A BILL FOR AN ACT

To further amend title 55 of the Code of the Federated States of Micronesia, as amended, by amending sections 1202, 1213 and 1216, as enacted by Public Law No. 10-150, for the purpose of establishing an S Account within the FSM Trust Fund, and for other purposes.

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

Section 1. Section 1202 of title 55 of the Code of the Federated States of Micronesia, as enacted by Public Law No. 10-150, is hereby amended to read as follows:

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

(1) 'Board' means the Board of Trustees of the Fund;

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

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

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

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

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

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

(8) 'Fund returns' means the returns accruing to the Fund by way of income generated from the Fund's resources and the capital appreciation of those resources;

(9) 'National Government' means the National Government of the FSM;

(10) 'Other participating government' means a State or local government of the FSM participating pursuant to a memorandum of understanding with the National Government;

(11) 'Real per capita value' means the value of contributions to the Fund when adjusted to reflect inflation and population change. For purposes of determining 'real per capita value' at any one time, the value of a contribution in the form of a loan shall be the principal balance then owing. The inflation adjustment shall be made to current prices in line with movements in the US Consumer Price Index \(\text{GDP deflator}\). Population refers to the number of FSM citizens residing in the FSM. When current population figures are not available, the Board shall use such estimates thereof as it finds to be reasonable. Such estimates may be extrapolated from the most recent population census based on the population growth rate.
Section 2. Section 1213 of title 55 of the Code of the Federated States of Micronesia, as enacted by Public Law No. 10-150, is hereby amended to read as follows:


(1) The Fund shall be divided into an A Account, [and] a B Account, and an S Account.

(2) All contributions to the Fund shall be deposited to the A Account. Thereafter, the Board shall ensure that a portion of the Fund returns in each financial year is reinvested at the end of that financial year as capital of the A Account, such portion being the amount necessary to maintain the opening balance of the A Account's capital for the following financial year at the real \[\text{per capita}\] value of all contributions to the Fund minus all principal repayments made on loans to the Fund.

(3) Repayment of loans to the Fund and payment of the expenses of the Fund shall be made from the A Account. The amount, if any, of Fund returns in each financial year which remains after such repayment of loans and payment of expenses, and after reinvestment in accordance with subsection (2) of this section, shall be transferred to the B
Account. Except as provided in this subsection or upon
termination of the Fund, no funds may ever be removed from
the A Account.

(4) The B Account shall consist of funds transferred from
the A Account and the returns therefrom while in the B
Account. Funds in the B Account may be distributed to the
National Government in accordance with section 1214 of this
chapter or transferred to the A Account in accordance with
section 1215 of this chapter. Except as provided in this
subsection or upon termination of the Fund, no funds may ever
be removed from the B Account.

(5) It is anticipated that funds in the A Account will be
placed in longer term, higher yielding investments than are
funds in the B Account.

(6) Notwithstanding the provisions in subsection (2) of
this section and section 1217 of this chapter, contributions
from the National Government and each of the State
Governments deriving from the increased financial assistance
that may be received during fiscal years 2002 and 2003,
pursuant to section 231 of the Compact of Free Association,
shall be deposited to the S Account.

(7) Purposes of the S Account. The S Account is
established for the following purposes:

(a) to provide a funding source to support financial
stability and an orderly adjustment process for each of the
contributing governments in the event of significant reductions in economic assistance under the renewed provisions in Title Two of the Compact of Free Association; or

(b) to enable a transfer of FSM's own resources into the A Account in the event of minimal reductions under the renewed provisions in Title Two of the Compact of Free Association.

(8) Contributions. The amounts to be contributed by the National Government and each of the four State governments shall be determined by the Secretary of the FSM Department of Finance and Administration, and shall be appropriated by each contributing government pursuant to its financial management laws and regulations.

(9) Uses of the S Account funds.

(a) Funds in the S Account may be used by the contributing governments to offset the negative impact of reductions, if any, in renewed Compact economic assistance during the initial five years as specified in subsections (7)(a) and (7)(b) of this section.

(b) No withdrawals shall be made from the S Account if the first year funding level to each contributing government under the renewed economic assistance provisions of the Compact is the same, or within four percent (4%) of, the level of Compact assistance provided in the final year of the
current Compact, less contributions to the S Account.

(c) In the event that the first year funding level to each contributing government under the renewed Compact economic assistance provisions is reduced by more than four percent (4%) but less than twenty percent (20%) of the level of assistance in the final year of the current Compact economic assistance, less contributions to the S Account, each contributing government shall be entitled to draw, upon request, an amount in each year as follows:

(i) First year: the amount of reduction minus four percent (4%) of the level of Compact assistance provided in the final year of Compact I, net of contributions to the S Account.

(ii) Second year: the amount of reduction minus eight percent (8%) of the level of assistance provided in the final year of Compact I, net of contributions to the S Account.

(iii) Third year: the amount of the reduction minus twelve percent (12%) of the level of Compact assistance provided in the final year of Compact I, net of contributions to the S Account.

(iv) Fourth year: the amount of the reduction minus sixteen percent (16%) of the level of Compact assistance provided in the final year of Compact I, net of contributions to the S Account.
(v) Fifth year: the amount of the reduction minus twenty percent (20%) of the level of Compact assistance provided in the final year of Compact I, net of contributions to the S Account.

(d) In the event that the first year funding level to each contributing government under the renewed economic provisions of the Compact is reduced by more than twenty percent (20%) of the level of Compact assistance provided in the final year of the current Compact economic assistance, less contributions to the S Account, each contributing government shall be entitled to draw down upon request an amount in each year in a manner to be determined by an act of the Congress of the Federated States of Micronesia following consultations with the affected governments.

Transfer of S Account funds. Funds contributed to the S Account by each of the five contributing governments, and the earnings accrued, shall be transferred to the A Account if such transfer is required under the renewed economic assistance provisions of the Compact, or, at the request of a contributing State government, into a State's trust fund as and when established with the principles of real asset protection similar in form and purpose to that of the FSM Trust Fund."

Section 3. Section 1216 of title 55 of the Code of the Federated States of Micronesia, as enacted by Public Law No. 10-150, is hereby
amended to read as follows:

"Section 1216. Miscellaneous restrictions.

(1) Except as provided in subsection 1211(a) of this chapter, the Fund shall not borrow money.

(2) The Fund shall not be used to guaranty the debt of another person or entity.

(3) The Fund shall not invest in instruments denominated in currencies other than the US dollar except as prudent and necessary to avoid exchange rate risks on loans which must be repaid in a currency other than the US dollar."

Section 4. 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: _____________ Introduced by: __________________________

Joseph J. Urusemal
(by request)