FOURTEENTH CONGRESS OF THE FEDERATED STATES OF MICRONESIA
SECOND SPECIAL SESSION, 2006
C.B. NO. 14-148

A BILL FOR AN ACT

To further amend Title 53 of the Code of the Federated States of Micronesia, as amended, by amending section 603 to change the definition of child, disability, fully insured and wages; by amending section 804 to change benefit levels; by enacting a new section 903 to allow for voluntary participation in the Social Security system, and for other purposes.

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

Section 1. Section 603 of title 53 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 5-120, 7-118, 12-76 and 14-37 is hereby further amended to read as follows:

"Section 603. Definitions. In this chapter, unless the context otherwise requires, the following definitions shall be applicable:

(1) 'Application' means the prescribed form or forms provided to individuals by the Social Security Administrator as the exclusive means by which an individual may apply for the payment of any benefit provided for in section 801, 802, 803 or 803A of this act.

(2) 'Became disabled' means the first month in which an individual is under a disability.

(3) 'Board' means the Federated States of Micronesia Social Security Board provided for by section 701 of this subtitle."
(4) 'Child or spouse' means an applicant that the court of the State in which an individual was domiciled at the time of his death has or would find to be the individual's child or spouse in determining the devolution of intestate personal property. 'Child' shall include only the deceased individual’s biological children and such adopted children whose confirmed petition for adoption by the wage earner has been presented to the Social Security Administration and who were adopted by the wage earner on or prior to the wage earner's 55th birthday.

(5) 'Contributions' means the tax imposed upon income of covered employees and the tax imposed upon employers on account of wages paid to a covered employee.

(6) 'Disability' means inability to engage in any substantial gainful employment by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months provided that the physical or mental impairment is not a result of a alcohol or substance abuse.

(7) 'Earning test' means that an individual who receives a retirement, disability, or survivor benefit and who works in covered or noncovered employment shall
have his quarterly benefit reduced by one dollar for each two dollars earned in a quarter, except there shall be no reduction for the first $300 earned in a quarter. The reduction shall be applied in one of the subsequent two quarters immediately after the quarter in which the earnings were made, or as soon as possible thereafter.

(8) 'Employee' means:

(a) any officer of a corporation; or

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

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

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

(9) 'Employment, covered' or 'covered employment' means any service by an employee for an employer incorporated or doing business within the Federated States of Micronesia employing him, irrespective of where such employment is performed, except family employment.

(10) 'Employment, noncovered' or 'noncovered employment' means any employment engaged in by an
employee where coverage is statutorily exempt in the
Federated States of Micronesia and which is not taxable
by the FSM Social Security Administration.

(11) Family employment' means employment of a worker by
a member of the household, a parent or a son or daughter
except that the worker may apply to the Board for a
determination that such employment is bona fide covered
employment subject to this subtitle.

(12) 'Insured status' can mean any of the following:

(a) 'Currently insured individual' means any
individual who has had not less than [eight] twenty
quarters of coverage during the [25]-quarter period
ending with:

(i) the quarter in which he died; or
(ii) the quarter in which he became entitled
to old age insurance benefits; or
(iii) the quarter in which he became disabled,
whichever first occurs.

(b) 'Fully insured individual' means any
individual whose total cumulative quarters of coverage
are at least as greater as the number of years
calculated from the later of the date the worker attains
age sixty (60), dies or becomes disabled. For this
purpose, partial years shall be counted as whole years
(for example 37.25 years would be rounded up to 38
years). [Notwithstanding anything in this section, no more than thirty-eight (38) quarters of coverage are required to be fully insured, and in] In no case shall an individual be a fully insured individual unless he has at least 12 quarters of coverage.

(i) For individuals who attain age sixty (60),
die or become disabled on or before December 31, 2006, no more than thirty-eight (38) quarters of coverage are required to be fully insured.

(ii) For individuals who turn sixty (60) or die after December 31, 2006, no more than fifty (50) quarters of coverage and employee contributions to the Social Security System of at least $2,500 are required to be fully insured. Should an individuals' employee contributions total less than $2,500 as of the date of termination of employment or death, the individual or their surviving spouse may pay the difference to the FSM Social Security Administration in a single sum payment in order to become fully insured. The surviving children will be eligible for benefits so long as the individual was currently insured at the time of the individual's death.

(iii) For individuals who become disabled after December 31, 2006, no more than 45 quarters of coverage and employee contributions to the Social Security System
of at least $1500 are required to be fully insured. Should an individual's employee contribution total less than $1,500 s of the date of termination from employment, the individual may pay the difference to the FSM Social Security Administration in a single sum payment in order to become fully insured.

(13) 'Quarter' and 'calendar quarter' mean a period of three calendar months ending on March 31st, June 30th, September 30th, or December 31st. 'Quarter of coverage' means a quarter in which the individual has been paid [$50] $300 or more in wages in employment subject to this subtitle.

(13) 'Wages' means remuneration paid subject to the provisions of this subtitle, including the cash value of all remuneration paid in any medium other than cash and remuneration accruing to a self-employed person. Remuneration accruing to a self-employed person shall be deemed to be twice the amount paid to the highest paid employee reported by the self-employed person in a quarter, with a maximum of $3,000 per quarter through September 30, 2003 and a maximum of $5,000 per quarter [thereafter] beginning October 1, 2003. This maximum quarterly amount shall increase to $6,000 on January 1, 2008, $7,000 on January 1, 2013, $8,000 on January 1, 2018, $9,000 on January 1, 2023, and $10,000 on January
Remuneration accruing to a self-employed person who has no covered employees shall, for each quarter of a year, be deemed to be \([2.5\%]\) of the gross revenue of the business for the previous calendar year, subject to a $3,000 maximum per quarter through September 30, 2003 and a maximum of $5,000 per quarter [thereafter] beginning October 1, 2003. The maximum quarterly amount shall increase to $6,000 on January 1, 2008, $7,000 on January 1, 2013, $8,000 on January 1, 2018, $9,000 on January 1, 2023, and $10,000 on October 1, 2028. Remuneration paid for any service which is more or less than a whole dollar shall, as may be prescribed by regulations, be computed to the nearest dollar. Wages shall not include:

(a) that part of remuneration in excess of $3,000 through September 30, 2003 and in excess of $5,000 [thereafter] beginning October 1, 2003, in excess of $6,000 beginning January 1, 2008, in excess of $7,000 beginning January 1, 2013, in excess of $8,000 beginning January 1, 2018, in excess of $9,000 beginning on January 1, 2023, and in excess of $10,000 beginning on January 1, 2028, paid in a quarterly reporting period by one employer;

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

(c) any payment made to or on behalf of an
employee or to the employee's beneficiary from a trust
or annuity;

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

(e) remuneration paid for casual or intermittent
labor not performed in the course of the employer's
trade or business when such employment does not exceed
employment in more than one week in each calendar month
of each quarterly reporting period; and

(f) remuneration from family employment subject
to the provisions of this subtitle.

Section 2. Section 804 of Title 53 of the Code of the
Federated States of Micronesia, as amended by Public Laws Nos. 5-
120, 7-118, 9-56 and 14-37, is hereby amended to read as follows:

"Section 804. Amount of retirement and disability
insurance benefits.

(1) An insured eligible individual shall be paid a
monthly old age benefit for life, except for any month
of disqualification as provided by this subtitle, in an
amount calculated upon an annual basis as follows: For
benefit payments that begin prior to January 1, 2007; 16.5 percent of the first $10,000 of cumulative covered earnings, plus 3 percent of cumulative covered earnings in excess of $10,000 but not in excess of the next $30,000, plus 2 percent of cumulative covered earnings in excess of $40,000. For benefit payments that begin on or after January 1, 2007; 16.5 percent of the first $10,000 of cumulative covered earnings, plus three percent of cumulative covered earnings in excess of $10,000 but not in excess of the next $30,000, plus two percent of cumulative covered earnings in excess of $440,000 but not in excess of the next $262,500, plus one percent of cumulative covered earnings in excess of $302,500. Earnings for covered employment after commencement of payments for retirement or disability insurance benefits shall be included in benefit calculations upon subsequent application for benefits, but such earnings shall be applicable for benefits for months after the calendar year in which such earnings occurred. For the purpose of this section cumulative covered earnings includes earnings on which contributions have been paid by the individual to the Trust Territory Social Security System.

(2) An insured, eligible individual shall be paid a minimum monthly benefit of [fifty] seventy five dollars
if the benefit amount calculated in accordance with subsection (1) of this section is less than [fifty] seventy five dollars monthly. Effective on January 1, 2012, the minimum monthly benefit shall be $100.

(3) An individual who is fully insured and who has been under a disability for three full calendar months shall be paid a monthly benefit for life or until recovery from the disability, except for any month of disqualification as provided by this subtitle in an amount calculated in accordance with the preceding subsections of this section. Further, the amount of the benefit as so determined shall, if the individual is receiving a periodic workmen's compensation benefit, be reduced each month by the excess of the sum of the workmen's compensation benefit for that month and the benefit payable under this act over eighty percent of one-twelfth of the highest annual covered wages in the period consisting of the year in which the disability occurred and the preceding five years. If a workmen's compensation benefit was payable in periodic benefits but was commuted to a lump sum, for purposes of this subsection it will be considered that the periodic benefit originally available was paid in each month that it would have been paid if the commutation had not occurred."
Section 3. Section 903 of Title 53 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 5-120, is hereby renumbered section 904.

Section 4. Section 904 of Title 53 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 5-120, is renumbered section 905.

Section 5. A new section 903 is hereby enacted to read as follows:

"Section 903. Voluntary contributions.

(1) Any self employed person who has less than $10,000 of annual gross revenue may make voluntary contributions to the Social Security Administration in order to become eligible to receive benefits under this Title. The remuneration of such person shall be deemed to be $1,250 per quarter of $5,000 per year and such persons must pay both the employee and employer contributions in order to be so eligible.

(2) Any person who is a citizen of Micronesia and is working as an employee outside of the Federated States of Micronesia, Republic of Palau or Republic of the Marshall Islands may make voluntary contributions to the Social Security Administration in order to become eligible to receive benefits. The remuneration of such persons shall be deemed to be minimum of $1,250 a quarter of $5,000 a year and such persons must pay both
the employee and employer contribution in order to be covered."

Section 6. This act shall be effective immediately upon this act become law. 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: 2/29/06

Introduced by: /s/ Simiram Sipenuk
Simiram Sipenuk
(by request)