

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:

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

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

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

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

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

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

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

17 (6) 'Fund custodians' means the one or more firms selected
18 by the Board to assume responsibility for the physical

1 possession of the Fund assets or evidences of assets;

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

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

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

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

13 (11) 'Real [~~per capita~~] value' means the value of
14 contributions to the Fund when adjusted to reflect inflation
15 and population change. For purposes of determining 'real
16 [~~per capita~~] value' at any one time, the value of a
17 contribution in the form of a loan shall be the principal
18 balance then owing. The inflation adjustment shall be made
19 to current prices in line with movements in the US [~~Consumer~~
20 ~~Price Index~~] Gross Domestic Product deflator. Population
21 refers to the number of FSM citizens residing in the FSM.
22 When current population figures are not available, the Board
23 shall use such estimates thereof as it finds to be
24 reasonable. Such estimates may be extrapolated from the most
25 recent population census based on the population growth rate

1 prior thereto; and

2 (12) 'Reinvestment' means the process whereby Fund returns,
3 whether in the form of income or appreciation, become part of
4 the capital of the Fund."

5 Section 2. Section 1213 of title 55 of the Code of the Federated
6 States of Micronesia, as enacted by Public Law No. 10-150, is hereby
7 amended to read as follows:

8 "Section 1213. [A and B] Accounts.

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

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

20 (3) Repayment of loans to the Fund and payment of the
21 expenses of the Fund shall be made from the A Account. The
22 amount, if any, of Fund returns in each financial year which
23 remains after such repayment of loans and payment of
24 expenses, and after reinvestment in accordance with
25 subsection (2) of this section, shall be transferred to the B

1 Account. Except as provided in this subsection or upon
2 termination of the Fund, no funds may ever be removed from
3 the A Account.

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

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

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

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

24 (a) to provide a funding source to support financial
25 stability and an orderly adjustment process for each of the

1 contributing governments in the event of significant
2 reductions in economic assistance under the renewed
3 provisions in Title Two of the Compact of Free Association;
4 or

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

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

15 (9) Uses of the S Account funds.

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

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

1 current Compact, less contributions to the S Account.

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

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

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

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

22 (iv) Fourth year: the amount of the reduction
23 minus sixteen percent (16%) of the level of Compact
24 assistance provided in the final year of Compact I, net of
25 contributions to the S Account.

1 (v) Fifth year: the amount of the reduction minus
2 twenty percent (20%) of the level of Compact assistance
3 provided in the final year of Compact I, net of contributions
4 to the S Account.

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

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

24 Section 3. Section 1216 of title 55 of the Code of the Federated
25 States of Micronesia, as enacted by Public Law No. 10-150, is hereby

1 amended to read as follows:

2 "Section 1216. Miscellaneous restrictions.

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

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

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

11 Section 4. This act shall become law upon approval by the
12 President of the Federated States of Micronesia or upon its becoming
13 law without such approval.

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16 Date: _____ Introduced by: _____

Joseph J. Urusemal
(by request)

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