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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 chapter 5 of Public Law No. 2-74, codified as chapter 10 of title 53 of the Code of the Federated States of Micronesia, and by adding a new chapter 10 for the purpose of strictly defining fiduciary duties, responsibilities and qualifications under the Social Security Act, and expanding the scope of authorized investments that may be made by the Social Security Board with the assets of the Social Security Retirement Fund, and for other purposes.

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

1 Section 1. Repeal and Reenactment. Chapter 10 of title 53 of
2 the Code of the Federated States of Micronesia is hereby repealed in
3 its entirety and a new chapter 10 is hereby enacted to read as
4 follows:

5 "CHAPTER 10

6 RETIREMENT FUND

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

14 Section 1002. Investments.

15 (1) Investment of Fund.

16 (a) The Social Security Retirement Fund shall
17 consist of funds or assets transferred from the Trust
18 Territory Social Security Retirement Fund, employee's
19 contributions, employer's contributions, penalties and
20 interest collected, gifts, donations, and fund transfers
21 authorized by law, plus interest, dividends and other
22 earnings from the investments of the Fund, less benefit
23 payments and expenses incurred in the operation of the
24 Social Security System, hereinafter referred to as the
25 'System.'

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

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

17 (d) All proceeds and income from investments, of
18 whatever nature, shall be credited to the account of the
19 Fund. Transactions in marketable securities shall be
20 carried out at the prevailing market prices.

21 (e) The Board may commingle securities and
22 monies, subject to the crediting of receipts and earnings
23 and charging of payments to the appropriate accounts
24 established by this act.

25 (f) No member of the Board and no employee of

1 the Board, nor anyone in the immediate family of such
2 member or employee, shall have any direct or indirect
3 interest in the income, gains or profits of any investments
4 made by the Board, nor shall any such person receive any
5 pay emolument for services in connection with any
6 investment made by the Board. Participation in the Fund
7 under the terms of this act shall not be construed to
8 include interest, pay or emolument within the meaning of
9 this subsection.

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

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

23 (i) Due bills may be accepted from brokers
24 against payment for securities purchased, pending delivery
25 within a reasonable period of time of certificates

1 representing such investments.

2 (2) Fund custodian.

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

12 (b) No Fund custodian, other than a bank duly
13 chartered to transact business in the Federated States of
14 Micronesia, shall be engaged unless it:

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

19 (ii) Has a net worth in excess of
20 \$10,000,000;

21 (iii) Is a member of the Depository Trust
22 Company I.D. System;

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

25 (v) Has at least \$1,000,000,000 in

1 custodial assets.

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

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

7 (3) Investment consultant.

8 (a) The Board shall engage one or more
9 investment consultants to provide ongoing assistance to the
10 Board in:

11 (i) The supervision, retention and
12 termination of the investment advisors or managers, the
13 maintenance and updating of the dynamic investment policy,
14 asset allocation decisions, and any other matters involving
15 the investment of the assets which the Board may desire;

16 (ii) Providing quarterly reports of the
17 performance of the investment advisors or managers which
18 must provide time weighted rates of return for a minimum of
19 5 years in each asset category;

20 (iii) Providing comparisons of the Fund's
21 performance with that of the markets as well as comparisons
22 with other investment advisors or managers managing similar
23 types of assets; and

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

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

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

11 (d) The contract between the Board and the
12 investment consultant or consultants shall be of no
13 specific duration and is voidable at any time by either
14 party after 30 days notice is given.

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

17 (4) Investment advisor or manager.

18 (a) The Board shall engage one or more
19 investment advisors or managers to assume the
20 responsibility and direction for the purchase and sale
21 decisions of all assets or evidences of assets charged to
22 them.

23 (b) No person, firm or corporation shall be
24 engaged as investment advisor or manager unless:

25 (i) The person, firm or corporation is a

1 registered investment advisor or manager with the U.S.
2 Securities and Exchange Commission in accordance with the
3 Investment Advisors Act of 1940;

4 (ii) The principal business of the person,
5 firm or corporation is of rendering investment management
6 supervisor services;

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

10 (iv) The person, firm or corporation
11 certifies in writing that the assets under its direct
12 investment supervision are in excess of \$250,000,000.

13 (c) The Board or the Administrator may from time
14 to time change the operation arrangements with the
15 investment advisors or managers in order to facilitate
16 efficient management and timely investment actions.

17 (d) The contract between the Board and the
18 investment advisors or managers shall be of no specific
19 duration and is voidable at any time by either party after
20 30 days notice is given.

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

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

25 (a) Government obligations. Obligations issued

1 or guaranteed as to principal and interest by the National
2 Government and/or the State governments of the Federated
3 States of Micronesia or by the Government of the United
4 States, PROVIDED that the total market value of the
5 investment in obligations guaranteed by the National
6 Government and/or the State governments of the Federated
7 States of Micronesia shall at no time exceed twenty-five
8 percent of the total market value of all investments of the
9 System, and PROVIDED FURTHER that the principal and
10 interest on each obligation are payable in the currency of
11 the United States.

12 (b) Corporate obligations and mortgage backed
13 securities. Obligations of any public or private entity or
14 corporation created or existing under the laws of the
15 Federated States of Micronesia or of the United States or
16 any state, territory or commonwealth thereof, or
17 obligations of any other government or economic community
18 which are payable in United States dollars, or pass through
19 and other mortgage backed securities PROVIDED that;

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

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

25 (iii) No investment under this heading

1 exceeds ten percent of the market value of the Fund or ten
2 percent of the outstanding value of the issue at the time
3 of purchase.

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

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

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

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

18 (d) Insurance company obligations. Contracts
19 and agreements supplemental thereto providing for
20 participation in one or more accounts of a life insurance
21 company authorized to do business in the Federated States
22 of Micronesia or in any state, territory or commonwealth of
23 the United States, including its separate accounts, and
24 whether the investments allocated thereto are comprised of
25 stocks or other securities or of real personal property or

1 interest therein.

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

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

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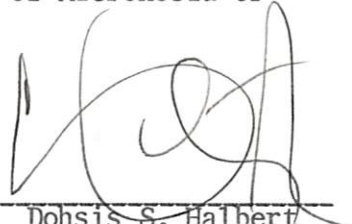
1 ten percent of the total market value of all the
2 investments of the System."

3 Section 2. Severability. If any provision of this act or
4 application thereof to any individual or circumstance is held
5 invalid, the invalidity does not effect other provisions or
6 applications of the act which can be given effect without the invalid
7 provision or application; and to this end the provisions of this act
8 are severable.

9 Section 3. Effective date. This act shall become law upon
10 approval by the President of the Federated States of Micronesia or
11 upon its becoming law without such approval.

12
13 Date: 06-08-89

Introduced by:


Dohsis S. Halbert
(by request)