A BILL FOR AN ACT

To further amend title 53 of the Code of the Federated States of Micronesia, as amended, by repealing chapter 10 (sections 1001 through 1002) in its entirety, and by enacting a new chapter 10 for the purpose of 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. Chapter 10 (sections 1001 through 1002) of title 53 of the Code of the Federated States of Micronesia is hereby repealed in its entirety.

2. Section 2. Title 53 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new chapter 10 to be entitled "Retirement Fund".

3. Section 3. Title 53 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new section 1001 to read as follows:

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

4. Section 4. Title 53 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new section 1002 to read as follows:

"Section 1002. Investments.

(1) Investment of Fund.

(a) The Social Security Retirement Fund shall consist of funds or assets transferred from the Territory Social Security Retirement Fund, employer's contributions, employer's contributions, penalties and
interest collected, gifts, donations, and Fund transfers authorized by law, plus interest, dividends and other earnings from the investments of the Fund, less benefit payments and expenses incurred in the operation of the Social Security System, hereinafter referred to as the 'System'.

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

(c) The Board shall have the full power to manage the investments as in its considered judgment seems most appropriate to the requirements and objectives of the system, including but not limited to, the power:

(i) to hold, sell, purchase, convey, assign, transfer, dispose of, lease, subdivide, or partition any asset held or proceeds thereof;

(ii) to execute or cause to be executed relevant documents;

(iii) to enter into protective agreements, execute proxies, or grant consent; and

(iv) to do all other things necessary or appropriate to its position as an owner or creditor.

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

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

f) No member of the Board and no employee of the Board, nor anyone in the immediate family of such member or employee, shall have any direct or indirect interest in the income, gains or profits of any investments made by the Board, nor shall any such person receive any pay or emolument for services in connection with any investment made by the Board. Participation in the Fund under the terms of this act shall not be construed to 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 while in the performance of his/her duties.

h) Investments may be held as physical securities
in either bearer form, or registered in the name of the
Fund or in the name of the nominee of the custodian.
Non-physical securities may be held on book entry at a
depository institution selected by the custodian, or at
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 Administrator as so
authorized by the Board.

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

(i) is a bank duly chartered to transact
business in the Federated States of Micronesia, or 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;

(iii) has the capacity to clear securities transactions through the Depository Trust Company I.D. System; and

(iv) has at least ten years experience as a custodian of financial assets.

(c) The contract between the Board and the Fund custodian shall be of no specific duration and is voidable at any time by either party after a thirty day notice has been given.

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

(3) Investment consultant.

(a) No person, firm or corporation shall be engaged as investment consultant unless:

(i) the person, firm or corporation is actively involved in the performance measurement investment consulting business, and its principals in aggregate either possess prerequisite degrees in finance, accounting or economics or have independent professional certifications;

(ii) the person, firm or corporation, or its principals in aggregate have a minimum of ten full years of experience providing investment consulting services; and
(iii) the person, firm or corporation certifies in writing that it provides investment consulting services to clients whose assets total at least $500,000,000.

(b) The Board shall engage an investment consultant to provide ongoing assistance to the Board in:

(i) the supervision, retention and termination of the investment advisors/managers; the maintenance and updating of the dynamic investment policy; asset allocation decisions, and any other matters involving the investment of the assets which the Board may desire;

(iii) providing quarterly reports of the performance of the investment advisors/managers which must provide time weighted rates of return for a minimum of five years in each asset category;

(iii) providing comparisons of the Fund's performance with that of the markets as well as comparisons with other investment advisors/managers managing similar types of assets; and

(iv) providing at least four reports annually, two to be delivered in person.

(c) The Administrator shall, at all times, maintain a dialogue with the investment consultant in order to facilitate efficient management.
(d) The contract between the Board and the investment consultant shall be of no specific duration and is voidable at any time by either party after a thirty day notice has been given.

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

(4) Investment advisor/manager.

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

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

(i) the person, firm or corporation is a registered investment advisor/manager with the U.S. Securities and Exchange Commission in accordance with the Investment Advisors Act of 1940;

(ii) the principal business of the person, firm or corporation is of rendering investment management supervisory services;

(iii) the person, firm or corporation has been in business for a minimum of ten full years as an active advisor/manager of security portfolios; and

(iv) the person, firm or corporation certifies in writing that the assets under its direct investment
supervision are in excess of $500,000,000.

(c) The Administrator shall, at all times, maintain a dialogue with the investment advisors/managers in order to facilitate efficient management and timely investment actions.

(d) The contract between the Board and the investment advisors/managers shall be of no specific duration and is voidable at any time by either party after a thirty day notice has been given.

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

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

(a) Government obligations. Obligations issued or guaranteed as to principal and interest by the National Government and/or the State governments of the Federated States of Micronesia or by the Government of the United States, PROVIDED that the principal and interest on each 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 of an agency of the
Federated States of Micronesia Government; or

(iii) the obligation is rated in one of the
four highest categories by at least one of the nationally
recognized rating agencies; and

(iv) the fixed income portfolio of each
investment manager shall be suitably diversified as to
any single issuer or class of issuers so that an
adversity affecting a particular issuer or sector will
not impact a substantial share of the total portfolio.

(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 or American Depository
Receipts (ADR) listed on the major U.S. Exchanges
thereof. PROVIDED that:

(i) the purchase of such shares shall be
considered reasonable and prudent by the investment
advisor at the time of purchase:
(ii) not more than five percent of the market
value at purchase of the portfolio managed by any
investment advisor shall be invested in the stock of any
one corporation; and

(iii) equity portfolios shall be diversified
among issuers and industry classifications.

(d) Insurance company obligations. Contracts and
agreements supplemental thereto providing for
participation in one or more accounts of a life insurance
company authorized to do business in the Federated States
of Micronesia or in any state, territory or commonwealth
of the United States, PROVIDED that the total market
value of these investments at no time shall exceed ten
percent of the total market value of all investments of
the Fund."

Section 5. **Severability.** If any provision of this act or
application thereof to any individual or circumstance is held
invalid, the invalidity does not affect other provisions or
applications of the act which can be given effect without the
invalid provision or application, and to this end the provisions of
this act are severable.
Section 6. This act shall become law upon approval by the President of the Federated States of Micronesia or upon its becoming law without such approval.

Date: 10/14/99

Introduced by: Joseph J. Urupemal (by request)