

A BILL FOR AN ACT

To further amend title 53 of the Code of the Federated States of Micronesia, as amended by Public Law No. 5-120, by repealing subtitles I and II in their entirety and enacting a new title 53 for the purpose of making alterations in the FSM Social Security System, including the addition of pension benefits and early retirement at age 55, and for other purposes.

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

1 Section 1. Title 53 of the Code of the Federated States of Micronesia is hereby  
2 further amended by repealing sections 103, 104, 105 and 304, and by repealing  
3 sections 601 through 607, sections 701 through 708, sections 801 through 809, sec-  
4 tions 901 through 904, sections 1001 through 1004, and sections 1101 through 1110.

5 Section 2. Title 53 of the Code of the Federated States of Micronesia is hereby  
6 further amended by adding a new section 101 to read as follows:

7 "Section 101. Short title. This act is known and may be cited as the  
8 Social Security Act of 1990."

9 Section 3. Title 53 of the Code of the Federated States of Micronesia is hereby  
10 further amended by adding a new section 102 to read as follows:

11 "Section 102. Creation of the Federated States of Micronesia Social  
12 Security Trust Fund. This act creates the Federated States of Micronesia  
13 Social Security Trust Fund. This Fund shall be separate and apart from  
14 all public monies or funds of the FSM, and shall be administered by the  
15 Social Security Administration exclusively for the purposes of this act."

16 Section 4. Title 53 of the Code of the Federated States of Micronesia is hereby  
17 further amended by adding a new section 103 to read as follows:

18 "Section 103. Coverage. All employees working in the FSM are  
19 covered by and subject to the provisions of this act. All citizens of the  
20 FSM who are employed by an employer incorporated or domiciled in the  
21 FSM and who are working outside the FSM are also covered by and  
22 subject to the provisions of this act."

23 Section 5. Title 53 of the Code of the Federated States of Micronesia is hereby  
24 further amended by adding a new section 104 to read as follows:

25 "Section 104. Definitions. As used in this chapter:

1                   (1) 'Actuary' means a member of any society, institute or organization  
2                   of qualified actuaries recognized by the International Actuarial Association.

3                   (2) 'Administration' means the Social Security Administration estab-  
4                   lished under chapter II.

5                   (3) 'Administrator' means the Social Security Administrator appointed  
6                   under section 203.

7                   (4) 'Bendpoint' means an amount, used in the basic benefit formula in  
8                   section 301, upon which the formula percentage for cumulative covered  
9                   earnings above the amount is less than the formula percentage for cumulative  
10                  covered earnings below the amount. As of the effective date of this act, the  
11                  bendpoints are \$10,000 and \$40,000. Thereafter, the bendpoints may be  
12                  increased by the Board pursuant to section 306.

13                  (5) 'Beneficiary' means a person who is in receipt of a benefit under  
14                  this act.

15                  (6) 'Board' means the Social Security Board established under section  
16                  201 of this act.

17                  (7) 'Child' means a person's natural, legally adopted, or step child;  
18                  PROVIDED the worker's parental rights with respect to the child have not  
19                  been terminated by law.

20                  (8) 'Consumer price index' means an index which measures on a  
21                  periodic basis the cost of goods and services within the FSM. If no such  
22                  formal index is available, then an index based on seventy-five percent of the  
23                  change in the government wage index shall be used until such formal index  
24                  may be established.

25                  (9) 'Covered earnings' means the lesser of the worker's or self-em-

1 ployed worker's gross earnings or the maximum taxable earnings base.

2 (10) 'Cumulative covered earnings' means the sum of all of the cov-  
3 ered earnings of a worker or of a self-employed worker.

4 (11) 'Currently insured' means a worker or a self-employed worker  
5 has earned at least eight quarters of coverage during the thirteen quarter  
6 period ending with the quarter of retirement, disability or death, whichever  
7 first occurs.

8 (12) 'Custodian' means any agent that is qualified and has assumed  
9 the responsibility for the possession of any or all of the Fund's assets pursu-  
10 ant to section 502.

11 (13) 'Deferred retirement' means when a worker or a self-employed  
12 worker elects to actually retire subsequent to meeting the requirements for  
13 normal retirement. A worker or self-employed worker must be over normal  
14 retirement age and fully insured to be entitled to deferred retirement.

15 (14) 'Disability' means the inability to engage in any substantial  
16 gainful employment by reason of any medically determinable physical or  
17 mental impairment which can be expected to result in death or can be ex-  
18 pected to last for a continuous period of not less than 12 months. As soon  
19 after the effective date of this act as practical, the Board shall adopt rules  
20 and regulations which shall provide detailed guidelines for the determination  
21 of disability under this act.

22 (15) 'Early retirement' means when a worker or a self-employed  
23 worker elects to actually retire before meeting the requirements for normal  
24 retirement. A worker or self-employed worker must be at least age 55 and  
25 service insured to be entitled to early retirement.

1                   (16) 'Earnings' means any salary, wage or fee paid to a worker in cash  
2                   or in any medium other than cash. Earnings shall include annual leave, sick  
3                   leave and the cash value of any perquisites, but shall not include payments  
4                   for reimbursement of expenses incurred by the trade or business, payments  
5                   on account of accident or sickness disability or medical or hospitalization  
6                   expenses, and payment made to or on behalf of a worker or to his benefi-  
7                   ciary from a trust or annuity. Self employed workers must report earnings  
8                   for themselves equal to twice the amount of earnings paid to the highest paid  
9                   employee reported by them, or, if there are no employees, equal to their  
10                  annual gross revenues.

11                  (17) 'Earnings test' means a test to determine whether the beneficiary  
12                  is retired or otherwise dependent on the Social Security benefit. The maxi-  
13                  mum amount of covered or non-covered earnings that a beneficiary may  
14                  earn subsequent to becoming entitled to a benefit and still remain entitled to  
15                  a full benefit is \$1,600 during any calendar year. The beneficiary shall have  
16                  his benefit reduced by one dollar for each two dollars of earnings during a  
17                  calendar year in excess of \$1,600. The reduction shall be applied in the  
18                  calendar year immediately following the calendar year in which the earnings  
19                  occurred.

20                  (18) 'Employee' means any person who, under the common law rules  
21                  applicable in determining the employer-employee relationship, has entered  
22                  into or works under a contract with any employer in any capacity, excluding  
23                  that of an independent contractor, whether the contract is expressed or  
24                  implied, oral or written, requiring the personal execution of any work or  
25                  labor, and includes all employees of the National, State or local govern-

1 ments, any firm, company, partnership, corporation, association, joint  
2 venture, religious organization or other entity, and all elected officials and  
3 self-employed workers.

4 (19) 'Employer' means any person, self-employed worker, National,  
5 State or local government, any firm, company, corporation, partnership,  
6 association, joint venture, religious organization or other entity, which  
7 employs or on whose behalf are employed any employee.

8 (20) 'Entitlement' means a worker or a self-employed worker has met  
9 all of the requirements to be eligible for a benefit.

10 (21) 'Fiscal year' means a period of twelve calendar months ending  
11 March 31st.

12 (22) 'FSM' means the Federated States of Micronesia.

13 (23) 'Fully insured' means having at least one quarter of coverage for  
14 each year beginning with the later of June 30, 1968 or the year the worker  
15 or the self-employed worker attains the age of twenty-one years, and ending  
16 with the year prior to the year of death, retirement or disability, whichever  
17 first occurs, PROVIDED that a worker or a self-employed worker whose  
18 sixtieth birthday is prior to October 1, 1984 must have not less than eight  
19 quarters of coverage and a worker or a self-employed worker whose sixtieth  
20 birthday is October 1, 1984 or later must have not less than twelve quarters  
21 of coverage. The maximum number of quarters of coverage shall be thirty-  
22 eight quarters up to June 30, 1999, thirty-nine quarters from July 1, 1999  
23 through June 30, 2009, and forty quarters on and after July 1, 2009.

24 (24) 'Fund' means the FSM Social Security Trust Fund.

25 (25) 'Government wage index' means an index which measures on a

1       periodic basis the change in the average wage of government employees  
2       within the FSM.

3               (26) 'Indexed covered earnings' means the sum of all covered earn-  
4       ings for a worker or a self-employed worker increased for applicable cost  
5       of living adjustments granted under section 306.

6               (27) 'Investment advisor' means any person, firm or corporation who  
7       is qualified and has been engaged by the Board to manage some or all of  
8       the assets of the Fund pursuant to section 502.

9               (28) 'Investment consultant' means any person, firm or corporation  
10       who is qualified and has been engaged by the Board to provide investment  
11       advice pursuant to section 502.

12               (29) 'Maximum taxable earnings base' means the maximum amount  
13       of earnings that a worker or self-employed worker may receive during a  
14       calendar year and receive credit toward benefits and pay taxes to the Fund.  
15       As of the effective date of this act, the maximum taxable earnings base is  
16       \$40,000. Thereafter, the maximum taxable earnings base shall be in-  
17       creased by any wage index adjustments granted by the Board under section  
18       306.

19               (30) 'Minimum benefit' means the smallest monthly payment that  
20       shall be made as an old age insurance benefit, a disability insurance ben-  
21       efit, or a survivor's insurance benefit. As of the effective date of this act,  
22       the minimum benefit shall be \$43.20 per month. Thereafter, the minimum  
23       benefit shall be automatically increased by the same percentage as any cost  
24       of living adjustment granted by the Board pursuant to section 306.

25               (31) 'Normal retirement' means when a worker or self-employed

worker first becomes entitled to a full old age insurance benefit from the System. To be entitled to normal retirement, a worker or self-employed worker must be fully insured and must have attained:

(a) Age sixty between the effective date of this act and June 30, 1999, or

(b) Age sixty-one between July 1, 1999 and June 30, 2009, or

(c) Age sixty-two on or after July 1, 2009.

(32) 'Parent' means the natural or legally adoptive parent or step parent of a child, but does not include the natural parent of an adopted child.

(33) 'Pension element' means two percent of indexed covered earnings, whereby lower-paid and higher-paid workers receive the same proportionate benefit.

(34) 'Quarter' means any three month period ending on March 31st, June 30th, September 30th, or December 31st of any calendar year.

(35) 'Quarters of coverage' means that measure of a worker's or a self-employed worker's covered employment used to determine entitlement for benefits. A worker's or self-employed worker's quarters of coverage are determined as follows:

(a) Prior to the quarter preceding the effective date of this act, a worker or a self-employed worker shall earn one quarter of coverage for each quarter during which the worker or the self-employed worker has \$50 or more in earnings subject to this act, and

(b) On or after the quarter of the effective date of this act, a worker or a self-employed worker shall earn one quarter of coverage for each \$400 of calendar year earnings subject to this act, PROVIDED that the

1 worker or self-employed worker may only earn a maximum of four such  
2 quarters of coverage during any one calendar year.

3 (36) 'Self-employed worker' means a person who engages in any trade  
4 or business himself, and who is deemed to have earned twice the amount of  
5 earnings paid to the highest paid worker reported by him within a quarter, or,  
6 if there is no worker other than himself, he shall be deemed to have earned  
7 within each calendar year his gross revenues during that calendar year. A  
8 self-employed worker shall be deemed to be both his own employer and  
9 worker and, accordingly, is required to pay to the Fund for himself both the  
10 worker and employer taxes pursuant to sections 401 and 402, respectively.

11 (37) 'Service insured' means a worker or a self-employed worker has  
12 earned at least eighty quarters of coverage.

13 (38) 'Social element' means that portion of the basic benefit formula  
14 described in subsection 301(2), whereby lower-paid workers receive a propor-  
15 tionately larger benefit than higher-paid workers.

16 (39) 'Spouse' means a person to whom the worker or the self- em-  
17 ployed worker is legally married.

18 (40) 'System' means the Federated States of Micronesia Social Security  
19 System.

20 (41) 'United States' means the United States of America.

21 (42) 'Worker' means an employee covered by this act pursuant to  
22 section 103."

23 Section 6. Title 53 of the Code of the Federated States of Micronesia is hereby  
24 further amended by adding a new section 201 to read as follows:

25 "Section 201. Board of Trustees.



1                   (1) There is hereby established an FSM Social Security Board of  
2                   Trustees.

3                   (2) The Board shall be comprised of five members nominated by the  
4                   President and confirmed by the Congress to operate the System. Nomina-  
5                   tions to the Board shall include at least one member from each State and one  
6                   member from the National Government, and shall provide representation  
7                   from both the public and private sectors. During the initial Board, one  
8                   member shall serve a term of 1 year, two members shall serve a term of 2  
9                   years, and two members shall serve a term of 3 years. Thereafter, all mem-  
10                  bers shall serve a term of 5 years. Any vacancies on the Board shall be  
11                  filled for the unexpired term only. Where a vacancy is for 1 year or less, it  
12                  shall be filled by appointment by the President. Otherwise, vacancies shall  
13                  be filled by nomination by the President and confirmation by the Congress.

14                  (3) The Board shall provide for its own organization and procedures.  
15                  Three members of the Board shall constitute a quorum for the transaction of  
16                  business. The concurrence of three members shall constitute official action  
17                  of the Board. The Board may adopt rules and regulations governing the  
18                  conduct of its affairs.

19                  (4) Members of the Board shall be reimbursed necessary travel ex-  
20                  penses when actually attending meetings of the Board. Members who are  
21                  not Government employees shall be compensated at the rate of \$30.00 per  
22                  day.

23                  (5) No member of the Board shall be individually liable for any deci-  
24                  sion made in the good faith, non-malicious fulfillment of his duties.

25                  (6) The Social Security Board created pursuant to Public Law No. 2-

74 shall, upon the effective date of this act, be considered the FSM Social Security Board of Trustees created pursuant to this section. Upon expiration of the term of office of each such Board member, he or she shall be reappointed or replaced by the procedures set forth in this section."

Section 7. Title 53 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 202 to read as follows:

"Section 202. General powers of the Administration. The Administration, through its Board of Trustees, shall exercise all the powers and privileges of a corporation, including, but not limited to the power:

(1) To adopt, alter, and use a seal;

(2) To transact all business, enter into contracts, invest all funds or retain one or more firms to invest or reinvest funds under the Board's supervision;

(3) Under its rules, regulations and conditions, to transfer or assign such funds as herein authorized, purchase annuities, and hold in trust for the purposes for which received, all cash, securities, and other properties of the System;

(4) To sue and be sued in the name of the Administration;

(5) To establish, maintain and operate the System for the people of the FSM;

(6) To establish its internal organization and management;

(7) To employ, retain or contract with individuals or organizations for their services as qualified managers and specialists;

(8) To adopt, amend, or rescind rules and regulations for this act in accordance with the Code of the Federated States of Micronesia;

1                   (9) To hold hearings or make decisions upon hearings delegated to  
2                   others for the purpose of determining any question involving any right,  
3                   benefit, or obligation of any worker;

4                   (10) To fix the compensation of such employees as it deems necessary  
5                   within the limits of available administrative funds budgeted for its opera-  
6                   tion;

7                   (11) To bond itself and its employees in such amounts as it shall fix;

8                   (12) To provide for the installation of a system of accounts and  
9                   records which will give full effect to the requirements of this act; to adopt  
10                  all necessary actuarial tables to be used in the operation of the System; and  
11                  to provide for the compilation of statistical and financial data as required for  
12                  the actuarial valuations, periodic surveys and calculations;

13                  (13) To obtain information from the participating employers, includ-  
14                  ing self-employed workers, and workers as necessary for the proper opera-  
15                  tion of the System;

16                  (14) To authorize expenditures in accordance with the provisions of  
17                  this act;

18                  (15) To accept any gift, grant, or bequest of any money or property of  
19                  any kind for the purposes designated by the grantor, if the purposes are  
20                  specified as providing cash benefits to some or all of the members or annu-  
21                  itants of the System; if no such purposes are designated, the money or  
22                  property is to be designated as income from investments;

23                  (16) To have the accounts of the System audited as of the end of each  
24                  fiscal year, and to submit an annual report to the President and the Congress  
25                  of the FSM as soon as possible following the close of the year, embodying,

among other things, a balance sheet showing the financial and actuarial condition of the System; a statement of income and expenditures for the year; a statement showing changes in the assets, liabilities, and reserves during the year; a statement of investments owned by the System; and other financial and statistical data as necessary for a proper interpretation of the condition of the System and the results of its operation;

(17) To contract an attorney, when the Board deems it necessary, under such arrangement as the Board may establish, to advise the Board and the Administrator;

(18) To make recommendations to the President and the Congress of the FSM for amendments to this act as deemed necessary or desirable;

(19) To maintain a bank overdraft for the normal operation of the System; and

(20) To do any and all other things necessary to the full and convenient exercise of all the powers and duties stated in this section."

Section 8. Title 53 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 203 to read as follows:

"Section 203. Administrator - Powers and duties. The Board shall appoint an Administrator who has the responsibility for the general administration of the System. The Administrator serves at the pleasure of the Board, which shall fix his compensation. The Administrator has full charge and control of the management, operation and maintenance of the System, and has the following powers and duties:

(1) To see that all rules and regulations of the System are enforced;

(2) To attend, unless excused by the Board, all meetings of the Board

1 and submit reports on the affairs of the System as required by the Board:

2 (3) To keep the Board advised on the needs of the System and approve  
3 demands for payment of obligations within the purposes and amounts autho-  
4 rized by the Board;

5 (4) To keep all books, records, files and accounts of the System and  
6 receive and act on all applications for benefits;

7 (5) To maintain records of all employers, self-employed workers,  
8 workers, and all contributors to the Fund;

9 (6) To prepare periodic reports relative to the operations of the System  
10 and an annual report as of the close of each fiscal year reflecting the results  
11 of the financial operations of the System and embodying all important  
12 financial and statistical data pertinent to its operation; and

13 (7) To employ administrative, clerical, medical, or other personnel  
14 necessary for the proper administration of the System, and engage actuarial  
15 or other professional services to assist in preparation of the annual reports, to  
16 advise in matters of policy and to make periodic actuarial surveys."

17 Section 9. Title 53 of the Code of the Federated States of Micronesia is hereby  
18 further amended by adding a new section 204 to read as follows:

19 "Section 204. Audit of Records; Power to subpoena; Administration of  
20 oath.

21 (1) The Administrator shall have the power to audit employer records,  
22 issue subpoenas and administer oaths appropriate to the administration of  
23 this act.

24 (2) The Administrator shall have access to all books, accounts and the  
25 records of all employers or self-employed workers for the purpose of ascer-

1 taining liability to pay contributions under this act.

2 (3) Any person who purposely and substantially obstructs or impairs  
3 the powers of the Administrator pursuant to this section is guilty of an of-  
4 fense and upon conviction thereof shall be imprisoned for a period of not  
5 more than 1 year, or fined not more than \$5,000, or both."

6 Section 10. Title 53 of the Code of the Federated States of Micronesia is hereby  
7 further amended by adding a new section 205 to read as follows:

8 "Section 205. Actuary and actuarial valuations.

9 (1) The Board shall employ or contract with an actuary or an actuarial  
10 firm to conduct an actuarial valuation of the System not less frequently than  
11 once every 3 years after the commencement of the System. The actuarial  
12 valuation shall contain recommendations for changes, if any, in the System  
13 deemed necessary or desirable.

14 (2) The Board shall employ or contract with an actuary or an actuarial  
15 firm to analyze the impact of any proposed amendment to the System which  
16 has financial implications.

17 (3) The costs of services under this section shall be paid out of the  
18 Fund."

19 Section 11. Title 53 of the Code of the Federated States of Micronesia is hereby  
20 further amended by adding a new section 206 to read as follows:

21 "Section 206. The Auditor.

22 (1) The Board shall engage an independent auditor, on such terms and  
23 conditions as the Board may deem fit.

24 (2) The Auditor shall audit the accounts of the Fund within 90 days  
25 after the end of each fiscal year.

1                   (3) The Board shall, as soon as practical, submit the accounts and the  
2                   Auditor's report to the President and Congress of the FSM. The accounts  
3                   and report shall be made available to the public for inspection.

4                   (4) The costs of services under this section shall be paid out of the  
5                   Fund."

6           Section 12. Title 53 of the Code of the Federated States of Micronesia is hereby  
7 further amended by adding a new section 207 to read as follows:

8                   "Section 207. Hearings and claims appeals.

9                   (1) The Administrator shall cause to be served on any affected benefi-  
10                  ciary of record or affected prospective beneficiary of record a notice of any  
11                  denial of initial or continuing benefits or reduction of benefits together  
12                  with a concise statement of the reasons for such denial or reduction. The  
13                  beneficiary or prospective beneficiary shall have 15 calendar days follow-  
14                  ing service of the notice in which to reply to the notice following which the  
15                  Administrator or his staff shall make a final decision after reviewing the  
16                  reply of the beneficiary or prospective beneficiary.

17                  (2) Any person aggrieved by Administration action shall be entitled to  
18                  hearing and appeal rights pursuant to the FSM Administrative Procedure  
19                  act set forth in title 17 of the FSM Code as it currently provides or may  
20                  hereinafter be amended. The Board shall appoint a panel of three persons  
21                  to serve as a hearing board in lieu of a hearing before the highest adminis-  
22                  trative official as provided in section 108(1) of title 17 of the Code of the  
23                  Federated States of Micronesia. Hearings and appeals shall be brought in  
24                  the name of the Board. In the event a member of the hearing board is  
25                  unable to participate in a particular hearing for any reason, the Administra-

1 tor shall appoint a substitute.”

2 Section 13. Title 53 of the Code of the Federated States of Micronesia is hereby  
3 further amended by adding a new section 208 to read as follows:

4 “Section 208. Service of process on the Board. Any process or other  
5 notice to be served upon the Board or the Administrator may be served upon  
6 the Administrator.”

7 Section 14. Title 53 of the Code of the Federated States of Micronesia is hereby  
8 further amended by adding a new section 209 to read as follows:

9 “Section 209. Accounts; Budgets; Cost of administration.

10 (1) At such time as the Board shall prescribe, the Administrator shall  
11 submit to the Board a detailed estimate of the budget for the next fiscal year  
12 for the operation of the System. The estimate shall include:

13 (a) The audited accounts of the System for the last completed  
14 fiscal year, including the statement of income and expenditures for the fiscal  
15 year and the statement of assets as of the end of the fiscal year;

16 (b) A statement showing the estimated income and expenditures  
17 for the fiscal year in progress, together with such summaries, schedules, and  
18 supporting data as may be deemed necessary;

19 (c) A statement showing the estimated balance of the assets as  
20 of the end of the fiscal year in progress; and

21 (d) A budget showing the estimated income and expenditures  
22 for the next ensuing fiscal year.

23 (2) Estimated expenditures for the next ensuing fiscal year shall in-  
24 clude the estimated costs of administration, which shall include salaries and  
25 wages, purchase of office supplies, operational expenses, and the mainte-



1 nance of branch offices, but shall not include capital expenditures or the  
2 costs of the actuary, auditor, investment advisors, investment consultants, or  
3 the custodians. The estimated costs of administration shall not exceed  
4 eleven percent of the estimated income for that year from contributions plus  
5 interest and dividend income on investments less investment expenses.

6 (3) The audited accounts and the budget for the ensuing fiscal year  
7 shall be approved by the Board and submitted to the President and the  
8 Congress of the FSM. Should the estimated costs of administration exceed  
9 the expenditure maximum, legislative approval of the budgeted administra-  
10 tion expenses is required."

11 Section 15. Title 53 of the Code of the Federated States of Micronesia is hereby  
12 further amended by adding a new section 301 to read as follows:

13 "Section 301. The Basic benefit formula. The 'basic benefit' means a  
14 monthly payment of one-twelfth of the sum of the pension element and the  
15 social element as follows:

16 (1) Pension element equal to two percent of indexed covered earnings,  
17 plus

18 (2) Social element equal to fourteen and two-tenths percent of the  
19 first \$10,000 of cumulative covered earnings, plus seven-tenths percent of  
20 cumulative covered earnings in excess of \$10,000 but not in excess of  
21 \$40,000. The \$10,000 and \$40,000 bendpoints may be increased by ad-hoc  
22 wage index adjustments granted by the Board pursuant to section 306."

23 Section 16. Title 53 of the Code of the Federated States of Micronesia is hereby  
24 further amended by adding a new section 302 to read as follows:

25 "Section 302. Old age insurance benefits.

1                   (1) Entitlement to old age insurance benefits.

2                   (a) Early retirement. A service insured worker or self-employed  
3                   worker, after his attainment of 55 years of age but prior to his attainment of  
4                   normal retirement age, and after filing an application, shall be entitled to an  
5                   early retirement, old age insurance benefit payable every month beginning  
6                   with the month those conditions were satisfied and ending with the month  
7                   preceding the month of death, subject to the earnings test.

8                   (b) Normal retirement. A fully insured worker or self-employed  
9                   worker, upon his attainment of normal retirement age, and after filing an  
10                   application, shall be entitled to a normal retirement, old age insurance ben-  
11                   efit payable every month beginning with the month of his attainment of  
12                   normal retirement age and ending with the month preceding the month of  
13                   death, subject to the earnings test.

14                   (c) Deferred retirement. A fully insured worker or self-em-  
15                   ployed worker, after his attainment of normal retirement age, and after filing  
16                   an application, shall be entitled to a deferred retirement, old age insurance  
17                   benefit, payable every month beginning with the month those conditions  
18                   were satisfied and ending with the month preceding the month of death,  
19                   subject to the earnings test.

20                   (2) Amount of old age insurance benefits.

21                   (a) Early retirement. The monthly amount of the early retire-  
22                   ment, old age insurance benefit shall be the basic benefit reduced by one-half  
23                   of one percent for each complete month that the date of early retirement  
24                   precedes the date the worker or the self-employed worker would have been  
25                   entitled to a normal retirement, old age insurance benefit; PROVIDED that

1 the monthly amount shall not be less than the minimum benefit.

2 (b) Normal retirement. The monthly amount of the normal  
3 retirement, old age insurance benefit shall be the basic benefit; PROVIDED  
4 that the monthly amount shall not be less than the minimum benefit.

5 (c) Deferred retirement. The monthly amount of the deferred  
6 retirement, old age insurance benefit shall be the basic benefit increased by  
7 one-half of one percent for each complete month that the date of deferred  
8 retirement follows the date the worker or the self-employed worker was  
9 entitled to a normal retirement, old age insurance benefit; PROVIDED that  
10 the monthly amount shall not be less than the minimum benefit."

11 Section 17. Title 53 of the Code of the Federated States of Micronesia is hereby  
12 further amended by adding a new section 303 to read as follows:

13 "Section 303. Disability insurance benefits.

14 (1) Entitlement to disability insurance benefits. A worker or a self-  
15 employed worker who is currently and fully insured and becomes disabled,  
16 and after filing an application, shall be entitled to receive a monthly disabili-  
17 ty insurance benefit beginning with the first month of such disability, and  
18 ending with the month preceding the month of his recovery or his death,  
19 whichever first occurs, subject to the earnings test.

20 (2) Amount of disability insurance benefits. The monthly amount of  
21 the disability insurance benefit shall be the basic benefit; PROVIDED that  
22 the monthly amount shall not be less than the minimum benefit; and PRO-  
23 VIDED FURTHER that if the disabled worker or self-employed worker is  
24 receiving a periodic workmen's compensation benefit, the disability insur-  
25 ance benefit shall be reduced, in any month, by the amount of the total of

the workmen's compensation benefit for that month plus the basic benefit over eighty percent of one-twelfth of the highest annual remuneration on which taxes were paid in the period consisting of the year in which the disability occurred and the preceding 5 years.

(3) Disability administrative provisions.

(a) If a worker's compensation benefit is paid as a lump sum rather than as periodic payments, the worker's compensation benefit shall be considered to have been paid as actuarially equivalent periodic payments for the purposes of subsection (2).

(b) The Administrator may, at any time, require a beneficiary who is receiving a disability insurance benefit under this act to provide evidence necessary to confirm his entitlement to that benefit.

(c) Unless otherwise waived by the Administrator, at least once in every 3-year period the Administrator shall require the beneficiary to undergo a medical examination by a physician or physicians selected by the Administrator. If the examination indicates that the beneficiary is no longer disabled as defined in this act, payment of the disability insurance benefit shall be discontinued.

(d) For purposes of this section, recovery from disability shall mean the beneficiary may once again engage in substantial gainful employment.

(e) If the beneficiary refuses to submit to a medical examination or provide other evidence as required by the Administrator, the disability insurance benefit shall be discontinued. If the refusal continues for 2 years, all rights to the disability insurance benefit may be revoked.

1                    (f) In the case of a beneficiary who is below the age of eighteen  
2                    years, a requirement under subsection (3)(b) may be addressed to a parent or  
3                    guardian of the said minor.

4                    (g) Absent evidence of fraud or other wrong doing, a disability  
5                    insurance benefit shall not be discontinued retroactively.”

6                    Section 18. Title 53 of the Code of the Federated States of Micronesia is hereby  
7 further amended by adding a new section 304 to read as follows:

8                    “Section 304. Survivor’s insurance benefits.

9                    (1) Entitlement to survivor’s insurance benefits.

10                    (a) Surviving spouse’s benefit. The surviving spouse of a  
11                    worker or a self-employed worker who is fully insured or currently insured  
12                    and dies, and after filing an application, shall be entitled to a surviving  
13                    spouse’s benefit payable every month beginning with the month of death of  
14                    the deceased worker or self-employed worker and ending with the month  
15                    preceding the month of death or re-marriage of the surviving spouse, which-  
16                    ever first occurs, subject to the earnings test.

17                    (b) Surviving child’s benefit. Every surviving child of a  
18                    worker or a self-employed worker who is fully or currently insured and dies,  
19                    and after filing an application, shall be entitled to a monthly surviving  
20                    child’s benefit beginning with the month of the death of the worker or the  
21                    self-employed worker and ending with the month preceding the month of  
22                    the child attaining 18 years of age, the child’s marriage, or the child’s legal  
23                    adoption by another parent, subject to the earnings test. Notwithstanding  
24                    the foregoing, the child shall be entitled to the benefit under this section  
25                    until he attains the age of 22 years if he is a bona fide student, or, if he is

disabled before the age of 22 years, the benefit shall be payable during the period of such disability up to the month preceding the month of recovery or death, whichever first occurs.

(2) Amount of survivor's insurance benefits.

(a) Surviving spouse's benefit. The monthly amount of benefit the surviving spouse is entitled to receive shall be fifty-five percent of the basic benefit the deceased worker or self-employed worker was entitled to receive at the time of his death.

(b) Surviving child's benefit. The monthly amount of benefit a surviving child is entitled to receive shall be fifteen percent of the amount of the basic benefit the deceased worker or self-employed worker was entitled to receive at the time of his death. The benefit so determined shall be paid to the surviving parent or guardian of the child pursuant to regulations to be promulgated by the Board.

(3) Limitation on survivor's insurance benefit. In no event shall the total survivor's insurance benefit paid to the surviving spouse and surviving children exceed the old age insurance benefit or disability insurance benefit determined for the decedent at the date of death, nor shall it be less than the minimum benefit, subject to the earnings test. In the event the total survivor's benefit does exceed the determined old age or disability benefit, the benefit of each eligible survivor shall be reduced proportionally in order to remain within the maximum limit established by this subsection."

Section 19. Title 53 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 305 to read as follows:

"Section 305. Lump sum benefit.

1           (1) If after a worker or a self-employed worker dies and all rights to  
2           survivor's insurance benefits have ceased, a lump sum benefit equal to four  
3           percent of cumulative covered earnings, less the amount of the benefits  
4           actually received by the worker or the self-employed worker, or his survi-  
5           vors, if any, shall be paid.

6           (2) The lump sum benefit shall be paid to the surviving spouse of the  
7           worker or self-employed worker, or in the absence of a surviving spouse, to  
8           the guardian of the surviving children pursuant to regulations to be promul-  
9           gated by the Board.

10           (3) If there is no surviving spouse or surviving children, no lump sum  
11           benefit shall be paid."

12           Section 20. Title 53 of the Code of the Federated States of Micronesia is hereby  
13 further amended by adding a new section 306 to read as follows:

14           "Section 306. Cost of living and wage index adjustments.

15           (1) Once every 2 years after the effective date of this act, the Board  
16           shall review changes in the consumer price index and, based on the Board's  
17           informed opinion, may grant a cost of living adjustment for the System,  
18           PROVIDED that in no event shall the cost of living adjustment so granted  
19           exceed the increase in the consumer price index over the previous 2-year  
20           period. The cost of living adjustment so granted shall be used to increase the  
21           indexed covered earnings and the minimum benefit for all workers in the  
22           System.

23           (2) On a periodic basis to be determined by the Board, the Board shall  
24           review the changes in the government wage index and, based on the Board's  
25           informed opinion, may grant a wage index adjustment for the System, PRO-

1 VIDED that in no event shall the wage index adjustment so granted exceed  
2 the increase in the government wage index since the later of the effective  
3 date of this act or the date the previous wage index adjustment was granted.  
4 The wage index adjustment shall be used to increase either the basic benefit  
5 formula bendpoints or the maximum taxable earnings base, or both, as deter-  
6 mined by the Board."

7 Section 21. Title 53 of the Code of the Federated States of Micronesia is hereby  
8 further amended by adding a new section 307 to read as follows:

9 "Section 307. Payment to non-citizens overseas. Unless modified by a  
10 totalization or bilateral agreement, no more than 6 months of benefit pay-  
11 ments under this act shall be paid to any beneficiary who is not a citizen or  
12 national of the FSM while the beneficiary has been outside of the FSM:  
13 PROVIDED, however, payments shall be made to citizens and nationals of  
14 the Republic of the Marshall Islands, the Republic of Palau, and the United  
15 States as if they were citizens or nationals of the FSM, if the Republic of the  
16 Marshall Islands, the Republic of Palau, and the United States, respectively,  
17 extend reciprocal benefits to citizens of the FSM."

18 Section 22. Title 53 of the Code of the Federated States of Micronesia is hereby  
19 further amended by adding a new section 308 to read as follows:

20 "Section 308. Benefit limitations.

21 (1) Notwithstanding any other provision of this act, in the event that a  
22 worker or a self-employed worker, or his survivors are eligible for disability  
23 or survivor's insurance benefits from the System but do not apply for those  
24 benefits or otherwise inform the Administrator that they are eligible for those  
25 benefits, the maximum period for which such benefits shall be paid retroac-



tively preceding the date of application for those benefits shall be 12 months.

In no event shall old age insurance benefits be paid retroactively prior to the date of application for those benefits.

(2) If a surviving spouse is eligible for an old age insurance benefit from her own employment coverage, her surviving spouse's benefit shall be reduced by the amount of her old age insurance benefit.

(3) Notwithstanding any other provisions of this act, in no event shall this act reduce or otherwise impair the benefits a beneficiary is receiving on the day before the effective date of this act."

Section 23. Title 53 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 401 to read as follows:

"Section 401. Worker and self-employed worker tax.

(1) A worker or a self-employed worker shall pay to the Fund an amount equal to the following percentages of such worker's or self-employed worker's covered earnings:

(a) From the effective date of this act up to and including June 30, 1995 - five percent;

(b) From July 1, 1995 and thereafter - six percent.

(2) The worker's or self-employed worker's payments to the Fund shall be collected by the employer of the worker, by deducting the amount of the payments due from the worker's or self-employer worker's earnings, and the employer shall remit the same to the Fund along with the employer's payments.

(3) Every employer who is required to deduct the worker's payments is liable for their payment to the System, and shall be indemnified by the

1 Fund against any claim or demand by any worker for the amount of such  
2 payment.

3 (4) Every worker or self-employed worker whose gross earnings  
4 exceed the maximum taxable earnings base for the calendar year is entitled  
5 to a refund of the taxes paid on those earnings in excess of the maximum  
6 taxable earnings base, PROVIDED that the refund so determined is at least  
7 \$10.00."

8 Section 24. Title 53 of the Code of the Federated States of Micronesia is hereby  
9 further amended by adding a new section 402 to read as follows:

10 "Section 402. Employer tax.

11 (1) Every employer or self-employed worker shall pay to the Fund,  
12 out of his own funds, an amount equal to the following percentages of his  
13 worker's covered earnings:

14 (a) From the effective date of this act up to June 30, 1995 - five  
15 percent:

16 (b) From July 1, 1995 and thereafter - six percent.

17 (2) No refund shall be made to any employer or self-employed  
18 worker for taxes paid on account of earnings paid to the worker, other than  
19 to correct an error.

20 (3) For purposes of this act, a self-employed worker shall be consid-  
21 ered his own employer."

22 Section 25. Title 53 of the Code of the Federated States of Micronesia is hereby  
23 further amended by adding a new section 403 to read as follows:

24 "Section 403. Reports and payment of taxes.

25 (1) Every employer and self-employed worker, other than a self-

1 employed worker who has no workers other than himself, shall submit to  
2 the Administrator a report each quarter and pay taxes due from him as an  
3 employer, and the taxes withheld by him from his workers, no later than the  
4 thirtieth day of the month, subsequent to the end of each quarter.

5 (2) A self-employed worker who has no workers other than himself  
6 shall annually submit quarterly reports and pay to the Fund for himself both  
7 worker and employer taxes pursuant to sections 401 and 402 no later than  
8 January 30th of the subsequent year."

9 Section 26. Title 53 of the Code of the Federated States of Micronesia is hereby  
10 further amended by adding a new section 501 to read as follows:

11 "Section 501. Establishment of Fund. There shall be established a Feder-  
12 ated States of Micronesia Social Security Retirement Fund, hereinafter  
13 referred to as the 'Fund,' separate and apart from all public monies or funds  
14 of the Federated States of Micronesia, which shall be administered by the  
15 Social Security Administration exclusively for the purposes of this act."

16 Section 27. Title 53 of the Code of the Federated States of Micronesia is hereby  
17 further amended by adding a new section 502 to read as follows:

18 "Section 502. Investments.

19 (1) Investment of Fund.

20 (a) The Social Security Retirement Fund shall consist of funds  
21 or assets transferred from the Trust Territory Social Security Retirement  
22 Fund, worker's payments, employer's payments, penalties and interest  
23 collected, gifts, donations, and fund transfers authorized by law, plus inter-  
24 est, dividends and other earnings from the investments of the Fund, less  
25 benefit payments and expenses incurred in the operation of the System.

1                   **(b) The reserves of the Fund in excess of the requirements for**  
2                   **the current operations shall be invested and reinvested by or under the**  
3                   **authority of the Board. The Board shall invest its reserves to ensure the**  
4                   **greatest return commensurate with sound financial policies.**

5                   **(c) The Board shall have the full power to manage the invest-**  
6                   **ments as in its considered judgment seems most appropriate to the require-**  
7                   **ments and objectives of the System, including but not limited to the power**  
8                   **to hold, sell, purchase, convey, assign, transfer, dispose of, lease, subdivide,**  
9                   **or partition any asset held or proceeds thereof; to execute or cause to be**  
10                  **executed relevant documents; to enter into protective agreements, execute**  
11                  **proxies, or grant consent; and to do all other things necessary or appropriate**  
12                  **to its position as an owner or creditor.**

13                  **(d) All proceeds and income from investments, of whatever**  
14                  **nature, shall be credited to the account of the Fund. Transactions in market-**  
15                  **able securities shall be carried out at the prevailing market prices.**

16                  **(e) The Board may commingle securities and monies, subject to**  
17                  **the crediting of receipts and earnings and charging of payments to the appro-**  
18                  **priate accounts established by this act.**

19                  **(f) No member of the Board and no employee of the Board, nor**  
20                  **anyone in the immediate family of such member or employee, shall have**  
21                  **any direct or indirect interest in the income, gains or profits of any invest-**  
22                  **ments made by the Board, nor shall any such person receive any pay emolu-**  
23                  **ment for services in connection with any investment made by the Board.**  
24                  **Participation in the Fund under the terms of this act shall not be construed to**  
25                  **include interest, pay or emolument within the meaning of this subsection.**

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

(h) Investments may be held as physical securities in either bearer form, or registered in the name of the Fund or the nominee of the custodian. Non-physical securities may be held on book entry at a Depository Institution selected by the custodian, or one of the twelve U.S. Federal Reserve Banks.

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

(2) Fund custodian.

(a) The Board shall engage one or more fund custodians to assume responsibility for the physical possession of the Fund assets or evidences of assets. The custodian shall submit such reports, accountings and other information in such form and at such time as requested by the Board. The custodian shall hold all assets for the account of the Fund, and shall act only upon the instructions of the Board, Administrator, or a member, committee or other agent so authorized by the Board.

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

(i) Is a United States Bank or Trust Company regulated by the Federal Reserve Board, a state authority or the federal comptroller of the currency as is appropriate;

(ii) Has a net worth in excess of \$10,000,000;

1                    (iii) Has the capability to clear securities transactions  
2                    through the Depository Trust Company I.D. System;

3                    (iv) Has at least 10 years experience as a custodian of  
4                    financial assets; and

5                    (v) Has at least \$1,000,000,000 in custodial assets.

6                    (c) The contract between the Board and the Fund custodian  
7                    shall be of no specific duration and is voidable at any time by either party  
8                    after 30 days notice is given.

9                    (d) The costs of services under this subsection shall be paid out  
10                   of the Fund.

11                   (3) The Investment advisor or manager.

12                   (a) The Board may engage one or more investment advisors or  
13                   managers to assume the responsibility and direction for the purchase and  
14                   sale decisions of all assets or evidences of assets charged to them.

15                   (b) No person, firm or corporation shall be engaged as invest-  
16                   ment advisor or manager unless:

17                   (i) The person, firm or corporation is a registered invest-  
18                   ment advisor or manager with the U.S. Securities and Exchange Commis-  
19                   sion in accordance with the Investment Advisors act of 1940; and

20                   (ii) The principal business of the person, firm or corpora-  
21                   tion is of rendering investment management supervisory services; and

22                   (iii) The person, firm or corporation has been in business  
23                   for a minimum of 10 full years as an active advisor or manager of security  
24                   portfolios; and

25                   (iv) The person, firm or corporation certifies in writing

1 that the assets under its direct investment supervision are in excess of  
2 \$250,000,000.

3 (c) The Board or the Administrator may, from time to time,  
4 change the operation arrangements with the investment advisors or manag-  
5 ers in order to facilitate efficient management and timely investment ac-  
6 tions.

7 (d) The contract between the Board and the investment advi-  
8 sors or managers shall be of no specific duration and is voidable at any time  
9 by either party after 30 days notice is given.

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

12 (4) The Investment Consultant.

13 (a) The Board may engage one or more investment consultants  
14 to provide ongoing assistance to the Board in:

15 (i) The screening, selection, supervision, retention and  
16 termination of the investment advisors or managers, the maintenance and  
17 updating of the dynamic investment policy, asset allocation decisions, and  
18 any other matters involving the investment of the assets which the Board  
19 may desire;

20 (ii) Providing quarterly reports of the performance of the  
21 investment advisors or managers which must provide time-weighted rates of  
22 return for a minimum of 5 years in each asset category;

23 (iii) Providing comparisons of the Fund's performance  
24 with that of the markets as well as comparisons with other investment advi-  
25 sors or managers managing similar types of assets; and

1                    (iv) Providing at least one report annually in person.

2                    (b) No investment shall be made unless in the opinion of the  
3                    investment consultant it is an appropriate investment for the Fund and is an  
4                    authorized investment under the provisions of this act or unless preceded by  
5                    a resolution of the Board directing such investment.

6                    (c) The Board or the Administrator may from time to time  
7                    change the operation arrangements with the investment consultant or con-  
8                    sultants in order to facilitate efficient management and timely investment  
9                    actions.

10                   (d) The contract between the Board and the Investment Con-  
11                   sultant or Consultants shall be of no specific duration and is voidable at any  
12                   time by either party after 30 days notice is given.

13                   (e) All costs incurred for the services provided under this sub-  
14                   section shall be paid out of the Fund.

15                   (5) Authorized Investments.

16                   Investments may be made in:

17                   (a) Government obligations. Obligations issued or guaranteed  
18                   as to principal and interest by the National Government and/or the State  
19                   governments of the Federated States of Micronesia or by the Government of  
20                   the United States. PROVIDED that the total market value of the investment  
21                   in obligations guaranteed by the National Government and/or the State  
22                   governments of the Federated States of Micronesia shall at no time exceed  
23                   twenty -five percent of the total market value of all investments of the Sys-  
24                   tem, and PROVIDED FURTHER that the principal and interest on each  
25                   obligation are payable in the currency of the United States.



(b) Corporate obligations and mortgage backed securities.

Obligations of any public or private entity or corporation created or existing under the laws of the Federated States of Micronesia or of the United States or any state, territory or commonwealth thereof, or obligations of any other government or economic community which are payable in United States dollars, or pass-through and other mortgage backed securities PROVIDED that:

(i) The obligation is of an agency of the United States Government, or

(ii) The obligation is rated in one of the four highest categories by two nationally recognized rating agencies; and

(iii) No investment under this heading exceeds ten percent of the market value of the Fund or ten percent of the outstanding value of the issue at the time of purchase.

(c) Preferred and common stocks. Shares of preferred or common stocks of any corporation created or existing under the laws of the Federated States of Micronesia or under the laws of the United States or any state, territory or commonwealth thereof, PROVIDED that:

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

(ii) Not more than ten percent of the market value of the Fund shall be invested in the stock of any one corporation; and that

(iii) Not more than twenty-five percent of the market value of the Fund shall be invested in any one industry group.

(d) Insurance company obligations. Contracts and agreements

1 supplemental thereto providing for participation in one or more accounts of  
2 a life insurance company authorized to do business in the Federated States  
3 of Micronesia or in any state, territory or commonwealth of the United  
4 States, including its separate accounts, and whether the investments allo-  
5 cated thereto are comprised of stocks or other securities or of real or per-  
6 sonal property or interest therein.

7 (e) Interest in real property. Interests in improved or produc-  
8 tive real property in which, in the informed opinion of the Board, it is pru-  
9 dent to invest funds of the System; PROVIDED that the total market value  
10 of these investments at no time shall exceed twenty five percent of the total  
11 market value of all investments of the System. Authorized investment  
12 under this subsection shall include the purchase or construction of office  
13 space or buildings for the System's own use. For the purpose of this sub-  
14 section, 'real property' includes any property treated as real property by law,  
15 including any improvements thereto. The investments in improved or  
16 productive real property may be made directly or through pooled funds,  
17 including common or collective trust funds of banks or trusts, or other  
18 pooled funds invested on behalf of the System by the investment advisors or  
19 managers retained by the System.

20 (f) Other obligations and securities. Other obligations and  
21 securities in which, in the informed opinion of the Board, it is prudent to  
22 invest funds of the System, whether or not the securities or stocks are ex-  
23 pressly authorized by or qualified under the foregoing paragraphs; PRO-  
24 VIDED that the total market value of the investments under this subsection  
25 shall at no time exceed ten percent of the total market value of all the in-

1 vestments of the System.”

2 Section 28. Title 53 of the Code of the Federated States of Micronesia is hereby  
3 further amended by adding a new section 601 to read as follows:

4 “Section 601. Social security cards and numbers. The Administrator shall  
5 issue each employer with an employer account number and each worker or  
6 self-employed worker with a social security number. The Administrator  
7 shall provide whatever forms are needed for employers, workers, and self-  
8 employed workers to comply with the provisions of this act, and shall pro-  
9 vide each worker or self-employed worker with a social security card bear-  
10 ing his social security number.”

11 Section 29. Title 53 of the Code of the Federated States of Micronesia is hereby  
12 further amended by adding a new section 602 to read as follows:

13 “Section 602. Susceptibility of benefits, tax payments, and funds to legal  
14 process or assignment.

15 (1) The benefits, the worker and self-employed worker taxes, the  
16 employer taxes, and the securities of the System in the Fund shall not be  
17 subject to execution, attachment, or garnishment and shall not be assignable  
18 except as specifically PROVIDED in this act.

19 (2) A beneficiary may assign his benefits to the System in order to  
20 repay any debt or obligation owed to the System in a manner prescribed by  
21 the Administrator.”

22 Section 30. Title 53 of the Code of the Federated States of Micronesia is hereby  
23 further amended by adding a new section 603 to read as follows:

24 “Section 603. Violations; Penalties and interest; Attorney’s fees and costs.

25 (1) Any person who willfully makes any false statement or who

falsifies any report to or record of the System in an attempt to defraud the System is guilty of an offense and upon conviction thereof shall be imprisoned for a period of not more than 1 year, or fined not more than \$2,000, or both.

(2) Any person who willfully fails to report earnings or pay taxes required thereon is guilty of an offense and, in addition to any other penalty prescribed by law, such a person shall also pay penalties not in excess of one hundred percent of the tax due plus interest to the Board as it by regulation shall require.

(3) Any covered employer who fails to submit the quarterly report and pay the social security tax within 30 days after the end of the quarter shall be considered delinquent. The Board or its authorized representatives shall be vested with the authority to levy a penalty of not more than \$1,000 on a delinquent employer.

(4) If any tax or penalty imposed by this act is not paid on or before the date prescribed for such payment, there shall be collected, in addition to such tax and penalty, interest on the unpaid balance of the tax principal at the rate of twelve percent per annum from its due date until the date it is paid. In the event that any tax, interest, or penalty due under this act is referred to an attorney for collection, whether or not suit is brought for the collection thereof, the taxpayer shall additionally be liable for reasonable attorney's fees and costs of collection, including Court costs."

Section 31. Title 53 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 604 to read as follows:

"Section 604. Lien for taxes. All taxes, including penalties and interest

1        accrued thereon, imposed or authorized under this act shall be a lien upon  
2        the property of the employer, having priority over all other claims and liens  
3        including liens for other taxes, and may be collected by levy upon such  
4        property in the same manner as the levy of an execution.”

5        Section 32. Title 53 of the Code of the Federated States of Micronesia is hereby  
6 further amended by adding a new section 605 to read as follows:

7        “Section 605. Reemployment after entitlement.

8                (1) In the event a beneficiary returns to covered employment, the  
9                benefit the beneficiary is subsequently entitled to shall be recomputed after  
10              the end of the calendar year to reflect those additional earnings. The benefi-  
11              ciary shall be paid the recomputed benefit commencing in the year after the  
12              calendar year in which the earnings occurred, subject to continued entitle-  
13              ment to those benefits.

14              (2) A beneficiary shall have the duty to immediately notify the Ad-  
15              ministrator of the acceptance of covered employment.”

16        Section 33. Title 53 of the Code of the Federated States of Micronesia is hereby  
17 further amended by adding a new section 606 to read as follows:

18        “Section 606. Overpayments and underpayments.

19              (1) Whenever an error has been made with respect to benefits paid to  
20              a beneficiary, proper adjustment shall be made by increasing or decreasing  
21              subsequent benefits to which such beneficiary is entitled, pursuant to regula-  
22              tions promulgated by the Board. If the beneficiary dies before the error is  
23              corrected in full, a similar adjustment shall be made by increasing or de-  
24              creasing any survivor benefits payable with respect to the beneficiary’s  
25              earnings.

1                   (2) No adjustment shall be made when the adjustment or recovery  
2                   would be against equity and good conscience.”

3           Section 34. Title 53 of the Code of the Federated States of Micronesia is hereby  
4 further amended by adding a new section 607 to read as follows:

5                   “Section 607. Benefit consolidation. A beneficiary shall not be entitled to  
6                   more than one benefit under this act at any one time. Beneficiaries shall  
7                   elect which benefit they are to receive, or, in the absence of an election, the  
8                   Administrator shall select the benefit with the greatest value for the benefi-  
9                   ciary. A beneficiary may apply for a change in benefit by filing a written  
10                  request with the Administrator.”

11          Section 35. Title 53 of the Code of the Federated States of Micronesia is hereby  
12 further amended by adding a new section 608 to read as follows:

13                  “Section 608. Taxation. The Fund, income, property and all other transac-  
14                  tions of the Board shall not be subject to any tax, rates, or charges imposed  
15                  under any law of the FSM, and are not assignable.”

16          Section 36. Title 53 of the Code of the Federated States of Micronesia is hereby  
17 further amended by adding a new section 609 to read as follows:

18                  “Section 609. Confidentiality. If a member of the Board or any employee  
19                  of the Board reveals any information about a worker, an employer, a self-  
20                  employed worker or a beneficiary under this act, that has come to his knowl-  
21                  edge by virtue of his employment, unless that information is revealed for the  
22                  purpose of the functions under this act, as required by an order of the Court,  
23                  or as authorized by the Board, that person is guilty of an offense and upon  
24                  conviction is liable for imprisonment for a period of not more than 12  
25                  months, or a fine of not more than \$2,000, or both.”

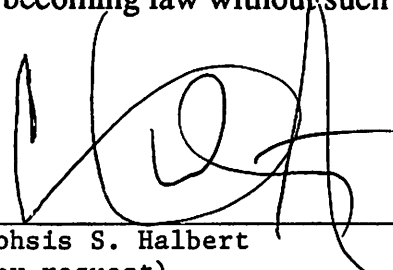
1 Section 37. Title 53 of the Code of the Federated States of Micronesia is hereby  
2 further amended by adding a new section 610 to read as follows:

3 "Section 610. Severability. If any provision of this act or application  
4 thereof to any person or circumstance is held invalid, the invalidity does not  
5 affect other provisions or applications of this act which can be given affect  
6 without the invalid provision or application, and to this end the provisions of  
7 this act are severable."

8 Section 38. This act shall become effective 6 months from approval by the Presi-  
9 dent of the Federated States of Micronesia or upon its becoming law without such ap-  
10 proval.

11  
12 Date: 10-25-90

Introduced by:

  
Dohsis S. Halbert  
(by request)