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To establish the Federated States of Micronesia Social Security System, to provide for devolution from the Trust Territory Social Security System, and for other purposes.

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

1 CHAPTER 1.

2 GENERAL PROVISIONS

3 Section 101. Short title. This act is known and may be cited as
4 the "Federated States of Micronesia Social Security Act."

5 Section 102. Declaration of policy. The purpose of this act is to
6 effect economy and efficiency in the fields of government and business
7 by providing a means whereby employees may be ensured a measure of
8 security in their old age and given an opportunity for leisure without
9 hardship and complete loss of income. Further, to provide survivors'
10 insurance for wage earners and their dependents.

11 Section 103. Definitions. In this act, unless the context
12 otherwise requires, the following definitions shall be applicable:

13 (1) "Became disabled" means the first month in which an
14 individual is under a disability and is both fully and currently
15 insured.

16 (2) "Board " means the Federated States of Micronesia Social
17 Security Board provided for by section 201 of this act.

18 (3) "Child or spouse" means that an applicant is the child or
19 spouse of an individual if the court of the state in which the
20 individual was domiciled at the time of his death has or would find the
21 applicant to be the individual's child or spouse in determining the
22 devolution of intestate personal property.

23 (4) "Contributions" means the tax imposed upon income of
24 covered employees and the tax imposed upon employers on account of wages
25 paid to a covered employee.

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1 (5) "Disability" means inability to engage in any substantial
2 gainful employment by reason of any medically determinable physical or
3 mental impairment which can be expected to result in death or which has
4 lasted or can be expected to last for a continuous period of not less
5 than 12 months.

6 (6) "Earning test" means that an individual who receives a
7 retirement, disability or survivor benefit and who works in covered or
8 noncovered employment shall have his quarterly benefit reduced by \$1 for
9 each \$2 earned in a quarter, except there shall be no reduction for the
10 first \$200 earned in a quarter. The reduction shall be applied in one
11 of the subsequent two quarters immediately after the quarter in which
12 the earnings were made, or as soon as possible thereafter.

13 (7) "Employee" means:

14 (a) Any officer of a corporation; or

15 (b) Any individual who, under the usual common law rules
16 applicable in determining the employer-employee relationship, has the
17 status of an employee; or

18 (c) Any self-employed person who has at least one
19 employee for whom he is required to report in a given quarter; or

20 (d) Any self-employed person who had more than \$10,000
21 of annual gross revenue in the preceding calendar year.

22 (8) "Employment" means any service by an employee for the
23 Federated States of Micronesia employer employing him, irrespective of
24 where such employment shall be performed, except family employment.

25 (9) "Family employment" means employment of a worker by a

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1 member of the household, a parent or a son or daughter except that the
2 worker may apply to the Board for a determination that such employment
3 is bona fide covered employment subject to this act.

4 (10) Insured status can mean any of the following:

5 (a) "Fully insured individual" means any individual who
6 has not less than one quarter of coverage for each year beginning after
7 June 30, 1968, or for each year after attaining the age of 21, whichever
8 is later, and up to but excluding the year in which he attained
9 retirement age, became disabled, or died, whichever first occurred,
10 except that in no case shall an individual be a fully insured individual
11 unless he has at least 12 quarters of coverages.

12 (b) "Currently insured individual" means any individual
13 who has had not less than 8 quarters of coverage during the 13 quarter
14 period ending with:

15 (i) The quarter in which he died, or

16 (ii) The quarter in which he became entitled to old
17 age insurance benefits, or

18 (iii) The quarter in which he became disabled,
19 whichever first occurs.

20 (11) "Quarter" and "calendar quarter" mean a period
21 of three calendar months ending on March 31, June 30, September 30, or
22 December 31. "Quarter of coverage" means a quarter in which the
23 individual has been paid \$50 or more in wages in employment
24 subject to this act.

25 (12) "Wages" means remuneration paid subject to the provisions

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1 of this act, including the cash value of all remuneration paid in any
2 medium other than cash and remuneration accruing to a self-employed
3 person. Remuneration accruing to a self-employed person shall be deemed
4 to be twice the amount paid to the highest paid employee reported by the
5 self-employed person in a quarter, \$1,500 maximum per quarter.
6 Remuneration one thousand accruing to a self-employed person who has no
7 covered employees shall, for each quarter of a year, be deemed to be 2.5
8 percent of the gross revenue of the business for the previous calendar
9 year, subject to \$1,500 maximum. Remuneration paid for any service
10 which is more or less than a whole dollar shall, as may be prescribed by
11 regulations, be computed to the nearest dollar. Wages shall not
12 include:

13 (a) That part of remuneration in excess of \$1,500 paid
14 in a quarterly reporting period by one employer;

15 (b) Any payment on account of sickness or accident
16 disability, or medical or hospitalization expenses made by an employer
17 to or on behalf of an employee;

18 (c) Any payment made to or on behalf of an employee or
19 to his beneficiary from a trust or annuity;

20 (d) Remuneration paid in any medium other than cash to
21 an employee for service not in the course of the employer's trade or
22 business or for domestic service in a private home of an employer;

23 (e) Remuneration paid for casual or intermittent labor
24 not performed in the course of the employer's trade or business when
25 such employment does not exceed employment in more than one week in each

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1 calendar month of each quarterly reporting period; and

2 (f) Remuneration from family employment subject to the
3 provisions of this act.

4 Section 104. Susceptibility of benefits, contributions, and funds
5 to legal process or assignment. The benefits, the employee and employer
6 contributions, and the securities in the several funds from all taxes
7 presently or hereinafter levied shall not be subject to execution,
8 attachment, or garnishment and shall be nonassignable except as
9 specifically provided in this act.

10 Section 105. Violations; Penalties.

11 (1) Any person who knowingly makes any false statement or who
12 falsifies any report to or record of the Federated States of Micronesia
13 Social Security System in an attempt to defraud the system shall be
14 guilty of a misdemeanor and upon conviction thereof shall be imprisoned
15 for a period of not more than one year, or fined not more than \$2,000 or
16 both.

17 (2) Any person who willfully fails to report wages paid or
18 pay contributions required thereon shall be guilty of a misdemeanor and,
19 in addition to any other penalty prescribed by law, such a person shall
20 also pay penalties not in excess of 100 percent of the tax due plus
21 interest to the Board as it by regulation shall require.

22 (3) Any covered employer who fails to submit the quarterly
23 report and pay the social security tax within 10 days after the end of
24 the quarter shall be considered delinquent. The Board or its authorized
25 representatives shall be vested with the authority to levy a penalty of

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1 not more than \$250 on delinquent employers.

2 Section 106. Accounts, budget, and costs of administration.

3 (1) At such time as the Social Security Board may prescribe,
4 the Social Security Administrator shall submit to the Board on forms and
5 in the manner prescribed by the Board a detailed estimate of the budget
6 for the next ensuing fiscal year for the proper conduct of the Social
7 Security System. The Social Security Administrator shall submit to the
8 board:

9 (a) The audited accounts of the income and expenditure
10 and the balance in the Social Security Retirement Fund for the last
11 completed fiscal year,

12 (b) A statement showing the estimated income and
13 expenditure for the fiscal year in progress, together with such
14 summaries, schedules, and supporting data as may be deemed necessary,

15 (c) A statement showing the estimated balance of the
16 Social Security Retirement Fund at the close of the fiscal year in
17 progress, and

18 (d) A budget showing the estimated income and
19 expenditure for the next ensuing fiscal year.

20 (2) For the next ensuing fiscal year, the estimated costs of
21 administration including salaries and wages, purchase of office
22 supplies, operational expenses, and the maintenance of branch offices
23 shall not exceed an expenditure maximum equal to 12 percent of the
24 estimated income for that year from contributions and interest and
25 dividend income on investments less investment expenses. The audited

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1 accounts and the budget for the ensuing fiscal year shall be approved by
2 the Board and submitted to the President and the Congress of the
3 Federated States of Micronesia. Should the estimated costs of
4 administration exceed the expenditure maximum, legislative approval of
5 the budgeted administration expenses is required.

CHAPTER 2.

SOCIAL SECURITY BOARD AND ADMINISTRATION

8 Section 201. Creation; Composition; Terms; Organization and
9 procedure; Compensation. There is hereby created a Federated States of
10 Micronesia Social Security Board of five members nominated by the
11 President and confirmed by the Congress of the Federated States of
12 Micronesia to operate the Social Security Program authorized by this
13 act. Nominations to the Board shall take into account the need to have
14 adequate geographical representation and to have representatives from
15 public and private sector employers and employees. Members of the Board
16 shall serve 3-year terms, and the Board shall provide for its own
17 organization and procedure. Any vacancies on the Board shall be filled
18 for the unexpired term only. Where a vacancy is for one year or less,
19 it shall be filled by appointment by the President, otherwise vacancies
20 shall be filled by nomination by the President and confirmation by the
21 Congress. The Social Security Administrator shall be an ex-officio
22 member of the Board. Members of the Board who are not Government
23 employees shall be paid at the rate of \$30 per day and necessary travel
24 expenses when actually attending meetings of the Board. If a member of
25 the Board is concurrently employed by the National

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1 Government of the Federated States of Micronesia, he shall receive his
2 salary during attendance at Board meetings; PROVIDED that if his daily
3 salary shall be less than \$20, he shall also be entitled to
4 receive the difference between his daily salary and \$30.

5 202. Powers and duties generally. The Board shall have the powers
6 and privileges of a corporation; shall have an official seal; and shall
7 in the name of "Federated States of Micronesia Social Security
8 Administration" transact all business, enter into contracts, invest all
9 funds or retain a firm to invest or reinvest funds under the Board's
10 supervision; and, under its rules, regulations, and conditions, transfer
11 or assign such funds as herein authorized, purchase annuities, and hold
12 in trust for the purposes for which received, all cash, securities, and
13 other properties of the system. In the name "Federated States of
14 Micronesia Social Security Administration" it may sue and be sued. The
15 responsibility for the proper operation of this act shall be vested in
16 the Board. The Board shall appoint a Social Security Administrator who
17 shall have responsibility for the general administration of the Social
18 Security System, and who shall have power to employ and to delegate
19 duties to such employees of the Social Security Administration as deemed
20 feasible and desirable to carry out the provisions of this act.

21 Section 203. Promulgation of regulations; Hearings; Employees;
22 Annual report. The Board may adopt, amend, or rescind regulations for
23 the administration of this act subject to the approval of the President.
24 It may hold hearings or make decisions upon hearings delegated to others
25 for the purpose of determining any question involving any right,

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1 benefit, or obligation of any person subject to this act. It may fix
2 the compensation of such employees it deems necessary within the limits
3 of available administrative funds budgeted for its operation, and it may
4 contract for special actuarial and other counseling on a fee basis. It
5 shall bond itself and its employees in such amounts as it shall fix. It
6 shall receive audited accounts of the Social Security System within 90
7 days of the end of the fiscal year of the system and transmit these
8 accounts to the President and the Congress of the Federated States of
9 Micronesia. The annual accounts and report shall be made available to
10 the public. It shall submit to the President and the Congress for each
11 fiscal year a report on its operations and the condition of its funds,
12 and subject to section 207, in such report shall make recommendations
13 for amendments to this act as it deems desirable.

14 Section 204. Maintenance of records; Disclosure of records. The
15 Administrator shall receive and maintain files and records of all
16 employers and all employees subject to this act. Such records shall not
17 be disclosed to any person except as may be required in the
18 administration of this act, or in connection with a hearing conducted in
19 accordance with the provisions of this act.

20 Section 205. Appointment of branch managers. The Administrator
21 shall have the authority to employ branch managers and delegate such
22 power to such branch managers as may by regulation be prescribed.

23 Section 206. Audit of records; Power to subpoena; Administration
24 of oaths. The Board and its authorized representatives shall have the
25 power to audit employer records, issue subpoenas and administer oaths

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1 appropriate to the administration of this act.

2 Section 207. Actuaries and actuarial valuations. The Board shall
3 employ or contract with actuaries or actuarial firms for the purpose of
4 making actuarial valuations of the Federated States of Micronesia Social
5 Security System not less frequently than each 3 years after the date of
6 commencement of the system. Such reports made to the Board shall be
7 submitted with appropriate recommendations for changes in the system and
8 amendments to this act to the President and to the Congress of the
9 Federated States of Micronesia. An actuarial report prepared by a
10 qualified actuary which analyzes the implications on the system of any
11 proposed amendment which has financial implications must accompany the
12 proposed amendment. In particular, proposals to amend section 103,
13 sections 301 to 307 inclusive, section 401 and 402, or chapter 5 must be
14 accompanied by an actuarial report.

15 Section 208. Review of Board determinations. Any person aggrieved
16 by a final order of the Board may obtain a review of the order in the
17 Trial Division of the Supreme Court of the Federated States of
18 Micronesia by filing in Court, within 60 days after the entry of the
19 order, a written petition praying that the order be modified or set
20 aside in whole or in part. A copy of the petition shall be served on
21 the Board, by service on its secretary or other designated agent, and
22 thereupon the Board shall certify and file in Court a copy of the record
23 upon which the order was entered. The findings of the Board as to the
24 facts, if supported by competent, material, and substantial evidence,
25 shall be conclusive. If either party applies to the Court for leave to

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1 adduce additional material evidence, and shows to the satisfaction of
2 the Court that there were reasonable grounds for failure to adduce the
3 evidence in the hearing before the Board or its authorized
4 representatives, and that such evidence is competent, material, and
5 substantial, the Court may order the additional evidence to be taken by
6 the Board and to be adduced upon the hearing in such manner and upon
7 such conditions as the Court considers proper. The Board may modify its
8 findings and order after receipt of further evidence together with any
9 modified or new findings or order. The judgment of the Court upon the
10 record shall be final, subject to review by the Appellate Division of
11 the Supreme Court upon petition of any aggrieved party, including the
12 Board, within 60 days from judgment.

13 CHAPTER 3.

14 COVERAGE AND BENEFITS

15 Section 301. Scope of coverage.

16 (1) All employees, wherever employed by a Federated States of
17 Micronesia employer, shall be covered unless both the employer and the
18 employee are currently subject to any other recognized Social Security
19 System. For the purposes of this act, any elected official in any
20 Government unit or body in the Federated States of Micronesia is deemed
21 to be an employee employed by a Federated States of Micronesia employer.
22 The governmental unit or body to which such person is elected is subject
23 to the provisions in this act relating to the duty and obligations of a
24 Federated States of Micronesia employer.

25 (2) Every person who:

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1 (a) Is a fully insured individual, as defined in this
2 act;

3 (b) Has attained age 60 years; and

4 (c) Has filed application for old age insurance shall be
5 entitled to an old age insurance benefit for each month, beginning with
6 the month for which both paragraphs (a) and (b) of this subsection are
7 satisfied and ending with the month preceding the month in which he
8 dies, subject to the earnings test as defined in this act.

9 Section 302. Surviving spouse's benefits. The surviving spouse of
10 an individual who died fully insured, if such spouse has filed
11 application, shall be entitled to a survivor insurance benefit for each
12 month beginning with the month of death of the fully insured spouse and
13 ending with the month preceding the month in which the surviving spouse
14 dies or remarries; PROVIDED that such benefit shall be subject to the
15 earnings test as defined in this act.

16 Section 303. Dependent's benefits; Disability benefits.

17 (1) Every surviving child who is dependent upon an individual
18 entitled to old age benefits or who was dependent upon an individual who
19 died fully insured or currently insured, shall be entitled, upon filing
20 application, to a child's insurance benefit for each month beginning
21 with the month of death of such individual and ending with the month
22 preceding whichever of the following first occurs:

23 (a) Attainment of age 18 years, except that benefits are
24 payable until the month before the attainment of age 22 so long as the
25 beneficiary is a bona fide student, and except that benefits

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1 are payable during the disability of a child who was disabled before the
2 attainment of age 22;

3 (b) Marriage; or

4 (c) Adoption.

5 (2) A child shall be deemed dependent upon his parent or
6 adopting parent unless such individual was not living in the same
7 household with or contributing to the support of such child. Child's
8 insurance benefits shall be paid to the individual upon whom the child
9 is currently dependent, except such benefit shall be subject to the
10 earnings test as defined in this act.

11 (3) Every individual who is a fully and currently insured
12 individual and is disabled and has been disabled for at least 3 full
13 calendar months, upon filing an application for disability insurance
14 benefits, shall be entitled to a disability insurance benefit for each
15 month beginning with the first month of the waiting period and ending
16 with the month preceding the month in which he dies or recovers from his
17 disability, subject to the earnings test as defined in this act.

18 Section 304. Amount of retirement and disability insurance
19 benefits.

20 (1) An insured eligible individual shall be paid a monthly
21 old age benefit for life, except for any month of disqualification as
22 provided by this act, in an amount calculated upon an annual basis of
23 12.6 percent of the first \$10,000 of cumulative covered earnings, plus
24 2.1 percent of cumulative covered earnings in excess of \$10,000 but not
25 in excess of the next \$30,000, plus 1.05 percent of

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1 cumulative covered earnings in excess of \$40,000. Earnings for
2 employment after commencement of payments for old age or disability
3 insurance benefits shall be included in benefit calculations upon
4 subsequent application for benefits, but such earnings shall be
5 applicable for benefits for months after the calendar year in which such
6 earnings occurred. For the purpose of this section cumulative covered
7 earnings includes earnings on which contributions have been paid by the
8 individual to the Trust Territory Social Security System.

9 (2) An insured, eligible individual shall be paid a minimum
10 monthly benefit of \$33.60 if the benefit amount calculated in accordance
11 with subsection (1) of this section is less than \$33.60 monthly.

12 (3) An individual who is both fully and currently insured and
13 who has been under a disability for 3 full calendar months shall be paid
14 a monthly benefit for life or until recovery from the disability, except
15 for any month of disqualification as provided by this act, in an amount
16 calculated in accordance with the preceding subsections of this section.
17 Further, the amount of the benefit as so determined shall, if the
18 individual is receiving a periodic workmen's compensation benefit, be
19 reduced each month by the excess of the sum of the workmen's
20 compensation benefit for that month and the benefit payable under this
21 act over 80 percent of one-twelfth of the highest annual covered wages
22 in the period consisting of the year in which the disability occurred
23 and the preceding five years. If a workmen's compensation benefit was
24 payable in periodic benefits but was commuted to a lump sum, for
25 purposes of this subsection it will be considered that the periodic

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1 benefit originally available was paid in each month that it would have
2 been paid if the commutation had not occurred.

3 Section 305. Reemployment after retirement. In the event an
4 individual who is receiving retirement insurance benefits returns to
5 covered employment, the benefit shall be recomputed at the end of the
6 calendar year and paid as provided in this act beginning with the year
7 after the calendar year the earnings were made.

8 Section 306. Amount of survivor insurance benefits.

9 (1) The surviving spouse of a fully insured worker eligible
10 in accordance with section 303 shall be paid a monthly benefit or
11 disability in an amount equal to 60 percent of the retirement or
12 disability insurance benefit calculated for the deceased spouse at the
13 date of death.

14 (2) Each eligible child of an insured worker shall be
15 entitled to a monthly benefit of 15 percent of the retirement insurance
16 benefit calculated for the deceased parent at the date of death.

17 (3) If the spouse of the deceased insured worker is eligible
18 for retirement benefit based on his or her own employment coverage, the
19 survivor insurance benefit shall be reduced by the amount of such
20 retirement benefit.

21 (4) In no event shall the total survivor benefit paid to the
22 spouse and children exceed the retirement benefit calculated for the
23 decedent as of the date of death, nor shall it be less than \$33.60 a
24 month computed prior to the application of subsection (3) of this
25 section.

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1 Section 307. Lump sum benefits.

2 (1) When a worker dies and the benefits paid, including
3 survivor benefit, have been less than 4 percent of his cumulative
4 covered earnings, the survivors, heirs, or the estate of such individual
5 shall be paid a lump sum benefit, after all rights to survivor benefits
6 have terminated, in an amount equal to 4 percent of the decedent's
7 cumulative covered earnings, reduced by the amount of any benefits paid
8 to the insured worker and his eligible dependents. For the purpose of
9 this section, cumulative covered earnings includes earnings on which
10 contributions have been paid by the individual to the Trust Territory
11 Social Security System.

12 (2) In the absence of a will, survivors shall be paid in the
13 following order:

14 (a) Spouse, if living, otherwise children in equal
15 shares or guardian, if such children are minors;

16 (b) Parents in equal shares; or

17 (c) Duly appointed legal representatives of the deceased
18 or, if none, person or persons determined to be entitled thereto under
19 the laws and customs of the last domicile of the deceased person.

20 Section 308. Adjustments to correct for overpayments and
21 underpayments.

22 (1) Whenever an error has been made with respect to insurance
23 payments to an individual, proper adjustment shall be made, under
24 regulations promulgated by the Board by increasing or decreasing
25 subsequent payments to which such individual is entitled. If such

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1 individual dies before such adjustment has been completed, adjustment
2 shall be made by increasing or decreasing subsequently paid survivor
3 benefit payments payable with respect to the wages which were the basis
4 of benefits of such deceased individual.

5 (2) No adjustment shall be made when adjustment or recovery
6 would be against equity and good conscience.

7 Section 309. Payment of benefits to foreign citizens outside
8 Federated States of Micronesia.

9 (1) Notwithstanding any other provision of this chapter, no
10 monthly benefits shall be paid under this chapter to any individual who
11 is not a citizen or national of the Federated States of Micronesia for
12 any month which is:

13 (a) After the sixth consecutive calendar month during
14 all of which the administrator finds, on the basis of information
15 furnished to him by the Attorney General or information which otherwise
16 comes to his attention, that such individual is outside the Republic of
17 the Marshall Islands, the Federated States of Micronesia, and the
18 Republic of Palau; and

19 (b) Prior to the first month thereafter for all of which
20 such individual has been in the Federated States of Micronesia. For
21 purposes of this paragraph (1), after an individual has been outside the
22 Federated States of Micronesia for any period of 30 consecutive days he
23 shall be treated as remaining outside the Federated States of Micronesia
24 until he has been in the Federated States of Micronesia for a period of
25 30 consecutive days.

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1 (2) Subsection (1) of this section shall not apply to any
2 individual who is a citizen of a foreign country which the Administrator
3 finds has in effect a social insurance or pension system which is of
4 general application in such country and under which:

5 (a) Periodic benefits, or the actuarial equivalent
6 thereof, are paid on account of old age, retirement, or death, and

7 (b) Individuals who are citizens of the Federated States
8 of Micronesia but not citizens of such foreign country and who qualify
9 for such benefits are permitted to receive such benefits or the
10 actuarial equivalent thereof while outside such foreign country without
11 regard to the duration of the absence.

12 CHAPTER 4.

13 CONTRIBUTIONS

14 Section 401. Employee contributions.

15 (1) There is hereby imposed on every employee a tax equal to
16 the following percentages of wages received by him with respect to
17 employment subject to this act:

18 (a) With respect to wages paid from the effective date
19 of this act through June 30, 1985, the rate shall be 2 percent;

20 (b) With respect to wages paid from July 1, 1985,
21 through June 30, 1990, the rate shall be 3 percent;

22 (c) With respect to wages paid from July 1, 1990, through
23 June 30, 1995, the rate shall be 4 percent;

24 (d) With respect to wages paid from July 1, 1995, through
25 June 30, 2000, the rate shall be 5 percent;

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1 (e) With respect to wages paid after June 30, 2000, the
2 rate shall be 6 percent.

3 (2) The tax imposed shall be collected by the employer of the
4 employee by deducting the amount of the tax from the wages as and when
5 paid. Every employer required to so deduct the tax shall be liable for
6 the payment of such tax to the Board and shall be indemnified against
7 the claims and demands of any person for the amount of any such payment
8 made by such employer.

9 Section 402. Employer contributions. There is hereby imposed on
10 every employer an excise tax, with respect to having an individual in
11 his employ, equal to the following percentages of wages, paid by him
12 with respect to employment subject to this act:

13 (1) With respect to wages paid from the effective date of
14 this act through June 30, 1985, the rate shall be 2 percent;

15 (2) With respect to wages paid from July 1, 1985, through
16 June 30, 1990, the rate shall be 3 percent;

17 (3) With respect to wages paid from July 1, 1990, through
18 June 30, 1995, the rate shall be 4 percent;

19 (4) With respect to wages paid from July 1, 1995, through
20 June 30, 2000, the rate shall be 5 percent;

21 (5) With respect to wages paid after June 30, 2000, the rate
22 shall be 6 percent.

23 Section 403. Employee refunds. When a covered employee is
24 reported with earnings in excess of the quarterly maximum and taxes on
25 the excess are withheld and paid into the Federated States of Micronesia

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1 Social Security Retirement Fund, the excess employee tax during the four
2 quarters ending June 30 of each year shall be refunded to the employee
3 within 90 days of that date; PROVIDED that the excess employee taxes are
4 \$1 or more. No refund, however, shall be granted to the employer or
5 employers of such employee of taxes paid by such employers on account of
6 wages paid by them to the employee.

7 Section 404. Reporting; Social security card and number. The
8 Administration shall furnish each employer forms for record keeping and
9 reporting of contributions which shall show in addition to other
10 information specified by the Board the employer account number and the
11 employee social security number. Numbers shall be issued by the
12 Administration from a permanent register maintained by it. Each
13 employer shall report quarterly, on the prescribed forms, and pay taxes
14 due thereon to the Administration in accordance with the Board's
15 regulation and subject to interest and penalty for failure so to do.
16 Each employee shall be assigned a social security number and a card
17 bearing this number.

18 CHAPTER 5.

19 RETIREMENT FUND

20 Section 501. Creation; Administration. There shall be a Federated
21 States of Micronesia Social Security Retirement Fund separate and apart
22 from all public monies or funds of the Federated States of Micronesia,
23 which shall be administered by the Social Security Administration
24 exclusively for the purposes of this act.

25 Section 502. Composition; Handling.

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- 1 (1) The retirement fund shall consist of:
- 2 (a) All employee contributions;
- 3 (b) All employer contributions;
- 4 (c) All penalties and interest collected on account of
- 5 contributions;
- 6 (d) All gifts, donations, and fund transfers authorized
- 7 by law;
- 8 (e) All interest and earnings from investment of the
- 9 funds; and
- 10 (f) Funds or assets which are transferred from the Trust
- 11 Territory Social Security Retirement Fund to the Federated States of
- 12 Micronesia Social Security Retirement Fund.

- 13 (2) Expenses incurred in the operation of the Federated
- 14 States of Micronesia Social Security System shall be paid from the
- 15 Federated States of Micronesia Social Security Retirement Fund.

16 Section 503. Investment of funds; Generally. The Board, after

17 investigation and study, shall determine the methods of investing its

18 trust funds to ensure the greatest return commensurate with sound

19 financing adequately safeguarded. The Board may invest and reinvest the

20 monies in its funds and may hold, purchase, sell, assign, transfer, and

21 dispose of any of the securities and investments in which any of the

22 monies of its funds are invested, and, upon such sale, the proceeds

23 thereof shall be redeposited in the funds of the Board subject to

24 reinvestment and payment therefrom by order of the Board.

25 Section 504. Investment of funds; Authorized investments

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1 enumerated. The Board may invest and reinvest its monies:

2 (1) In bonds or other evidences of indebtedness of the
3 Federated States of Micronesia or the United States.

4 (2) In bonds or other evidences of indebtedness of any State
5 of the Federated States of Micronesia or of the United States, PROVIDED
6 that such bonds or other evidences of indebtedness are guaranteed as to
7 principal and interest or PROVIDED that such bonds or evidences of
8 indebtedness are payable from revenues or earnings specifically pledged
9 for the payment of principal and interest on such obligations, and for
10 the payment of which a lawful sinking fund or reserve fund has been
11 established and is being maintained, but only if no default in payment
12 of principal or interest on the obligations to be purchased has occurred
13 within 5 years of the date of investment therein, or, if such
14 obligations were issued less than 5 years prior to the date of
15 investment, no default in payment of principal or interest has occurred
16 on the obligations to be purchased nor on any other obligations of the
17 issuer within 5 years of such investments; PROVIDED always that at the
18 time of purchase the total cost price of all bonds or evidences of
19 indebtedness in any one State does not exceed 25 percent of the value of
20 the invested assets of the fund at that time.

21 (3) Bonds, debentures, notes, and other evidences of
22 indebtedness issued or assumed by Federated States of Micronesia
23 institutions, created or existing under the laws of the Federated States
24 of Micronesia, including housing authorities, when such obligations are
25 guaranteed as to principal and interest by the Government of the

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1 Federated States of Micronesia; PROVIDED always that at the time of
2 purchase the total cost price of all investments in any single
3 institution does not exceed 25 percent of the value of the invested
4 assets of the fund at that time.

5 (4) Bonds, debentures, notes, and other evidences of
6 indebtedness issued, assumed, or guaranteed by any solvent institution
7 created or existing under the laws of the United States or of any State
8 or territory thereof, or of the Federated States of Micronesia, which
9 are not in default as to principal or interest and which are secured by
10 collateral worth at least 50 percent more than the par value of the
11 entire issue of such obligations, but only if not more than one-third of
12 the total value of such required collateral shall consist of common
13 stock; PROVIDED always that at the time of purchase the total cost price
14 of all investments in any single institution does not exceed 25 percent
15 of the value of the invested assets of the fund at that time.

16 (5) Common stock, PROVIDED that:

17 (a) The stock is listed on a recognized United States
18 stock exchange,

19 (b) No dividends on the stock have been omitted or
20 deferred during the 5 years prior to the date of purchase, and

21 (c) Purchase of a stock would not result in the fund
22 holding stock in one corporation in excess of 5 percent or in one
23 industry group in excess of 10 percent of the value of the invested
24 assets of the fund at that time, subject always to a maximum investment
25 at cost price in any one corporation of \$350,000.

CHAPTER 6.

TRANSITIONAL PROVISIONSSection 601. Appointment of initial Board.

(1) On or after the effective date of this act the President shall make nominations for members of the Federated States of Micronesia Social Security Board which shall be subject to confirmation by the Congress. Notwithstanding section 201 the initial Board shall be appointed for the following terms: two members for a period of 3 years, 2 members for a period of 2 years, and 1 member for a period of 1 year. At the conclusion of the term of each Board member the vacancy will be filled in accordance with section 201.

(2) Notwithstanding section 202 and subject to other provisions of this chapter, upon confirmation by the Congress of the initial Board nominations, the Federated States of Micronesia Social Security Board shall enter into an agreement in accordance with section 602 with the Trust Territory Social Security Board providing, inter alia, that the Trust Territory Social Security Administration shall, as the agent of the Federated States of Micronesia Social Security Board, undertake the proper and efficient operation of the Social Security System defined by this act during the transitional period insofar as it pertains to persons covered under this act and until such time as the Federated States of Micronesia Social Security Board and the Trust Territory Social Security Board agree to implement section 604 and the Federated States of Micronesia Social Security Board exercises its prerogatives under sections 603(4) and 605.

1 Section 602. Agreement between Federated States of Micronesia
2 Social Security Board and Trust Territory Social Security Board.

3 (1) In order to ensure the continuous efficient operation of
4 the Federated States of Micronesia Social Security System, the Board of
5 the Federated States of Micronesia Social Security System shall enter
6 into an agreement with the Trust Territory Social Security Board
7 providing that the Trust Territory Social Security Board shall undertake
8 the investment and reinvestment of funds accruing to the Federated
9 States of Micronesia Social Security System, and that the Trust
10 Territory Social Security Administration shall undertake:

11 (a) The administration of the Federated States of
12 Micronesia Social Security System, including, but not limited to:

- 13 (i) Collection of contributions,
14 (ii) Payment of benefits,
15 (iii) Maintenance of individual records,
16 (iv) Registration of employers and employees,
17 (v) Enforcement of compliance,
18 (vi) Adjudication of claims,
19 (vii) Review of eligibility of claims in payment,
20 (viii) Maintenance of separate accounts and
21 preparation of financial statement, and

22 (ix) Preparation of budget;

23 (b) The provision of technical advice;

24 (c) The training at the Trust Territory Social Security
25 Headquarters and in the Federated States of Micronesia of staff

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1 recruited by the Federated States of Micronesia Social Security Board;

2 (d) Assistance in the establishment of an automatic data
3 processing facility for the Federated States of Micronesia Social
4 Security Administration; and

5 (e) Other functions as may from time-to-time be required
6 by mutual agreement between the Federated States of Micronesia Social
7 Security Board and the Trust Territory Social Security Board.

8 (2) The term of the agreement shall be decided by the Board
9 of the Federated States of Micronesia Social Security System and the
10 Board of the Trust Territory Social Security System, taking into account
11 the nature and complexity of the functions which are to be performed and
12 the period of training which is required so that these functions may be
13 properly performed by the staff of the Federated States of Micronesia
14 Social Security Board. By mutual agreement of the Board of the
15 Federated States of Micronesia Social Security System and the Trust
16 Territory Social Security Board, the term of the agreement may be
17 extended or the provisions of the agreement modified.

18 (3) The agreement shall provide that the cost of
19 administration of the Federated States of Micronesia Social Security
20 System by the Trust Territory Social Security Administration shall be
21 paid from the income of the Federated States of Micronesia Social
22 Security System. This cost shall be estimated from the share of the
23 budgeted cost of administration for the Trust Territory Social Security
24 System which is allocable to the Federated States of Micronesia Social
25 Security System. The cost of remuneration, travel, per diem and other

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1 expenditures on account of staff recruited by the Federated States of
2 Micronesia Social Security Board shall be paid from the income of the
3 Federated States of Micronesia Social Security System.

4 Section 603. Apportionment of assets of the Trust Territory Social
5 Security Retirement Fund.

6 (1) As of the end of the first calendar quarter following the
7 effective date of this act, the portion of the Trust Territory Social
8 Security Retirement Fund and accrued items allocable to the Federated
9 States of Micronesia Social Security System shall be determined.

10 (2) This determination shall be made by an actuary in
11 accordance with generally accepted actuarial principles, and it shall be
12 done in such a manner so as to ensure the equitable treatment of
13 employees and beneficiaries of the Federated States of Micronesia Social
14 Security System, other successor Social Security Systems to the Trust
15 Territory Social Security System, and the Trust Territory Social
16 Security System. The allocation shall be based on the contributions of
17 employees and persons in receipt of retirement and disability insurance
18 benefits.

19 (3) The actuary shall be appointed by the Trust Territory
20 Social Security Board and the cost of the actuarial valuation shall be
21 paid by the Trust Territory Social Security System and allocated on a
22 pro-rata basis among the successor systems to the Trust Territory Social
23 Security System.

24 (4) The portion of the invested assets of the Trust Territory
25 Social Security System which is allocated to the Federated States of

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1 Micronesia Social Security System shall continue to be invested in a
2 pool with the funds of Trust Territory Social Security System and other
3 successor Social Security Systems until such time following the
4 termination of the agreement described in section 602 that the Federated
5 States of Micronesia Social Security Board as trustees on behalf of
6 covered employees and beneficiaries deems it prudent and advisable and
7 in the best interest of persons insured under the Federated States of
8 Micronesia Social Security System to modify the investment policy which
9 has been followed by the Trust Territory Social Security Board. Until
10 this time, separate accounts of each national system's proportionate
11 share of the total invested assets shall be maintained.

12 (5) At such time or times following the termination of the
13 agreement described in section 602 as the Federated
14 States of Micronesia Social Security Board wishes to realize all or a
15 portion of its invested assets, the Board shall negotiate arrangements
16 with the investment management firm as to how, in what form, and at what
17 times the assets are to be realized and these arrangements shall be
18 equitable to members of the Federated States of Micronesia Social
19 Security System and other social security systems then participating in
20 the pool.

21 (6) Notwithstanding section 603(5), a firm managing the
22 pooled investments of the Federated States of Micronesia Social Security
23 System, or other successor systems to the Trust Territory Social
24 Security System, and of the Trust Territory Social Security System
25 shall be entitled to a period of 6 months following

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1 written notification of the intention of the Federated States of
2 Micronesia Social Security Board to realize all or a portion of its
3 invested assets before these assets or the cash equivalent of these
4 assets must be delivered over to the Board.

5 Section 604. Collection and remittance of contributions; Payment
6 of benefits. As of the end of a calendar quarter to be determined by
7 agreement between the Federated States of Micronesia Social Security
8 Board and the Trust Territory Social Security Board, following the
9 termination of the agreement described in section 602, contributions
10 shall be paid directly to and benefits paid directly by the Federated
11 States of Micronesia Social Security Administration. Until such time as
12 this occurs, the Trust Territory Social Security System shall maintain a
13 separate account and collect contributions, pay benefits, and invest the
14 excess of contribution income over benefit payments and administration
15 expenses as an agent of the Federated States of Micronesia Social
16 Security Board.

17 Section 605. Other administrative functions. Following the
18 implementation of section 604, and until such time as the Federated
19 States of Micronesia Social Security Board determines that in addition
20 to those functions described in section 604, its Social Security
21 Administration can effectively and efficiently assume all administrative
22 functions associated with the operation of the Social Security System,
23 including settlement and review of claims, enforcement of compliance,
24 registration of employers and insured persons, and maintenance of
25 individual records, the administration of the Trust

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1 Territory Social Security System shall continue to perform these
2 functions as an agent of the Federated States of Micronesia Social
3 Security Board.

4 Section 606. Administration expenses. During the period the
5 Administration of the Trust Territory Social Security System performs
6 the functions described in sections 604 and 605 as an agent of the
7 Federated States of Micronesia Social Security Board, it shall be paid
8 an administration fee which will be established by agreement between the
9 Federated States of Micronesia Social Security Board and the Trust
10 Territory Social Security Board.

11 Section 607. Physical assets.

12 (1) As of the effective date of this act, ownership of the
13 physical assets including property of the Trust Territory Social
14 Security System in the Federated States of Micronesia shall be
15 transferred to the Federated States of Micronesia Social Security Board.
16 While the Trust Territory Social Security Administration is performing
17 administrative operations as agents of the Federated States of
18 Micronesia Social Security System in accordance with sections 603, 604,
19 and 605, it shall have the right of access to and use of these physical
20 assets in order to properly carry out its administration of the
21 Federated States of Micronesia Social Security System.

22 (2) At such time as the Trust Territory Social Security
23 Administration ceases to have responsibility for any employees and
24 beneficiaries under the Trust Territory Social Security System or any
25 successor systems, and its affairs are wound up, the movable property of

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1 the Trust Territory Administration shall be distributed among the
2 successor systems in the same proportions as the assets are apportioned
3 under section 603.

4 Section 608. Reciprocal agreements. In view of the considerable
5 intercountry migration among those countries whose nationals were or are
6 members of the Trust Territory Social Security System, the Federated
7 States of Micronesia Social Security Board shall endeavor to negotiate
8 reciprocal agreements for social security coverage with the other
9 successor systems to the Trust Territory Social Security System.

10 Section 609. Saving of title 53 of the Code of the Federated
11 States of Micronesia for certain purposes.

12 (1) The provisions of this section apply notwithstanding the
13 repeal of title 53 of the Code of the Federated States of Micronesia,
14 the "Trust Territory Social Security Act," by sections of this act, but
15 subject to any other provisions of this act.

16 (2) The Trust Territory Social Security Board continues in
17 existence, and the provisions of title 53 of the Code of the Federated
18 States of Micronesia relating to the Board continue in effect, so long
19 as it's necessary:

20 (a) For the performance of the functions of the Board
21 under this act and any corresponding laws of the Republic of the
22 Marshall Islands and the Republic of Palau; and

23 (b) Thereafter for the purposes of the winding up of its
24 affairs.

25 (3) Upon the completion of the winding up of its affairs, the

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1 Trust Territory Social Security Board is dissolved.

2 (4) The provisions of title 53 of the Code of the Federated
3 States of Micronesia applying to or in relation to prior service credits
4 and prior service benefits continue in effect.

5 CHAPTER 7.

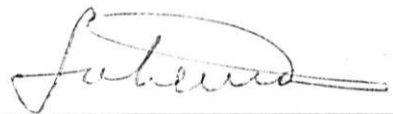
6 EFFECTIVE DATE

7 Section 701. Effective date. This act shall become law upon its
8 approval by the President of the Federated States of Micronesia or upon
9 its becoming law without such approval, and the effective date of this
10 act shall be:

11 (1) The date on which it becomes effective in accordance with
12 Secretarial Order No. 3039; or

13 (2) The date on which Secretarial Order No. 3039, section 7,
14 ceases to prevent its becoming effective, whichever is the earlier date.

15
16 Date: 11/3/82

Introduced: 
Luke M. Tman
(by request)