

AN ACT

To further amend title 53 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 5-120, 7-118, 9-056, 12-76, 14-34, 14-37 and 14-86, by amending the following provisions of title 53, sections 603, 605, 607, 801, 803, 803A, 804, 806, 809, 901, 902, and 1006, to provide for greater financial stability for the FSM Social Security Administration and to reduce its un-funded liability, by raising tax rates, to clarify definitions, to change restrictions to the types of investment that Social Security may engage in, and for other purposes.

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

1 Section 1. Section 603 of title 53 of the Code of the
2 Federated States of Micronesia, as amended by Public Laws Nos. 5-
3 120, 7-118, 12-76, 14-37 and 14-86 is hereby further amended to
4 read as follows:

5 "Section 603 Definitions of title 53 of the Code of the
6 Federated States of Micronesia, as amended, is hereby
7 further amended to read as follows:

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

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

16 (3) 'Board' means the Federated States of Micronesia
17 Social Security Board provided for by section 701 of

1 this subtitle.

2 (4) 'Child or spouse' means an applicant that the
3 court of the State in which an individual was domiciled
4 at the time of his death has or would find to be the
5 individual's child or spouse in determining the
6 devolution of intestate personal property. 'Child'
7 shall include only the deceased individual's biological
8 children and such adopted children whose confirmed
9 petition for adoption by the wage earner has been
10 presented to the Social Security Administration and who
11 were adopted by the wage earner on or prior to the wage
12 earner's 55th birthday of the adopting parent, shall be a
13 'child' for the purposes of this title unless, the
14 Social Security Administrator makes a determination
15 that, due to exceptional circumstances, the person shall
16 be so entitled. In reaching a determination that
17 exceptional circumstances apply, the Social Security
18 Administrator shall satisfy himself or herself that
19 future eligibility for social security benefits was not
20 a significant factor in the decision to adopt and may
21 consider any available, relevant information including,
22 but not limited to:

23 (a) whether the adopted child's biological
24 mother, and/or biological father were alive at the time
25 the adoption took place;

1 (b) if one or both biological parents were alive
2 at the time of adoption, whether one or both parents
3 were acting or were capable of acting as a primary
4 caregiver at that time;

5 (c) whether the adopting parent is a relative of
6 the adopted child;

7 (d) whether, at the time the adoption took
8 place, there were relatives, not including the adopting
9 parents, who would have been appropriate guardians for
10 the adopted child;

11 (e) whether the adopting parent was a primary
12 caregiver for the adopted child at the time of adoption
13 and continued in that role after the adoption took
14 place;

15 (f) any other factor the Social Security
16 Administrator considers relevant.

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

20 (6) 'Disability' means inability to engage in any
21 substantial gainful employment by reason of any
22 medically determinable physical or mental impairment
23 which can be expected to result in death or which has
24 lasted or can be expected to last for a continuous
25 period of not less than 12 months.

1 (7) 'Earning test' means that an individual who
2 receives a retirement, disability, or survivor benefit
3 and who works in covered or non-covered employment shall
4 have his quarterly benefit reduced by one dollar for
5 each two dollars earned in a quarter, except there shall
6 be no reduction for the first \$300 earned in a quarter.
7 The reduction shall be applied in one of the subsequent
8 two quarters immediately after the quarter in which the
9 earnings were made, or as soon as possible thereafter.
10 All benefit recipients have an affirmative duty to
11 disclose to the FSM Social Security Administration all
12 earnings from either covered or non-covered employment
13 for which time they are receiving or claiming benefits.
14 Under certain circumstances as defined in section 804,
15 the earnings test may not apply to old age benefits
16 received by an individual between the ages of 60 and 64
17 who turns 60, after January 1, 2010.

18 (8) 'Employee' means:

19 (a) any officer of a corporation; or

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

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

1 (d) any self-employed person who had more than
2 \$10,000 of annual gross revenue in the preceding
3 calendar year.

4 (9) 'Employer means:

5 (a) For purposes of this act, employer means the
6 person, business organization or other organization, or
7 national or state or municipal government or agency,
8 that pursuant to common law rules of employment is the
9 actual person or organization responsible for the
10 formation and continuation of the working relationship
11 with employee.

12 (b) The Social Security Administration has the
13 right to determine the actual employer of employees for
14 purposes of implementing this act, and need not rely on
15 the characterization provided.

16 (c) Employer may be an individual, partnership,
17 corporation or other type of business venture or non-
18 business organization, national or municipal or state
19 organization or agencies thereof, and which in certain
20 circumstances may be more than one, that is responsible
21 for the payment of all Social Security taxes. For
22 partnerships, the liability shall be joint and several
23 among all partners. For other types of business or non-
24 business organizations that are not corporations, the
25 liability shall be joint and several as if the

1 organization was a common law partnership. For
2 corporations, if the corporation fails to meet its tax
3 obligations when due, the liability shall be joint and
4 several between the president of the corporation, and
5 all shareholders with greater than a 30% interest in the
6 corporation.

7 Under this definition all such persons are jointly
8 defined as the employer, for all purposes including the
9 implementation of criminal penalties.

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

16 (11) 'Employment, non-covered' or 'non-covered
17 employment' means any employment engaged in by an
18 employee where coverage is statutorily exempt in the
19 Federated States of Micronesia, family employment, or
20 employment by an employee outside of the Federated
21 States of Micronesia and which is not taxable by the FSM
22 Social Security Administration.

23 (12) 'Family employment' means employment of a
24 worker by a member of the household, a parent or a son
25 or daughter except that the worker may apply to the

1 Board for a determination that such employment is bona
2 fide covered employment subject to this subtitle.

3 (13) 'Insured status' can mean any of the
4 following:

5 (a) 'Currently insured individual' means any
6 individual who has had not less than 20 quarters of
7 coverage during the 25 quarter period ending with:

8 (i) the quarter in which he died; or

9 (ii) the quarter in which he became entitled
10 to old age insurance benefits at age sixty (60);

11 (iii) the quarter in which he became disabled,
12 whichever occurs first.

13 (b) For individuals who qualified as a currently
14 insured person prior to December 31, 2006, the number of
15 quarters to qualify as a currently insured person was
16 not less than eight quarters of coverage during the
17 thirteen quarter period ending with:

18 (i) the quarter in which he died; or

19 (ii) the quarter in which he became entitled
20 to old age insurance benefits at age sixty (60);

21 (iii) the quarter in which he became disabled,
22 whichever occurs first.

23 (c) 'Fully insured individual' means any
24 individual whose total cumulative quarters of coverage
25 are at least as great as the number of years calculated

1 from the later of the date the worker turned age twenty-
2 one (21), or June 30, 1968, to the date the worker
3 attains age sixty (60), dies or becomes disabled. For
4 this purpose, partial years shall be counted as whole
5 years (for example 37.25 years would be rounded up to 38
6 years). In no case shall an individual be a fully
7 insured individual unless he has at least 12 quarters of
8 coverage:

9 (i) For individuals who attain age sixty
10 (60), die or become disabled on or before December 31,
11 2006, no more than thirty-eight (38) quarters of
12 coverage are required to be fully insured and there is
13 no minimum amount required for employee contributions to
14 the Social Security System.

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

1 individual was currently insured at the time of the
2 individual's death.

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

12 (d) 'Fully insured status' means:

13 (i) For individuals who turn sixty (60) or
14 die after January 01, 2010, shall have total cumulative
15 quarters of coverage equaling fifty (50) quarters of
16 coverage or greater, and employee contributions to the
17 Social Security System of at least \$2,500 are required
18 to be fully insured. Employee contributions are the
19 contributions defined in section 901 only. Should an
20 individual's employee contributions total less than
21 \$2,500 as of the date of qualification as a fully
22 insured individual, the individual or their surviving
23 spouse may pay the difference to the FSM Social Security
24 Administration in a single sum payment in order to be
25 fully insured. If the individual or the surviving

1 spouse is unable to pay the difference on the minimum
2 contribution, the individual or surviving spouse can opt
3 for lump sum payment equal to the total employee
4 contribution.

5 (ii) 'Fully insured' means for individuals
6 who become disabled on or after January 1, 2010, at
7 least forty-five (45) quarters of coverage are needed to
8 be defined as fully insured, and they must also meet the
9 definition of currently insured at the time of the onset
10 of their disability. Additionally, employee's
11 contributions to the Social Security System of at least
12 \$1,500 are required to be fully insured. Should an
13 individual's employee contribution total less than
14 \$1,500 as of the date of disability, the individual may
15 pay the difference to the FSM Social Security
16 Administration in a single lump sum payment in order to
17 be fully insured.

18 (14) 'Quarter' and 'calendar quarter' mean a period of
19 three calendar months ending on March 31st, June 30th,
20 September 30th, or December 31st. 'Quarter of coverage'
21 means a quarter in which the individual has been paid
22 \$300 or more in wages in covered employment subject to
23 this subtitle.

24 (15) 'Wages' means remuneration paid subject to the
25 provisions of this subtitle, including the cash value of

1 all remuneration paid in any medium other than cash and
2 remuneration accruing to a self-employed person.
3 Remuneration accruing to a self-employed person shall be
4 deemed to be twice the amount paid to the highest paid
5 employee reported by the self-employed person in a
6 quarter, with a maximum of \$3,000 per quarter through
7 September 30, 2003 and a maximum of \$5,000 per quarter
8 beginning October 1, 2003. This maximum quarterly
9 amount shall increase to \$6,000 on January 1, 2008,
10 \$7,000 on January 1, 2013, \$8,000 on January 1, 2018,
11 \$9,000 on January 1, 2023, and \$10,000 on January 1,
12 2028. Remuneration accruing to a self-employed person
13 who has no covered employees shall, for each quarter of
14 a year, be deemed to be five (5) percent of the gross
15 revenue of the business or gross revenue of all
16 businesses for the previous calendar year, subject to a
17 \$3,000 maximum per quarter through September 30, 2003
18 and a maximum of \$5,000 per quarter beginning October 1,
19 2003. This maximum quarterly amount shall increase to
20 \$6,000 on January 1, 2008, \$7,000 on January 1, 2013,
21 \$8,000 on January 1, 2018, \$9,000 on January 1, 2023,
22 and \$10,000 on October 1, 2028. Remuneration paid for
23 any service, which is more or less than a whole dollar
24 shall, as may be prescribed by regulations, be computed
25 to the nearest dollar. Wages shall not include:

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

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

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

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

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

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

3 Section 2. Section 605 of title 53 of the Code of the
4 Federated States of Micronesia, as amended by Public Laws Nos. 5-
5 120 and 14-37 is hereby further amended as follows:

6 "Section 605. Violations – Penalties and interest –
7 Attorney's fees and costs.

8 (1) Any person who knowingly makes any false statement
9 or who falsifies any report or record of the Federated
10 States of Micronesia Social Security System in an
11 attempt to defraud the system is guilty of a misdemeanor
12 and upon conviction thereof shall be imprisoned for a
13 period of not more than one year, or fined not more than
14 \$2,000 or both. Any employer who intentionally fails to
15 pay the employer's FSM Social Security taxes in any
16 given quarter, or any employer who intentionally
17 withholds FSM Social Security taxes from an employee's
18 wages and does not pay FSM Social Security taxes on
19 behalf of that employee, or any employer who employs an
20 employee and knowingly fails to withhold FSM Social
21 Security taxes on that employee is guilty of a
22 misdemeanor and upon conviction thereof shall be
23 imprisoned not more than one year, or fined not more
24 than \$2,000 or both. In addition to this criminal
25 penalty, if an employer is determined by his failure to

1 have paid either the employer's or employee's
2 contributions to the FSM Social Security Administration,
3 and the employee is denied benefits by the FSM Social
4 Security Administration because of a lack of quarters of
5 coverage, and the contributions withheld would have
6 caused the employee to be fully or currently insured and
7 eligible for benefits, the employer shall be responsible
8 directly for the payment of all benefits that would
9 accrue to the employee or his beneficiaries under this
10 act. If the employer, after the initial denial,
11 subsequently makes back payments, the FSM Social
12 Security Administration can seek repayment from the
13 employer of all benefits paid to the employee as a
14 penalty for the failure to pay.

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

22 (3) Any person who receives benefits to which he or
23 she is not entitled shall be liable to repay the Social
24 Security Administration those benefits, and in addition
25 to the remedies under section 808 of this subtitle, may

1 be subject to civil action for recovery of those
2 benefits.

3 (4) Any covered employer who fails to submit the
4 quarterly report and pay the social security tax within
5 ten days after the end of the quarter shall be
6 considered delinquent. The Board or its authorized
7 representatives shall be vested with the authority to
8 levy a penalty of not more than \$1,000 per quarter on
9 delinquent employers.

10 (5) If any tax or penalty imposed by this subtitle is
11 not paid on or before the date prescribed for such
12 payment, the Board or its authorized representatives
13 shall be vested with the authority to collect, in
14 addition to such tax and penalty, interest on the unpaid
15 balance of the tax principal at the rate of 12 percent
16 per annum from its due date until the date it is paid.

17 (6) In the event that any claim for monies is due to
18 the Social Security Administration under this subtitle
19 is referred to an attorney or trial counselor for
20 collection, whether or not suit is brought for the
21 collection thereof, the individual or entity shall
22 additionally be liable for reasonable attorney or trial
23 counselor fees and costs of collection, including court
24 costs incurred by the Social Security Administration in
25 its discretion may waive part or all of any attorney

1 fees and costs awardable under this section.

2 (7) In the event of a violation of subsections (1),
3 (2), (4), (5) or (6), the payments or penalties defined
4 apply to the employer, as defined in section 603(9), and
5 the payments or penalties, including criminal penalties,
6 defined in these subsections can be enforced on the
7 persons defined in section 603(9). In addition, for
8 municipal organizations, states of the Federated States
9 of Micronesia or national government or any agencies of
10 any of the above, the Director of Finance, or its
11 equivalent position of such organization is responsible
12 for payments as described herein, and the payments or
13 penalties, including criminal penalties, defined in
14 these subsections can be enforced against such chief
15 financial officer."

16 Section 3. Section 607 of title 53 of the Code of the
17 Federated States of Micronesia, as amended by Public Laws Nos. 5-
18 120 and 14-34, is hereby further amended to read as follows:

19 "Section 607. Lien for taxes.

20 (1) All taxes, including penalties and interest
21 accrued thereon, imposed or authorized under this
22 subtitle shall be a lien upon any property of the
23 employer, having priority over all other claims and
24 liens including liens for other taxes, except as
25 provided in the Secured Transaction Act and may be

1 collected by levy upon such property in the same manner
2 as the levy of an execution.

3 (2) All taxes, including penalties and interest
4 accrued thereon, imposed or authorized under this
5 subtitle owed by a state or municipal government or
6 national government or any agency thereof, shall be
7 subject to a writ of garnishment of all moneys owed by
8 the FSM National Government to any state or municipal
9 government or any agency thereof, and such writ of
10 garnishment shall have priority over any claim for such
11 moneys in any manner by the particular state or
12 municipal government or agency thereof and such writs of
13 garnishment are specifically exempt from any
14 prohibitions under Section 707 of title 6 of the Code of
15 the Federated States of Micronesia."

16 Section 4. Section 801 of title 53 of the Code of the
17 Federated States of Micronesia, as amended by Public Laws Nos. 5-
18 120, 12-76 and 14-37, is hereby further amended to read as
19 follows:

20 "Section 801. Scope of Coverage; Verification of
21 Employment; Old age benefits.

22 (1) All employees, wherever employed by an employer
23 incorporated or doing business in the Federated States
24 of Micronesia, shall be covered unless both the employer
25 and the employee are currently subject to any other

1 recognized Social Security System. The administrator of
2 the Social Security System, or his designees, shall
3 cause at least two unannounced employment site checks to
4 be conducted upon every non-government employee actually
5 engaged in an employer-employee relationship that will
6 allow him to be covered and eligible for benefits under
7 this subtitle. The two employment site checks shall be
8 conducted within a month of each other and both shall be
9 conducted within the first six months of the employee's
10 first contribution payment to the Social Security
11 System. For the purposes of this subtitle, any elected
12 official in any Government unit or body in the Federated
13 States of Micronesia is deemed to be an employee
14 employed by a Federated States of Micronesia employer.
15 The governmental unit or body to which such person is
16 elected is subject to the provisions in this subtitle
17 relating to the duty and obligations of the Federated
18 States of Micronesia employer.

19 (2) Every person who:

20 (a) is fully insured

21 (b) has attained age 60; and

22 (c) has filed a complete application with the
23 Social Security Administrator for old age insurance
24 shall be entitled to an old age insurance benefit
25 subject to the earnings test as defined and applied in

1 this subtitle.

2 (3) Old age insurance benefit payments shall be
3 paid for each month commencing with the month in which
4 both paragraphs (2) (a) and (2) (b) of this section are
5 satisfied and shall end with the month preceding the
6 month in which the applicant dies.

7 (4) Notwithstanding the provisions of subsections (2)
8 and (3) above, retroactive payment shall be limited to
9 the twelve (12) months immediately preceding the month
10 in which the individual entitled to benefits has
11 submitted an application.

12 (5) In an application for benefits under this section,
13 whether individually or as a dependent, the applicant
14 has the burden to come forward with evidence and to take
15 all steps necessary to file a completed application.
16 The Social Security Administration has the right to deny
17 an application for benefits solely on the basis of non-
18 compliance with the application process or the failure
19 of the applicant to produce reasonably available
20 documents or information."

21 Section 5. Section 803 of title 53 of the Code of the
22 Federated States of Micronesia, as amended by Public Laws Nos. 9-
23 056 and 12-76, is hereby further amended to read as follows:

24 "Section 803. Dependent's benefits

25 (1) Every surviving child who:

1 (a) was dependent upon an individual who died
2 fully insured or currently insured; and

3 (b) has filed a complete application with the
4 Social Security Administrator for survivor's insurance;
5 shall be entitled to a surviving child's insurance
6 benefit, subject to the earnings test as defined in this
7 subtitle.

8 (2) A surviving child's insurance benefit shall be
9 paid for each month beginning with the month of the
10 death of the individual who died fully insured or
11 currently insured and shall end with the month preceding
12 the month which contains the first to occur of the
13 following events:

14 (a) attainment of age twenty two (22) in the case
15 of a surviving child who is a bona fide student; or

16 (b) ceasing to be disabled after attainment of
17 age eighteen (18) in the case of any surviving child who
18 was disabled before the attainment of age twenty-two
19 (22); or

20 (c) attainment of age eighteen (18) in the case
21 of any surviving child not described in preceding
22 paragraphs (a) and (b), except that benefits shall be
23 payable during the disability of a surviving child who
24 was disabled before the attainment of age twenty-two
25 (22) regardless of the child's age; or

1 (d) marriage; or

2 (e) adoption.

3 (3) A surviving child shall be deemed to have been
4 dependent upon his parent or adopting parent unless that
5 parent or adopting parent was not living in the same
6 household with or contributing to the support of such
7 child prior to his death. The child's insurance benefit
8 shall be paid to the individual upon whom the child is
9 currently dependent, except such benefit shall be
10 subject to the earnings test as defined in this
11 subtitle.

12 (4) Notwithstanding the provisions of subsections (1)
13 and (2) above, retroactive payments shall be limited to
14 the twelve (12) months immediately preceding the month
15 in which the surviving child or the surviving child's
16 guardian has submitted an application."

17 Section 6. Section 803A of title 53 of the Code of the
18 Federated States of Micronesia, as amended by Public Law No. 12-
19 76, is hereby further amended to read as follows:

20 "Section 803A. Disability benefits.

21 (1) Every person who:

22 (a) is both currently and fully insured;

23 (b) is disabled and has been disabled for at
24 least three full calendar months; and

25 (c) has filed a complete application with the

1 Social Security Administrator for disability insurance
2 shall be entitled to a disability insurance benefit,
3 subject to the earnings test as defined in this
4 subtitle.

5 (2) Disability insurance benefits shall be paid for
6 each month, beginning with the month of the waiting
7 period and ending with the month preceding the month in
8 which the disabled individual dies or recovers from
9 disability.

10 (3) Notwithstanding the provisions of subsections (1)
11 and (2) above, retroactive payments shall not be made
12 for more than the twenty-four (24) months immediately
13 preceding the month in which the disabled individual has
14 submitted an application.

15 (4) For persons disabled on or before January 01,
16 2010, that person to be eligible must only be fully
17 insured to qualify for disability benefits, if they
18 comply with the rest of this section."

19 Section 7. Section 804 of title 53 of the Code of the
20 Federated States of Micronesia, as amended by Public Law Nos. 5-
21 120, 7-118, 9-56, 14-37 and 14-86 is hereby amended to read as
22 follows:

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

25 (1) An insured eligible individual shall be paid a

1 monthly old age benefit for life, except for any month
2 of disqualification as provided by this subtitle, in an
3 amount calculated upon an annual basis as follows:

4 (a) For benefit payments that begin prior to
5 January 1, 2007; 16.5 percent of the first \$10,000 of
6 cumulative covered earnings, plus three percent of
7 cumulative covered earnings in excess of \$10,000 but not
8 in excess of the next \$30,000, plus two percent of
9 cumulative covered earnings in excess of \$40,000.

10 (b) For benefit payments that begin on or after
11 January 1, 2007 but before January 01, 2010; 16.5
12 percent of the first \$10,000 of cumulative covered
13 earnings, plus three percent of cumulative covered
14 earnings in excess of \$10,000 but not in excess of the
15 next \$30,000, plus two percent of cumulative covered
16 earnings in excess of \$40,000 but not in excess of the
17 next \$262,500, plus one percent of cumulative covered
18 earnings in excess of \$302,500.

19 (c) For benefit payments that begin on or after
20 January 1, 2010:

21 (i) For individuals who are 65 and over;
22 16.5% of the first \$10,000 of cumulative covered
23 earnings, plus 3 percent of cumulative covered earnings
24 in excess of \$10,000 but not in excess of the next
25 \$30,000.00, plus 2% of the cumulative covered earnings

1 in excess of \$40,000 but not in excess of the next
2 \$262,500, plus one percent of cumulative covered
3 earnings in excess of \$302,500.

4 (ii) For individuals who turn 60 after
5 January 1, 2010, such individual from ages 60 to 64 will
6 receive fifty percent (50%) of the total of all the
7 described benefits in this subsection, 16.5% of the
8 first \$10,000 of cumulative covered earnings, plus 3
9 percent of cumulative covered earnings in excess of
10 \$10,000 but not in excess of the next \$30,000, plus 2%
11 of the cumulative covered earnings in excess of \$40,000
12 but not in excess of the next \$262,500, plus one percent
13 of cumulative covered earnings in excess of \$302,500.
14 These payments in this subsection only, shall be made
15 without reduction pursuant to the earnings test in
16 section 603(7).

17 (iii) For individuals under age 60, benefit
18 payments would be calculated the same as subsection (i).

19 (d) Earnings for covered employment after
20 commencement of payments for retirement or disability
21 insurance benefits shall be included in benefit
22 calculations upon subsequent application for benefits,
23 but such earnings shall be applicable for benefits for
24 months after the calendar year in which such earnings
25 occurred. For the purpose of this section cumulative

1 covered earnings includes earnings on which
2 contributions have been paid by the individual to the
3 Trust Territory Social Security System.

4 (e) In the event, benefits have been received
5 under section 804(1)(c)(ii), such benefits shall be
6 automatically adjusted when the individual reaches age
7 65.

8 (f) For purposes of interpreting this section
9 "benefit payments begin on" is defined to mean the date,
10 whether retroactive or current when a benefit payment is
11 paid for a specific month. A benefit payment may begin
12 prior to the application date, subject to retroactive
13 payment limitations defined in this act.

14 (2) An insured, eligible individual shall be paid a
15 minimum monthly benefit of seventy five dollars if the
16 benefit amount calculated in accordance with subsection
17 (1) of this section is less than seventy five dollars
18 monthly. Effective on January 1, 2012, the minimum
19 monthly benefit shall be \$100. The minimum monthly
20 benefit is calculated per insured worker, not per
21 recipient.

22 (3) An individual who is currently and fully insured
23 and who has been under a disability for three full
24 calendar months and the onset of disability occurred on
25 or after January 01, 2010, or an individual who was

1 fully insured and the onset of disability occurred prior
2 to this bill becoming law shall be paid a monthly
3 benefit for life or until recovery from the disability,
4 except for any month of disqualification as provided by
5 this subtitle in an amount calculated in accordance with
6 the preceding subsections of this section, and for an
7 individual with an onset of disability on or after
8 January 1, 2010, he or she will receive benefits as if
9 he or she retired at age 65, but with existing quarters
10 of coverage. Further, the amount of the benefit as so
11 determined shall, if the individual is receiving a
12 periodic workmen's compensation benefit, be reduced each
13 month by the excess of the sum of the workmen's
14 compensation benefit for that month, and the benefit
15 payable under this act over eighty percent of one-
16 twelfth of the highest annual covered wages in the
17 period consisting of the year in which the disability
18 occurred and the preceding five years. If a workmen's
19 compensation benefit was payable in periodic benefits
20 but was commuted to a lump sum, for purposes of this
21 subsection it will be considered that the periodic
22 benefit originally available was paid in each month that
23 it would have been paid if the commutation had not
24 occurred."

25 Section 8. Section 806 of title 53 of the Code of the

1 Federated States of Micronesia, as amended by Public Laws Nos. 5-
2 112, 7-119 and 14-37, is hereby further amended to read as
3 follows:

4 "Section 806. Amount of survivor insurance benefits.

5 (1) The surviving spouse of a fully insured worker
6 eligible in accordance with section 802 of this chapter
7 shall be paid a monthly benefit or disability in an
8 amount equal to 60 percent of the retirement or
9 disability insurance benefit calculated for the deceased
10 spouse at the date of death. For a fully insured worker
11 who dies after January 1, 2010, the benefit will be
12 calculated as if he or she retired at age 65, but with
13 existing quarters of coverage.

14 (2) Each eligible child of an insured worker shall be
15 entitled to a monthly benefit of 15 percent of the
16 retirement insurance benefit calculated for the deceased
17 parent at the date of death. For a fully insured worker
18 who dies after January 1, 2010, the benefit will be
19 calculated as if he or she retired at age 65, but with
20 existing quarters of coverage.

21 (3) If the spouse of the deceased insured worker is
22 eligible for retirement or disability benefits based on
23 his or her own employment coverage, and is also eligible
24 for survivors' benefits, the spouse shall receive
25 whatever benefit pays the highest monthly benefit. In

1 addition, the surviving spouse shall be entitled to
2 receive a lump sum equal to four percent of the
3 cumulative covered earnings upon which the lower benefit
4 is based, less the sum of all benefits already received
5 on the basis of those cumulative covered earnings. If
6 the spouse elects to accept the lump sum payment, he or
7 she shall lose credit for all quarters of coverage
8 earned up to the date of application. If that individual
9 returns to work, he or she shall start over again to
10 earn quarters of coverage leading to being currently or
11 fully insured.

12 (4) The monthly benefit paid to the surviving
13 child(ren) shall be based on the higher of the two
14 benefits that have been earned by the deceased parents
15 if fully or currently insured. In addition the
16 surviving child(ren) shall be entitled to receive a lump
17 sum equal to two percent of the other deceased's
18 parent's cumulative covered earnings, less the sum of
19 all benefits, if any, received by the deceased parent.

20 (5) The total survivors' benefit paid to the spouse
21 and children may not exceed the retirement benefit
22 calculated for the decedent as of the date of death
23 except that if the surviving spouse receives benefits
24 based on his or her own employment coverage, that amount
25 plus the survivors' benefits for the children may exceed

1 the amount of the deceased's retirement benefit. In no
2 event shall the amount paid be less than the minimum
3 established by the Social Security Administration, as
4 set out in section 804 of title 53 of the Code of the
5 Federated States of Micronesia."

6 Section 9. Section 809 of title 53 of the Code of the
7 Federated States of Micronesia, as amended by Public Laws Nos. 14-
8 37 and 14-86 is hereby further amended to read as follows:

9 "Section 809. Payment of benefits to foreign citizens
10 outside Federated States of Micronesia.

11 Unless modified by a totalization or other international
12 agreement, benefit payments under this act shall be paid
13 to a beneficiary who is not a citizen or a national of
14 the Federated States of Micronesia and does not reside
15 in the Federated States of Micronesia, as follows:

16 (a) Payments shall be made to citizens and
17 nationals of the Republic of Palau, the Republic of the
18 Marshall Islands, and the United States as if they were
19 citizens or nationals of the Federated States of
20 Micronesia as long as the Social Security Administration
21 of those nations gives citizens and nationals of the
22 Federated States of Micronesia reciprocal treatment.

23 (b) For applications filed after this bill
24 becomes law, payments shall be made to citizens and
25 nationals of other nations if they are fully insured at

1 the time of application, in a lump sum equal to the
2 total amount contributed to the Social Security
3 Administration by the employee under section 901 of this
4 act, while employed in the Federated States of
5 Micronesia as of the date the employee turns age 60, or
6 dies prior to age 60. All payments due under this
7 section shall be payable over six months, from the date
8 of death, or the date of turning age 60, and/or the date
9 of filing an application for such benefits, whichever is
10 later subject to the residency provision in paragraph
11 (d) less any monthly or periodic payments received.

12 (c) For applications filed prior to the date of
13 this bill becomes law, payments shall be made to
14 citizens and nationals of other nations in a lump sum
15 equal to the total amount contributed to the Social
16 Security Administration by the employee while employed
17 in the Federated States of Micronesia as of the date the
18 employee ceases to be a resident of the Federated States
19 of Micronesia in accordance with paragraph (d) of this
20 section.

21 (d) For purpose of this section, an individual
22 resides in the Federated States of Micronesia if they
23 are present in the territory of the Federated States of
24 Micronesia for 180 days out of the last 365 days and
25 have ties to the Federated States of Micronesia that

1 indicate residence such as a home, vehicle, bank account
2 or personal property.

3 (e) In determining the benefits and entitlements
4 under this title for an individual who receives a lump
5 sum payment in accordance with paragraphs (b), (c) or
6 (d) of this section and who subsequently returns to the
7 Federated States of Micronesia to undertake further
8 covered employment, no covered quarters, employee
9 contributions or employer contributions accrued by the
10 individual prior to receiving a lump sum payment shall
11 be counted."

12 Section 10. Section 901 of title 53 of the Code of the
13 Federated States of Micronesia, as amended by Public Law No. 14-
14 37, is hereby further amended to read as follows:

15 "Section 901. Employee contributions.

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

19 (a) with respect to wages paid from the effective
20 date of this act through June 30, 1985, the rate shall
21 be two percent;

22 (b) with respect to wages paid from July 1, 1985,
23 through June 30, 1990, the rate shall be three percent;

24 (c) with respect to wages paid from July 1, 1990,
25 through June 30, 1995, the rate shall be four percent;

1 (d) with respect to wages paid from July 1, 1995,
2 through June 30, 2000, the rate shall be five percent;

3 (e) with respect to wages paid from July 1, 2000,
4 to October 01, 2009, the rate shall be six percent.

5 (f) with respect to wages paid on and after
6 October 01, 2009, to January 1, 2013, the rate shall be
7 seven percent.

8 (g) with respect to wages paid on and after
9 January 1, 2013, the rate shall be seven point five
10 (7.5) percent."

11 Section 11. Section 902 of title 53 of the Code of the
12 Federated States of Micronesia, as amended, is hereby further
13 amended to read as follows:

14 "Section 902. Employer contributions.

15 There is hereby imposed on every employer an excise tax,
16 with respect to having an individual in his employ,
17 equal to the following percentages of wages, paid by him
18 with respect to employment subject to this subtitle:

19 (1) with respect to wages paid from the effective date
20 of this act through June 30, 1985, the rate shall be two
21 percent;

22 (2) with respect to wages paid from July 1, 1985,
23 through June 30, 1990,
24 the rate shall be three percent;

25 (3) with respect to wages paid from July 1, 1990,

1 through June 30, 1995, the rate shall be four percent;

2 (4) with respect to wages paid from July 1, 1995,

3 through June 30, 2000, the rate shall be five percent;

4 (5) with respect to wages paid after June 30, 2000,

5 the rate shall be six percent.

6 (6) with respect to wages paid on and after October

7 01, 2009, the rate shall be seven percent.

8 (7) with respect to wages paid on and after January 1,

9 2013, the rate shall be seven point five (7.5) percent.”

10 Section 12. Section 1006 of title 53 of the Code of the

11 Federated States of Micronesia, as amended, is hereby further

12 amended to read as follows:

13 “Section 1006. Authorized investments.

14 Investments may be made in:

15 (1) Government obligations. Obligations issued or
16 guaranteed as to principal and interest by the National
17 Government and/or the State governments of the Federated
18 States of Micronesia or by the government of the United
19 States, provided that the principal and interest on each
20 obligation are payable in the currency of the United
21 States.

22 (2) Corporate obligations and mortgage backed
23 securities. Obligations of any public or private entity
24 or corporation created or existing under the laws of the
25 Federated States of Micronesia or of the United States

1 or any state, territory or commonwealth thereof, or
2 obligations of any other government or economic
3 community which are payable in United State dollars, or
4 pass through and other mortgage backed securities,
5 provided that:

6 (a) The obligation is of an agency of the United
7 States Government, or

8 (b) The obligation is of an agency of the
9 Federated States of Micronesia Government, or

10 (c) The obligation is investment grade rated by
11 one of two nationally recognized rating agencies; and

12 (d) No investment under this heading exceeds ten
13 percent of the market value of the Fund or ten percent
14 of the outstanding value of the issue at the time of
15 purchase.

16 (e) Preferred and common stocks of any
17 corporation created or existing under the laws of the
18 Federated States of Micronesia or under the laws of the
19 United States or any state, territory or commonwealth
20 thereof, or any other nation, may be purchased provided
21 that:

22 (i) The purchase of such shares shall be
23 considered reasonable and prudent by the investment
24 advisor at the time of purchase;

25 (ii) No more than five percent of the market

1 value of the Fund shall be invested in the stock of any
2 one corporation; and

3 (iii) Not more than twenty-five percent of the
4 market value of the Fund shall be invested in any one
5 industry group.

6 (iv) Such shares are readily marketable and
7 actively traded on a recognized national or regional
8 stock exchange, physical or electronic.

9 (3) Insurance company obligations. Contracts and
10 agreements supplemental thereto providing for
11 participation in one or more accounts of a life
12 insurance company authorized to do business in the
13 Federated States of Micronesia or in any state,
14 territory or commonwealth of the United States, provided
15 that the total market value of these investments at no
16 time shall exceed ten percent of the total market value
17 of all investments of the Fund.

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24 Section 13. This act shall become law upon approval by the
25 President of the Federated States of Micronesia or upon its

1 becoming law without such approval.

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9 Law w/out signature 3/6/09

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Manny Mori
President
Federated States of Micronesia

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