

A BILL FOR AN ACT

To enact a retirement program for the employees of the Government of the Federated States of Micronesia and to appropriate the sum of \$1,000,000 for the purpose of providing initial funding for the program, and for other purposes.

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

1        Section 1. Short Title. This act may be cited as the FSM  
2 Retirement Plan of 2002.

3        Section 2. Definitions.

4            (1) "Account" or "Member's Accounts" means the Member's Employee  
5 Account, Supplemental Employee Account and Government Account.

6            (2) "Accumulated Excess Leave" means the sum of a Member's  
7 Excess Leave determined each year as of December 31. The initial  
8 amount of each Member's Accumulated Excess Leave shall be his Excess  
9 Leave, if any, determined as of December 31, 2002.

10           (3) "Annuity Starting Date" means the first day of the first  
11 period for which a Pension amount is paid as an annuity or any other  
12 form.

13           (4) "Beneficiary" means any person, persons, or entity named by  
14 a Member of written designation filed with the Secretary to receive the  
15 Member's Accounts in the event of the Member's death. If no such  
16 designation is in effect at the time of the death of the Member, or if  
17 no person, persons, or entity so designated shall survive the Member,  
18 the Beneficiary shall be the estate of the Member.

---

1           (5) "Breakpoint" means \$12,000 in 2002, increased by four  
2 percent (4%) per year, compounded annually, beginning in 2003.

3           (6) "Compensation" means the base salary paid to an Employee for  
4 services rendered to the Employer.

5           (7) "Converted Excess Leave" means Accumulated Excess Leave  
6 expressed as months of Credited Service. 160 hours of Accumulated  
7 Excess Leave is equal to one calendar month of Converted Excess Leave.

8           (8) "Credited Service" means service recognized for purposes of  
9 computing the amount of any benefit, determined as provided in  
10 subsection (2) of section 4 of this act.

11           (9) "Employee" means any person employed by the Employer as a  
12 permanent, appointed, or elected employee who receives stated  
13 compensation other than a pension, severance pay, or retainer or fee  
14 under contract.

15           (10) "Employee Account" means the account credited with Employee  
16 Contributions made by a Member and earnings on those contributions.

17           (11) "Employee Contributions" means amounts contributed pursuant  
18 to subsection (1) of section 5 of this act.

19           (12) "Employer" means the Government of the Federated States of  
20 Micronesia or any successor with respect to its employees, or any other  
21 organization participating in the Plan as provided in subsection (2) of  
22 section 13 of this act with respect to its employees.

23           (13) "Enrollment Date" means the first day of any payroll period  
24 following the effective date or the date the Employee becomes a Member  
25 of the Plan, if later.

---

1       (14) "Equivalent Actuarial Value" means the equivalent value  
2 determined on the basis of the mortality table based on a fixed blend  
3 of fifty percent (50%) of the male mortality rates and fifty percent  
4 (50%) of the female mortality rates from the 1983 Group Annuity  
5 Mortality Table set forward three years and interest at the rate of  
6 seven percent (7%) per year, compounded annually, except as otherwise  
7 specified in the Plan.

8       (15) "Excess Leave" means, for employees who are employees of the  
9 Government, the Member's accrued annual leave in excess of the maximum  
10 allowable by law to be carried forward into the subsequent year  
11 determined each year as of December 31. Only accrued leave in excess  
12 of the maximum allowable by law to be carried forward into the  
13 subsequent year, determined on or after December 31, 2002 will count as  
14 Excess Leave. An hour of leave counted as Excess Leave shall, in the  
15 future, neither again be counted as Excess Leave nor be included in the  
16 computation of a Member's leave that results in accrued leave in excess  
17 of the maximum allowable by law to be carried forward into the  
18 subsequent year. For all employees who are not employees of the  
19 Government, Excess Leave shall be defined in regulations promulgated in  
20 accordance with the provisions of section 14 of this act.

21       (16) "Final Average Compensation" means the average annual  
22 Compensation of a Member during the sixty consecutive calendar months  
23 in the last 120 calendar months of his employment by the Employer  
24 affording the highest such average, or during all of the months of his  
25 employment by the Employer if less than sixty months.

---

1       (17) "Fund" means the investment fund or funds established by the  
2 Government of the Federated States of Micronesia Retirement Plan in  
3 which Employee Contributions, Supplemental Employee Contributions,  
4 Government Contributions, and Pension Benefit Contributions are  
5 invested and which is comprised of the total of all Employee Accounts,  
6 Supplemental Employee Accounts, all Government Accounts and the Pension  
7 Benefit Account as provided for by section 5 of this act.

8       (18) "Government" means the Government of the Federated States of  
9 Micronesia.

10       (19) "Government Account" means the account credited with  
11 Government Contributions on behalf of a Member and earnings on those  
12 contributions.

13       (20) "Government Contributions" means amounts contributed  
14 pursuant to subsection (3) of section 5 of this act.

15       (21) "Interim Valuation Date" means any date other than the first  
16 day of the Plan Year that the Secretary shall require the Plan Actuary  
17 to determine the Pension Benefit Contributions as provided for and in  
18 accordance with subsection (6) of section 5 of this act.

19       (22) "Member" means any person included in the membership of the  
20 Plan, as provided in section 3 of this act.

21       (23) "Normal Retirement Age" means the later of an Employee's 60<sup>th</sup>  
22 birthday or the second anniversary of the date he became a Member.

23       (24) "Normal Retirement Date" means the first day of the calendar  
24 month coinciding with or immediately following an Employee's attainment  
25 of Normal Retirement Age.

---

1       (25) "Offset Benefit" means an amount equal to the annual  
2 pension, payable as a monthly single life annuity, commencing at the  
3 Member's Annuity Starting Date which is of Equivalent Actuarial Value  
4 to the sum of the values of the Member's Employee Account and  
5 Government Account.

6       (26) "Pension" means the annual amount of payments under the Plan  
7 as provided in section 9 of this act.

8       (27) "Pension Benefit Account" means the account credited with  
9 Pension Benefit Contributions and earnings on those contributions.

10       (28) "Pension Benefit Contributions" means amounts contributed  
11 pursuant to subsection (6) of section 5 of this act.

12       (29) "Plan" means the Federated States of Micronesia Retirement  
13 Plan as set forth in this act or as amended from time to time.

14       (30) "Plan Actuary" means a member of the Society of Actuaries  
15 who is engaged by the Secretary to determine the Employer contributions  
16 to the Pension Benefit Account required by subsection (6) of section 5  
17 of this act.

18       (31) "Plan Year" means the calendar year.

19       (32) "Secretary" means the Secretary of the Department of Finance  
20 and Administration of the National Government of the Federated States  
21 of Micronesia or his designee.

22       (33) "Supplemental Employee Account" means the account credited  
23 with Supplemental Employee Contributions made by a Member and earnings  
24 on those contributions.

25       (34) "Supplemental Employee Contributions" means amounts

---

---

1 contributed pursuant to subsection (2) of section 5 of this act.

2 (35) "Valuation Date" means the first day of the Plan Year.

3 (36) "Vesting Service" means service recognized for purpose of  
4 determining eligibility for certain benefits under the Plan, determined  
5 as provided in subsection (1) of section 4 of this act.

6 Section 3. Membership.

7 (1) Membership Requirements. Every Employee shall become a  
8 member of the Plan as of the first day of the calendar month, beginning  
9 with July 1, 2002 coincident with or immediately following the date he  
10 completes ninety (90) days of employment with the Employer, provided he  
11 is then an Employee.

12 (2) Membership shall terminate when a Member ceases to be an  
13 Employee and is no longer entitled to any benefits under the Plan as  
14 provided for in regulations promulgated in accordance with the  
15 provisions of section 14 of this act.

16 Section 4. Service.

17 (1) Vesting Service.

18 (a) Vesting Service means the sum of Credited Service as  
19 defined in subsection (2) of this section and military service as  
20 defined in the immediately following paragraph (b).

21 (b) For purpose of this act, "military service" means a  
22 period of time, up to a maximum of two years, when a Member served in  
23 the Armed Forces of the United States, including but not limited to the  
24 Army, Navy, Air Force, Marine Corps or Coast Guard.

25 (2) Credited Service.

---

---

1           (a) For all Members, Credited Service shall include:

2                   (i) the period of employment of a Member during which  
3 he was an Employee and received or was entitled to receive Compensation  
4 from the Employer;

5                   (ii) whole months of Converted Excess Leave; and

6                   (iii) periods of employment with additional  
7 participating employers admitted to the Plan after the effective date  
8 as provided for in subsection (2) of section 13 of this act and be  
9 credited as provided for in regulations promulgated in accordance with  
10 the provisions of section 14 of this act.

11           (b) For a Member who became a Member on the effective date,  
12 Credited Service shall also include the following:

13                   (i) periods of employment by the Government of the  
14 Trust Territory of the Pacific Islands, including the District  
15 Governments;

16                   (ii) periods of employment by any State of the  
17 Federated States of Micronesia;

18                   (iii) periods of employment by the College of  
19 Micronesia; and

20                   (iv) periods of employment by agencies,  
21 instrumentalities, and public corporations of the Federated States of  
22 Micronesia.

23           (c) One-twelfth of a year of Credited Service shall be  
24 counted for each completed calendar month of Credited Service as  
25 determined in regulations promulgated in accordance with the provisions

---

---

1 of section 14 of this act.

2 (d) A Member whose employment with the Employer is  
3 terminated for any of the following reasons shall have his Credited  
4 Service for the period of employment ending with such termination  
5 cancelled:

6 (i) defrauding the Employer;

7 (ii) an act of dishonesty with respect to the Employer;

8 or

9 (iii) conviction of a felony which occurred while an  
10 Employee.

11 (3) Restoration of retired member or other former Employee to  
12 service.

13 (a) Upon restoration to service with the Employer of a  
14 Member who has received or is receiving benefits from the Plan, the  
15 following shall apply:

16 (i) his Pension, if any, shall cease and any election  
17 of an optional benefit then in effect shall be void; and

18 (ii) any Vesting Service and Credited Service to which  
19 he was entitled when he retired shall be restored to him; and

20 (iii) upon later retirement, his Pension shall be based  
21 on the benefit formula then in effect and his Compensation and Credited  
22 Service before and after the period when he was not an Employee, except  
23 that it shall be reduced by an amount of Equivalent Actuarial Value  
24 equal to the Plan benefits he received before his restoration to  
25 service.



---

1           (b) Upon restoration to service with the Employer of a  
2 Member who has not received any benefits from the Plan, any Vesting  
3 Service and Credited Service to which he was entitled when he  
4 terminated employment shall be restored to him.

5           Section 5. Accounts.

6           (1) Employee Account.

7           (a) Beginning on his Enrollment Date, a Member shall  
8 contribute six percent (6%) of his Compensation to the Plan. Such  
9 contributions and net earnings thereon shall be credited to the  
10 Member's Employee Account.

11           (b) A Member shall at all times be 100% vested in, and have  
12 a nonforfeitable right to, his Employee Account.

13           (2) Supplemental Employee Account.

14           (a) Beginning on his Enrollment Date, a Member shall be  
15 allowed but not required to contribute an amount in excess of six  
16 percent (6%) but not to exceed ten percent (10%) of his Compensation to  
17 the Plan. Such contributions and net earnings thereon shall be  
18 credited to the Member's Supplemental Employee Account.

19           (b) A Member shall at all times be 100% vested in, and have  
20 a nonforfeitable right to, his Supplemental Employee Account.

21           (3) Government Account.

22           (a) The Employer shall contribute to the Plan on behalf of  
23 each of its Members an amount equal to one-third of the amount of  
24 Employee Contributions to the Employee Account only. Such  
25 contributions and net earnings thereon shall be credited to the

---

---

1 Member's Government Account.

2 (b) Except as provided in the immediately following  
3 paragraph (c), a Member shall be vested in, and have a nonforfeitable  
4 right to, his Government Account after the completion of five years of  
5 Vesting Service or upon meeting the requirements for a Pension as  
6 determined in section 6 of this act.

7 (c) A Member whose employment with the Employer is  
8 terminated for any of the following reasons shall forfeit his entire  
9 Government Account:

10 (i) defrauding the Employer;

11 (ii) an act of dishonesty with respect to the Employer;

12 or

13 (iii) conviction of a felony which occurred while an  
14 Employee.

15 (4) Valuation of Accounts. The Secretary shall cause the  
16 Accounts to be valued no less frequently than quarterly. Such  
17 valuations will be performed in accordance with generally accepted  
18 accounting practices as provided for in regulations promulgated in  
19 accordance with the provisions of section 14 of this act.

20 (5) Statement of Accounts. At least once a year, each Member  
21 shall be furnished with a statement setting forth the value of his  
22 Accounts and the vested portion of his Accounts.

23 (6) Pension Benefit Account.

24 (a) In addition to its Government Contributions, the  
25 Employer shall contribute to the Plan on behalf of each of its Members

---

---

1 an amount equal to a percentage of each Member's Compensation where  
2 such percentage is determined as of the Valuation Date or any Interim  
3 Valuation Date by the Plan Actuary as the amount required to pay for  
4 the Pension benefits provided by section 6 of this act.

5 (b) The percentage required by the immediately preceding  
6 paragraph (a) shall be the amount determined by the Plan Actuary using  
7 a generally accepted actuarial funding method approved by the  
8 Secretary.

9 (7) Status of Accounts pending distribution. Until completely  
10 distributed under subsection (3) of section 7 of this act or subsection  
11 (1) of section 8 of this act, the Accounts of a Member who is entitled  
12 to a distribution shall continue to be invested as part of the funds of  
13 the Plan.

14 Section 6. Eligibility for and amount of Pension Benefits.

15 (1) Normal retirement.

16 (a) The right of a Member to his normal retirement Pension  
17 shall be nonforfeitable as of his Normal Retirement Age. A Member who  
18 has attained his Normal Retirement Age may retire from service and  
19 receive a normal retirement Pension beginning on his Normal Retirement  
20 Date or he may postpone his retirement and remain in service after his  
21 Normal Retirement Date, in which event the provisions of subsection (2)  
22 of this section shall be applicable.

23 (b) Subject to the provisions of subsection (1) of section  
24 9 of this act, the annual normal retirement Pension payable upon  
25 retirement on a Member's Normal Retirement Date shall be equal to the

---

---

1 excess, if any, of (i) over (ii), determined as follows:

2 (i) Floor Benefit: the lesser of \$10,000 or the sum of

3 a) and b), multiplied by c) determined as follows:

4 a) 1.25% of the Member's Final Average

5 Compensation.

6 b) 0.25% of the portion of the Member's Final

7 Average Compensation in excess of the Breakpoint in effect as of his

8 termination date.

9 c) His years (including partial years) of

10 Credited Service not in excess of 25.

11 (ii) An amount equal to the Member's Offset Benefit.

12 (2) Late retirement.

13 (a) If a Member postpones his retirement as provided in

14 paragraph (a) of subsection (1) of this section, upon his termination

15 of employment from the Employee, he shall be entitled to a late

16 retirement Pension beginning on the first day of the calendar month

17 after the Secretary receives his written application to retire.

18 (b) The late retirement Pension shall be an immediate

19 Pension beginning on the Member's late retirement date and, subject to

20 provisions of subsection (1) of section 9 of this act, shall be equal

21 to an amount determined in accordance with paragraph (b) of subsection

22 (1) of this section based on the Member's Credited Service and Final

23 Average Compensation as of his late retirement date and the Breakpoint

24 in effect as of his termination date.

25 (3) Early Retirement.

---

---

1           (a) A Member who has not reached his Normal Retirement Age,  
2 but who terminates employment from the Employer on a date on or after  
3 the latest of:

4                   (i) the second anniversary of the date he became a  
5 Member, his 55<sup>th</sup> birthday; and

6                   (ii) the date he completed 25 years of Vesting Service,  
7 may retire from service and be eligible to receive an early retirement  
8 Pension beginning on the first day of the calendar month after the  
9 Secretary receives his written application to retire.

10           (b) The early retirement Pension shall be a deferred  
11 Pension beginning on the Member's Normal Retirement Date and, subject  
12 to the provisions of subsection (1) of section 9 of this act, shall be  
13 equal to an amount determined in accordance with paragraph (b) of  
14 subsection (1) of this section based on the Member's Credited Service  
15 and Final Average Compensation as of his termination date, the  
16 Breakpoint in effect as of his termination date, and his Offset Benefit  
17 as of his Normal Retirement Date. However, the Member may elect to  
18 receive an early retirement Pension beginning on the first day of any  
19 calendar month before his Normal Retirement Date. In that case, the  
20 Floor Benefit shall be reduced by two-thirds (2/3%) of one percent (1%)  
21 for each month by which the date the Member's early retirement Pension  
22 begins precedes his Normal Retirement Date, and his Offset Benefit  
23 shall be determined as of the date his early retirement Pension begins.

24           (4) Voluntary early retirement program. Notwithstanding any  
25 other provision of the Plan to the contrary, if a Member who became a

---

1 Member on the effective date meets the requirements for a normal, late  
2 or early retirement Pension, other than the requirement that his  
3 retirement date must be no earlier than the second anniversary of the  
4 date he became a Plan Member, he shall nonetheless be allowed to retire  
5 from service prior to July 1, 2004 and receive a Pension in an amount  
6 determined in accordance with paragraph (b) of subsection (1) of this  
7 section, paragraph (b) of subsection (2) of this section, or paragraph  
8 (b) of subsection (3) of this section, whichever is applicable.

9 Section 7. Distribution of Accounts upon termination of  
10 employment other than by death.

11 (1) Eligibility. Upon a Member's termination of employment, the  
12 vested portion of his Accounts, as determined under section 5 of this  
13 act, shall be distributed as provided in this section.

14 (2) Form of distribution. Distribution of the vested portion of  
15 a Member's Accounts shall be made in a cash lump sum. If a Member dies  
16 before the distribution is made, the vested portion of his Accounts  
17 shall be paid to his Beneficiary in a cash lump sum.

18 (3) Date of payment of distribution.

19 (a) Except as otherwise provided in this act, distribution  
20 of the vested portion of a Member's Accounts shall be made as soon as  
21 administratively practicable following the latest of:

22 (i) the Member's termination of employment;

23 (ii) the date his last paycheck from the Employer is  
24 issued; or

25 (iii) the Member's 60<sup>th</sup> birthday.

1           (b) In lieu of a distribution as described in the  
2 immediately preceding paragraph (a) above, a Member may, in accordance  
3 with such regulations promulgated in accordance with the provisions of  
4 section 14 of this act, elect to have the distribution of the vested  
5 portion of his Accounts made as of any date which is before the latest  
6 of the dates described in the immediately preceding paragraph (a).

7           Section 8. Eligibility for and amount of death benefits.

8           (1) In the case of the death of a Member before the distribution  
9 of his Accounts, the vested portion of his Accounts shall be  
10 distributed to his Beneficiary as soon as administratively practicable  
11 following the later of:

12           (a) the Member's date of death; or

13           (b) the date the Member's last paycheck from the Employer  
14 is issued.

15           (2) This shall be the only benefit payable under the Plan on  
16 account of the death of a Member.

17           (3) Proof of death and right of Beneficiary or other person.

18 The Secretary may require and rely upon such proof of death and such  
19 evidence of the right of any Beneficiary or other person to receive the  
20 value of the Accounts of a deceased Member as the Secretary may deem  
21 proper and its determination of the right of that Beneficiary or other  
22 person to receive payment shall be conclusive.

23           Section 9. Payment of Pensions.

24           (1) Automatic form of Pension payment.

25           (a) The Member's Pension shall be payable in monthly

---

---

1 installments equal to one-twelfth (1/12) of the annual Pension ending  
2 with the last monthly payment before death, unless the member has  
3 elected an optional benefit as provided in subsection (2) of this  
4 section.

5 (b) In any case, a lump sum payment of Equivalent Actuarial  
6 Value shall be made in lieu of all Pension benefits if the annual  
7 Pension payable to the Member determined as of the Member's retirement  
8 date amounts to \$500 or less. Any lump sum benefit payable shall be  
9 made as soon as practicable following the determination that the amount  
10 qualifies for distribution under the provisions of this paragraph (b).  
11 In no event shall a lump sum payment be made following the date Pension  
12 payments have commenced as an annuity.

13 (2) Optional form of payment. Any Member may elect to convert  
14 the Pension otherwise payable to him into an optional form of benefit  
15 of Equivalent Actuarial Value, as provided in the option named below:

16 (a) Option 1. A reduced Pension payable during the  
17 Member's life, and after his death payable at fifty percent (50%) of  
18 his reduced Pension during the life of, and to, the spouse to whom the  
19 Member was married on his Annuity Starting Date.

20 Section 10. Administration of the Plan. The Secretary shall  
21 administer the Plan.

22 Section 11. Investment of the Fund.

23 (1) The Fund shall be invested and reinvested by or under  
24 authority of the Secretary.

25 (2) All proceeds and income from investments of whatever nature,



---

---

1 shall be credited to the account of the Fund, except for the costs of  
2 maintaining the Fund.

3 (3) The Fund shall not commingle securities and monies with any  
4 other securities or monies which are not part of the Fund.

5 (4) Management of the Fund shall be subject to the Financial  
6 Management Regulations as promulgated under section 228 of title 55 of  
7 the Code of the Federated States of Micronesia.

8 Section 12. General Provisions.

9 (1) Employer's contributions.

10 (a) It is the intention of the Employer to continue the  
11 Plan and make the contributions that are necessary to maintain the Plan  
12 on a sound actuarial basis. However, subject to the provisions of  
13 subsection (1) of section 13 of this act, the Employer may discontinue  
14 its contributions for any reason at any time.

15 (b) Any forfeiture shall be used to reduce the Employer's  
16 contributions otherwise payable.

17 (2) Construction.

18 (a) This act shall be construed, regulated and administered  
19 under the laws of the Federated States of Micronesia.

20 (b) The masculine pronoun shall mean the feminine where  
21 appropriate, and vice versa.

22 (c) The titles and headings of the sections, subsections  
23 and paragraphs in this act are for convenience only. In case of  
24 ambiguity or inconsistency, the text rather than the titles or headings  
25 shall control.

1 Section 13. Amendment.

2 (1) Amendment of Plan. The Government reserves the right at any  
3 time and from time to time, and retroactively if deemed necessary or  
4 appropriate, to amend in whole or in part any or all of the provisions  
5 of the Plan. However, no amendment shall make it possible for any part  
6 of the Fund to be used for, or diverted to, purposes other than for the  
7 exclusive benefit of Members, before the satisfaction of all  
8 liabilities with respect to them.

9 (2) Additional participating employers. The Secretary may  
10 include the employees of another employer in the membership of the Plan  
11 upon appropriate action by that employer necessary to adopt the Plan.

12 Section 14. Promulgation of regulations. The Secretary, with  
13 approval of the President, pursuant to chapter 1 of title 17 of the  
14 Code of the Federated States of Micronesia, shall promulgate such  
15 regulations as may be necessary or appropriate for the implementation  
16 of this act as well as the ongoing administration of the Plan and such  
17 regulations shall have the force and effect of law if they are not in  
18 conflict with the express provision of this chapter or other laws of  
19 the Federated States of Micronesia.

20 Section 15. Establishment of FSM Retirement Plan Fund. The sum  
21 of \$1,000,000, or so much thereof as may be necessary, is hereby  
22 appropriated from the General Fund of the Federated States of  
23 Micronesia for the fiscal year ending September 30, 2002, to fund the  
24 FSM Retirement Plan and to establish the FSM Retirement Plan Fund,  
25 which shall be separate from the General Fund and all other funds.

1 This sum of \$1,000,000 is not part of the Government Contribution to  
2 the Member's Accounts. All sums appropriated by Congress representing  
3 contributions of the National Government to the Plan, all sums  
4 representing contributions of participating entities to the Plan, and  
5 all employee contributions to the Plan shall be deposited in the FSM  
6 Retirement Plan Fund. Any unexpended money in the FSM Retirement Plan  
7 Fund shall not revert to the General Fund or lapse at the end of the  
8 fiscal year, but shall remain in the FSM Retirement Plan Fund.

9 Section 16. Effective date. This act shall be effective on July  
10 1, 2002.

11 Section 17. 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.

14

15 Date: \_\_\_\_\_ Introduced by: \_\_\_\_\_  
16 Joseph J. Urusemal  
(by request)

17

18

19

20

21

22

23

24

25

1

2

3

4

5