retirement. A separate account will be set up by the
7 Plan Administrator to track these funds. However, the
8 Employer will not match any non-payroll contributions
9 that a Participant elects to make to the Plan."

10 Section 45. Title 52 of the Code of the Federated States of
11 Micronesia, as amended, is hereby further amended by inserting new
12 section 644 under chapter 6 to read as follows:

13 "Section 644. Transfers from other pension plans.
14 A member who is entitled to a lump sum benefit from
15 another pension plan may elect to transfer all or a
16 portion of the amount of such benefit to the pension
17 fund, if permitted to do so by the other pension plan
18 and subject to such conditions as may be prescribed by
19 the Board."

20 Section 46. Title 52 of the Code of the Federated States of
21 Micronesia, as amended, is hereby further amended by inserting new
22 section 645 under chapter 6 to read as follows:

23 "Section 645. Employer contributions.
24 (1) The National Government of the Federated States of
25 Micronesia is required to contribute to the pension fund
26 on behalf of members who are its employees, in

1 accordance with the following contribution rates:

2 (a) For a member with less than four years of
3 recognized service, two percent (2%) of contributory
4 earnings;

5 (b) For a member with at least four years but
6 less than ten years of recognized service, three percent
7 (3%) of contributory earnings; and

8 (c) For a member with at least ten years of
9 recognized service, four percent (4%) of contributory
10 earnings.

11 (2) For the purpose of subsection (1), recognized
12 service means service recognized by the National
13 Government of the Federated States of Micronesia for the
14 purpose of determining a member's rate of vacation
15 accrual.

16 (3) A participating employer other than the National
17 Government of the Federated States of Micronesia shall
18 specify the basis for determining the employer
19 contribution rates in respect of the members employed by
20 such employer, subject to such conditions as may be
21 prescribed by the Board.

22 (4) A participating employer other than the National
23 Government of the Federated States of Micronesia is
24 required to contribute to the pension fund on behalf of
25 members who are its employees, in accordance with the
26 contribution rates specified under subsection (3).

1 (5) A participating employer shall not make any
2 matching contributions to the pension fund in respect of
3 additional voluntary contributions or amounts
4 transferred to the pension fund from other pension
5 plans."

6 Section 47. Title 52 of the Code of the Federated States of
7 Micronesia, as amended, is hereby further amended by inserting new
8 section 646 under chapter 6 to read as follows:

9 "Section 646. Timing of contributions.

10 (1) A participating employer shall remit contributions
11 to the pension fund within 30 days from the end of the
12 month to which they apply.

13 (2) Contributions that have been deducted from
14 members' contributory earnings and employer
15 contributions due and owing to the pension fund are
16 deemed to be held in trust for members and other plan
17 beneficiaries.

18 (3) If a participating employer does not remit
19 contributions to the pension fund within the time
20 specified under subsection (1), overdue contributions
21 shall accrue interest at a rate of two percent (2%) per
22 month, compounded monthly, from the date at which they
23 were due.

24 (4) The Board shall use its best efforts to ensure
25 that all required contributions are paid into the
26 pension fund within the prescribed time and that any

1 overdue contributions together with accrued interest are
2 paid into the pension fund as soon as possible.

3 (5) If any required contributions to be paid into the
4 pension fund by a participating employer are overdue by
5 three months or more, the Board shall apply to the court
6 for an order compelling such participating employer to
7 make such payments.

8 (6) If any required contributions to be paid into the
9 pension fund by a participating employer are overdue by
10 12 months or more, the participation of such employer in
11 the plan shall be terminated with respect to future
12 contributory service of its employees. The employer
13 remains liable for the overdue contributions and
14 interest, which shall continue to accrue until paid into
15 the pension fund."

16 Section 48. Title 52 of the Code of the Federated States of
17 Micronesia, as amended, is hereby further amended by inserting new
18 section 647 under chapter 6 to read as follows:

19 "Section 647. Individual accounts.

20 (1) The plan shall establish and maintain an
21 individual account for each member.

22 (2) An individual account shall reflect: member
23 contributions; employer contributions made on behalf of
24 a member; amounts transferred in from another pension
25 plan on behalf of a member; interest whether positive or
26 negative; expenses; and benefits paid.

1 (3) Contributions to an individual account made by the
2 member and those made by an employer on behalf of a
3 member shall be accounted for separately.

4 (4) Interest shall be calculated and applied to
5 individual accounts not less frequently than annually."

6 Section 49. Title 52 of the Code of the Federated States of
7 Micronesia, as amended, is hereby further amended by inserting new
8 section 648 under chapter 6 to read as follows:

9 "Section 648. Vesting, locking-in, non-alienation.

10 (1) The right to a portion of the assets of the
11 pension fund, as represented by a member's individual
12 account, shall be fully vested in the member.

13 (2) This property right shall be restricted to the
14 extent that the right to receive and use the property
15 shall arise only at the time a benefit becomes payable
16 under the plan.

17 (3) This property right cannot be pledged, garnished,
18 assigned, mortgaged, or otherwise alienated. It shall
19 not be subject to execution, shall not be part of an
20 estate in bankruptcy of the member, and shall not be
21 affected by any settlement proceedings, and any attempt
22 to do so shall be null and void."

23 Section 50. Title 52 of the Code of the Federated States of
24 Micronesia, as amended, is hereby further amended by inserting new
25 section 649 under chapter 6 to read as follows:

26 "Section 649. Loans and withdrawals by employees.

1 An active member or a suspended member may not withdraw
2 or borrow any portion of the value of the member's
3 individual account from the pension fund."

4 Section 51. Title 52 of the Code of the Federated States of
5 Micronesia, as amended, is hereby further amended by inserting new
6 section 650 under chapter 6 to read as follows:

7 "Section 650. Benefit on termination of employment.

8 (1) If the employment of an active member or a
9 suspended member terminates for any reason other than
10 death or retirement, the member is entitled to a
11 termination benefit in accordance with either subsection
12 (2) or subsection (3).

13 (2) If the value of the member's individual account is
14 less than \$5,000 at the date of termination:

15 (a) The member may elect to transfer all or a
16 portion of such value to another pension plan or to any
17 other form of investment or savings account;

18 (b) Any amount not so transferred shall be paid
19 to the member as a lump sum; and

20 (c) The membership of the member shall be
21 terminated.

22 (3) If the value of the member's individual account is
23 \$5,000 or more at the date of termination:

24 (a) The member may elect to transfer all or a
25 portion of such value to another pension plan or
26 retirement savings account, if the other pension plan or

1 retirement savings account permits such transfers and
2 imposes locking-in requirements equivalent to those of
3 the plan; and

4 (b) The member shall become a deferred member."

5 Section 52. Title 52 of the Code of the Federated States of
6 Micronesia, as amended, is hereby further amended by inserting new
7 section 651 under chapter 6 to read as follows:

8 "Section 651. Options available to deferred members.

9 (1) A deferred member may withdraw or borrow any
10 portion of the value of the member's individual account
11 from the pension fund.

12 (2) At any time before the member's normal retirement
13 date, a deferred member may elect to transfer all or a
14 portion of the value of the member's individual account
15 to another pension plan or retirement savings account.

16 (3) If all of the value of the member's account has
17 been so transferred, the membership of the member shall
18 be terminated."

19 Section 53. Title 52 of the Code of the Federated States of
20 Micronesia, as amended, is hereby further amended by inserting new
21 section 652 under chapter 6 to read as follows:

22 "Section 652. Benefit on disability of an active,
23 suspended, or deferred member.

24 (1) If an active member, a suspended member, or a
25 deferred member who resides in the Federated States of
26 Micronesia becomes disabled or considered medically

1 retired, such member shall be deemed to have retired
2 under the plan."

3 Section 54. Title 52 of the Code of the Federated States of
4 Micronesia, as amended, is hereby further amended by inserting new
5 section 653 under chapter 6 to read as follows:

6 "Section 653. Beneficiaries.

7 (1) A member may designate one or more beneficiaries
8 to receive any death benefit payable under the plan upon
9 the death of the member and may modify or revoke any
10 such designation, subject to the conditions described in
11 this Section.

12 (2) If the member has a spouse or any dependent
13 children, persons in such categories must in aggregate
14 be beneficiaries of not less than fifty percent (50%) of
15 the death benefit.

16 (3) The Board shall prescribe rules to be applied if,
17 at the date of a member's death, the designated
18 beneficiaries who are alive at the date of a member's
19 death do not satisfy the condition described in
20 subsection (2).

21 (4) If the member has failed to designate a
22 beneficiary or if no designated beneficiary is alive at
23 the date of a member's death, the rights to the benefits
24 shall be based on the following order of priority:

25 (a) The spouse of the member, if any;

26 (b) If there is no spouse, then to the children

1 of the member, if any, in equal shares; and

2 (c) If there are no children, then to the estate
3 of the member.

4 (5) No designation, modification, or revocation of a
5 beneficiary designation shall be valid unless it has
6 been made in writing on the form prescribed by the Board
7 and until it has been received by the Board or the plan
8 administrator."

9 Section 55. Title 52 of the Code of the Federated States of
10 Micronesia, as amended, is hereby further amended by inserting new
11 section 654 under chapter 6 to read as follows:

12 "Section 654. Benefit on death of a member before
13 retirement.

14 (1) If a member dies before the retirement date a
15 death benefit shall be payable. The total value of the
16 death benefit shall be the value of the member's
17 individual account.

18 (2) If the member's death occurred before the normal
19 retirement date, each beneficiary's share of the death
20 benefit shall, subject to subsection (3), be paid in the
21 form of a lump-sum.

22 (3) A member may designate or a beneficiary may elect
23 a form of payment other than lump-sum, provided that
24 such payments meet the conditions prescribed by the
25 Board.

26 (4) If the member's death occurred before the

1 retirement date but on or after the normal retirement
2 date, the member shall be deemed to have retired on the
3 day immediately preceding the date of death."

4 Section 56. Title 52 of the Code of the Federated States of
5 Micronesia, as amended, is hereby further amended by inserting new
6 section 655 under chapter 6 to read as follows:

7 "Section 655. Retirement benefit.

8 (1) If a member reaches the retirement date or has
9 been deemed to have retired, a retirement benefit shall
10 be payable. The total value of the retirement benefit
11 shall be the value of the member's individual account.

12 (2) If the value of the member's individual account is
13 less than \$10,000 at the retirement date:

14 (a) The member may elect to transfer all or a
15 portion of such value to another pension plan or to any
16 other form of investment or savings account; and

17 (b) Any amount not so transferred shall be paid
18 to the member as a lump-sum.

19 (3) If the value of the member's individual account is
20 \$10,000 or more at the retirement date:

21 (a) The member may elect to have up to twenty-
22 five per cent (25%) of such value, or \$10,000 if
23 greater, transferred to another pension plan or to any
24 other form of investment or savings account or paid to
25 the member as a lump-sum, provided that:

26 (i) If such election would result in the

1 remainder of the individual account being less than
2 \$10,000, the remainder shall also be so transferred or
3 paid as a lump-sum; and

4 (ii) Any amount remaining in the individual
5 account shall be applied to a phased-withdrawal program
6 or, if elected by the member, to the purchase of an
7 annuity."

8 Section 57. Title 52 of the Code of the Federated States of
9 Micronesia, as amended, is hereby further amended by inserting new
10 section 665 under chapter 6 to read as follows:

11 "Section 656. Phased-withdrawal program.

12 (1) If the amount of a member's retirement benefit
13 that remains after any transfer, lump-sum payment, or
14 annuity purchase is \$10,000 or more, such amount shall
15 be applied to a phased-withdrawal program.

16 (2) Under a phased-withdrawal program, an individual
17 account shall continue to be maintained for the member.
18 The individual account shall reflect interest whether
19 positive or negative; expenses; and benefits paid.

20 (3) The retired member shall receive monthly payments
21 from the pension fund as long as a balance remains in
22 the individual account.

23 (4) The retired member may specify the amount to be
24 paid monthly, subject to the following conditions:

25 (a) During the first 15 years after the
26 retirement date, the monthly payments shall not exceed

1 the limits prescribed by the Board, which shall be
2 formulated with the objective of providing a smooth
3 withdrawal of the individual account during such period;

4 (b) The monthly payments shall not be less than
5 \$50; and

6 (c) The retired member may from time-to-time
7 change the specified amount to be paid monthly. Such
8 changes may be made not more frequently than once each
9 plan year, and only at such dates as may be prescribed
10 by the Board.

11 (5) At any time during the phased-withdrawal program,
12 the retired member can elect to use the amount remaining
13 in the individual account to purchase an annuity,
14 subject to any conditions that may apply to such
15 purchases.

16 (6) At any time later than 15 years from the
17 retirement date, the retired member can elect to receive
18 the amount remaining in the individual account as a
19 lump-sum."

20 Section 58. Title 52 of the Code of the Federated States of
21 Micronesia, as amended, is hereby further amended by inserting new
22 section 657 under chapter 6 to read as follows:

23 "Section 657. Benefit on death of a retired member
24 during a phased-withdrawal program.

25 (1) If a retired member dies during a phased-
26 withdrawal program, a death benefit shall be payable.

1 The total value of the death benefit shall be the
2 remaining value of the member's individual account.

3 (2) Each beneficiary's share of the death benefit
4 shall, subject to subsection (3), be paid in the form of
5 a lump-sum.

6 (3) A member may designate or a beneficiary may elect
7 to have the beneficiary's share of the death benefit
8 applied to a phased-withdrawal program or used to
9 purchase an annuity, subject to any conditions that may
10 apply to such program or purchases."

11 Section 59. Title 52 of the Code of the Federated States of
12 Micronesia, as amended, is hereby further amended by inserting new
13 section 658 under chapter 6 to read as follows:

14 "Section 658. Purchase of an annuity.

15 (1) If the amount of a member's retirement benefit
16 that remains after any transfer, lump-sum payment, or
17 application to a phased-withdrawal program is \$10,000 or
18 more, the member may elect to use such amount to
19 purchase an annuity from an insurance company.

20 (2) If the member has a spouse or any dependent
21 children, then the death benefits under the form of
22 annuity chosen by the member must be no less favorable
23 to the persons in such categories than a joint life
24 annuity with fifty percent (50%) continuing to the
25 surviving spouse or a single life annuity with 10 years
26 of payments guaranteed.

1 (3) The member shall select the insurance company from
2 which to purchase the annuity. If a member resides in
3 the Federated States of Micronesia, the selection shall
4 be made from among the insurance companies registered or
5 licensed by the Insurance Board of the Federated States
6 of Micronesia that offer annuities. If a member resides
7 outside the Federated States of Micronesia, the
8 selection shall be made from among insurance companies
9 authorized to offer annuities under the legislation and
10 regulations of the jurisdiction in which the member
11 resides."

12 Section 60. Title 52 of the Code of the Federated States of
13 Micronesia, as amended, is hereby further amended by inserting new
14 section 659 under chapter 6 to read as follows:

15 "Section 659. Ancillary benefits.

16 The plan shall provide no benefits other than those
17 described in the National Pension Plan Act, as amended
18 from time-to-time."

19 Section 61. Title 52 of the Code of the Federated States of
20 Micronesia, as amended, is hereby further amended by inserting new
21 section 660 under chapter 6 to read as follows:

22 "Section 660. Lost member.

23 (1) A member shall be considered a lost member if:

24 (a) There have been no contributions by the
25 member in the last three plan years; and

26 (b) The plan has no record of the member's

1 address; or

2 (c) Two or more pieces of mail sent to the
3 member's last known address have been returned to the
4 plan unclaimed by the member.

5 (2) The plan shall employ reasonable efforts to locate
6 a lost member. Such efforts shall include:

7 (a) Requesting the Federated States of Micronesia
8 Social Security Administration to advise the lost member
9 to contact the plan, if it knows the address of the lost
10 member; and

11 (b) In January of each year, publishing a list of
12 lost members in a newspaper of general circulation or by
13 other means as determined by the Board.

14 (3) At the end of the plan year in which a member has
15 been considered a lost member for three years, the plan
16 shall transfer the full balance of the member's
17 individual account to the Secretary of Finance and
18 Administration of the National Government of the
19 Federated States of Micronesia for the account of the
20 member, in the event the member or a beneficiary of such
21 member is located at a later date.

22 (4) Upon receiving sums of money pursuant to this
23 section, the Secretary of Finance and Administration of
24 the National Government of the Federated States of
25 Micronesia shall furnish the plan with a receipt of such
26 transferred funds and shall deposit such sums into a

1 custodial interest bearing account separate and apart
2 from the General Fund of the National Government of the
3 Federated States of Micronesia.

4 (5) At any time within twenty years of the date of
5 transfer of funds to the Secretary of Finance and
6 Administration of the National Government of the
7 Federated States of Micronesia pursuant to this section,
8 such funds (principle plus interests) may be claimed by
9 their rightful owner or owners by furnishing proof of
10 his, her or their right to such funds, which proof is
11 deemed satisfactory to the Secretary of Finance and
12 Administration of the National Government of the
13 Federated States of Micronesia.

14 (6) All funds transferred to the Secretary of Finance
15 and Administration of the National Government of the
16 Federated States of Micronesia pursuant to this section
17 shall escheat to the National Government of the
18 Federated States of Micronesia twenty (20) years
19 following the date of such transfer."

20
21
22 Section 62. This act shall become law upon approval by the
23 President of the Federated States of Micronesia or upon its
24 becoming law without such approval.

25
26 Date: 1/28/15

Introduced by: /s/ Florencio S. Harper

Florencio S. Harper
(by request)

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