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A BILL FOR AN ACT

To further amend title 53 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 12-76, 14-37, 14-86, 15-73 and 16-10, by amending sections 603, 804, 806, 901 and 902 thereof, to delay for one year the implementation of the reduction to the Social Security retirement benefits received by an individual between the ages of 60 and 64, to delay the implementation of the tax increase for one year, 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. 12-  
3 76, 14-37, 14-86, 15-73 and 16-10, is hereby further amended to  
4 read as follows:

5           ~~"Section 603. [of title 53 of the Code of the Federated~~  
6           ~~States of Micronesia, as amended, is hereby further~~  
7           ~~amended to read as follows]~~ Definitions. In this  
8           chapter, unless the context otherwise requires, the  
9           following definitions shall be applicable:

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

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

18           (3) 'Board' means the Federated States of Micronesia

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1 Social Security Board provided for by section 701 of  
2 this subtitle.

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

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

1 the adoption took place;

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

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

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

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

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

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

21 (6) 'Disability' means inability to engage in any  
22 substantial gainful employment by reason of any  
23 medically determinable physical or mental impairment  
24 which can be expected to result in death or which has  
25 lasted or can be expected to last for a continuous

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1 period of not less than 12 months.

2 (7) 'Earning test' means that an individual who  
3 receives a retirement, disability, or survivor benefit  
4 and who works in covered or non-covered employment shall  
5 have his quarterly benefit reduced by one dollar for  
6 each two dollars earned in a quarter, except there shall  
7 be no reduction for the first \$300 earned in a quarter.  
8 The reduction shall be applied in one of the subsequent  
9 two quarters immediately after the quarter in which the  
10 earnings were made, or as soon as possible thereafter.  
11 All benefit recipients have an affirmative duty to  
12 disclose to the FSM Social Security Administration all  
13 earnings from either covered or non-covered employment  
14 for which time they are receiving or claiming benefits.  
15 Under certain circumstances as defined in section 804,  
16 the earnings test may not apply to old age benefits  
17 received by an individual between the ages of 60 and 64  
18 who turns 60, after January 1, [~~2011~~] 2012.

19 (8) 'Employee' means:

20 (a) any officer of a corporation; or

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

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

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1 quarter; or

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

5 (9) 'Employer means:

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

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

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

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

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

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

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

24 (12) 'Family employment' means employment of a  
25 worker by a member of the household, a parent or a son

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1 or daughter except that the worker may apply to the  
2 Board for a determination that such employment is bona  
3 fide covered employment subject to this subtitle.

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

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

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

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

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

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

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

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

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

24 (c) 'Fully insured individual' means any  
25 individual whose total cumulative quarters of coverage

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

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

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

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1 children will be eligible for benefits so long as the  
2 individual was currently insured at the time of the  
3 individual's death.

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

13 (d) 'Fully insured status' means:

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

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

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

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

25 (15) 'Wages' means remuneration paid subject to the

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1 provisions of this subtitle, including the cash value of  
2 all remuneration paid in any medium other than cash and  
3 remuneration accruing to a self-employed person.  
4 Remuneration accruing to a self-employed person shall be  
5 deemed to be twice the amount paid to the highest paid  
6 employee reported by the self-employed person in a  
7 quarter, with a maximum of \$3,000 per quarter through  
8 September 30, 2003 and a maximum of \$5,000 per quarter  
9 beginning October 1, 2003. This maximum quarterly  
10 amount shall increase to \$6,000 on January 1, 2008,  
11 \$7,000 on January 1, 2013, \$8,000 on January 1, 2018,  
12 \$9,000 on January 1, 2023, and \$10,000 on January 1,  
13 2028. Remuneration accruing to a self-employed person  
14 who has no covered employees shall, for each quarter of  
15 a year, be deemed to be five (5) percent of the gross  
16 revenue of the business or gross revenue of all  
17 businesses for the previous calendar year, subject to a  
18 \$3,000 maximum per quarter through September 30, 2003  
19 and a maximum of \$5,000 per quarter beginning October 1,  
20 2003. This maximum quarterly amount shall increase to  
21 \$6,000 on January 1, 2008, \$7,000 on January 1, 2013,  
22 \$8,000 on January 1, 2018, \$9,000 on January 1, 2023,  
23 and \$10,000 on October 1, 2028. Remuneration paid for  
24 any service, which is more or less than a whole dollar  
25 shall, as may be prescribed by regulations, be computed

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1 to the nearest dollar. Wages shall not include:

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

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

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

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

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

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1 of each quarterly reporting period; and

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

4 Section 2. Section 804 of title 53 of the Code of the  
5 Federated States of Micronesia, as amended by Public Law Nos. 14-  
6 37, 14-86, 15-73 and 16-10, is hereby amended to read as follows:

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

9 (1) An insured eligible individual shall be paid a  
10 monthly old age benefit for life, except for any month  
11 of disqualification as provided by this subtitle, in an  
12 amount calculated upon an annual basis as follows:

13 (a) For benefit payments that begin prior to  
14 January 1, 2007; 16.5 percent of the first \$10,000 of  
15 cumulative covered earnings, plus three percent of  
16 cumulative covered earnings in excess of \$10,000 but not  
17 in excess of the next \$30,000, plus two percent of  
18 cumulative covered earnings in excess of \$40,000.

19 (b) For benefit payments that begin on or after  
20 January 1, 2007 but before January 01, [~~2011~~] 2012; 16.5  
21 percent of the first \$10,000 of cumulative covered  
22 earnings, plus three percent of cumulative covered  
23 earnings in excess of \$10,000 but not in excess of the  
24 next \$30,000, plus two percent of cumulative covered  
25 earnings in excess of \$40,000 but not in excess of the

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1 next \$262,500, plus one percent of cumulative covered  
2 earnings in excess of \$302,500.

3 (c) For benefit payments that begin on or after  
4 January 1, [~~2011~~] 2012:

5 (i) For individuals who are 65 and over;  
6 16.5% of the first \$10,000 of cumulative covered  
7 earnings, plus 3 percent of cumulative covered earnings  
8 in excess of \$10,000 but not in excess of the next  
9 \$30,000.00, plus 2% of the cumulative covered earnings  
10 in excess of \$40,000 but not in excess of the next  
11 \$262,500, plus one percent of cumulative covered  
12 earnings in excess of \$302,500.

13 (ii) For individuals who turn 60 after  
14 January 1, [~~2011~~] 2012, such individual from ages 60 to  
15 64 will receive fifty percent (50%) of the total of all  
16 the described benefits in this subsection, 16.5% of the  
17 first \$10,000 of cumulative covered earnings, plus 3  
18 percent of cumulative covered earnings in excess of  
19 \$10,000 but not in excess of the next \$30,000, plus 2%  
20 of the cumulative covered earnings in excess of \$40,000  
21 but not in excess of the next \$262,500, plus one percent  
22 of cumulative covered earnings in excess of \$302,500.  
23 These payments in this subsection only, shall be made  
24 without reduction pursuant to the earnings test in  
25 section 603(7).

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

3 (d) Earnings for covered employment after  
4 commencement of payments for retirement or disability  
5 insurance benefits shall be included in benefit  
6 calculations upon subsequent application for benefits,  
7 but such earnings shall be applicable for benefits for  
8 months after the calendar year in which such earnings  
9 occurred. For the purpose of this section cumulative  
10 covered earnings includes earnings on which  
11 contributions have been paid by the individual to the  
12 Trust Territory Social Security System.

13 (e) In the event, benefits have been received  
14 under section 804(1)(c)(ii), such benefits shall be  
15 automatically adjusted when the individual reaches age  
16 65.

17 (f) For purposes of interpreting this section  
18 "benefit payments begin on" is defined to mean the date,  
19 whether retroactive or current when a benefit payment is  
20 paid for a specific month. A benefit payment may begin  
21 prior to the application date, subject to retroactive  
22 payment limitations defined in this act.

23 (2) An insured, eligible individual shall be paid a  
24 minimum monthly benefit of seventy five dollars if the  
25 benefit amount calculated in accordance with subsection

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1 (1) of this section is less than seventy five dollars  
2 monthly. Effective on January 1, 2011, the minimum  
3 monthly benefit shall be \$100. The minimum monthly  
4 benefit is calculated per insured worker, not per  
5 recipient.

6 (3) An individual who is currently and fully insured  
7 and who has been under a disability for three full  
8 calendar months and the onset of disability occurred on  
9 or after January 01, [~~2011~~] 2012, or an individual who  
10 was fully insured and the onset of disability occurred  
11 prior to this bill becoming law shall be paid a monthly  
12 benefit for life or until recovery from the disability,  
13 except for any month of disqualification as provided by  
14 this subtitle in an amount calculated in accordance with  
15 the preceding subsections of this section, and for an  
16 individual with an onset of disability on or after  
17 January 1, [~~2011~~] 2012, he or she will receive benefits  
18 as if he or she retired at age 65, but with existing  
19 quarters of coverage. Further, the amount of the  
20 benefit as so determined shall, if the individual is  
21 receiving a periodic workmen's compensation benefit, be  
22 reduced each month by the excess of the sum of the  
23 workmen's compensation benefit for that month, and the  
24 benefit payable under this act over eighty percent of  
25 one-twelfth of the highest annual covered wages in the

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1 period consisting of the year in which the disability  
2 occurred and the preceding five years. If a workmen's  
3 compensation benefit was payable in periodic benefits  
4 but was commuted to a lump sum, for purposes of this  
5 subsection it will be considered that the periodic  
6 benefit originally available was paid in each month that  
7 it would have been paid if the commutation had not  
8 occurred."

9 Section 3. Section 806 of title 53 of the Code of the  
10 Federated States of Micronesia, as amended by Public Laws Nos. 14-  
11 37, 15-73 and 16-10, is hereby further amended to read as follows:

12 "Section 806. Amount of survivor insurance benefits.

13 (1) The surviving spouse of a fully insured worker  
14 eligible in accordance with section 802 of this chapter  
15 shall be paid a monthly benefit or disability in an  
16 amount equal to 60 percent of the retirement or  
17 disability insurance benefit calculated for the deceased  
18 spouse at the date of death. For a fully insured worker  
19 who dies after January 1, [~~2011~~] 2012, the benefit will  
20 be calculated as if he or she retired at age 65, but  
21 with existing quarters of coverage.

22 (2) Each eligible child of an insured worker shall be  
23 entitled to a monthly benefit of 15 percent of the  
24 retirement insurance benefit calculated for the deceased  
25 parent at the date of death. For a fully insured worker

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1           who dies after January 1, [~~2011~~] 2012, the benefit will  
2           be calculated as if he or she retired at age 65, but  
3           with existing quarters of coverage.

4           (3) If the spouse of the deceased insured worker is  
5           eligible for retirement or disability benefits based on  
6           his or her own employment coverage, and is also eligible  
7           for survivors' benefits, the spouse shall receive  
8           whatever benefit pays the highest monthly benefit. In  
9           addition, the surviving spouse shall be entitled to  
10          receive a lump sum equal to four percent of the  
11          cumulative covered earnings upon which the lower benefit  
12          is based, less the sum of all benefits already received  
13          on the basis of those cumulative covered earnings. If  
14          the spouse elects to accept the lump sum payment, he or  
15          she shall lose credit for all quarters of coverage  
16          earned up to the date of application. If that individual  
17          returns to work, he or she shall start over again to  
18          earn quarters of coverage leading to being currently or  
19          fully insured.

20          (4) The monthly benefit paid to the surviving  
21          child(ren) shall be based on the higher of the two  
22          benefits that have been earned by the deceased parents  
23          if fully or currently insured. In addition the  
24          surviving child(ren) shall be entitled to receive a lump  
25          sum equal to two percent of the other deceased's

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1 parent's cumulative covered earnings, less the sum of  
2 all benefits, if any, received by the deceased parent.

3 (5) The total survivors' benefit paid to the spouse  
4 and children may not exceed the retirement benefit  
5 calculated for the decedent as of the date of death  
6 except that if the surviving spouse receives benefits  
7 based on his or her own employment coverage, that amount  
8 plus the survivors' benefits for the children may exceed  
9 the amount of the deceased's retirement benefit. In no  
10 event shall the amount paid be less than the minimum  
11 established by the Social Security Administration, as  
12 set out in section 804 of title 53 of the Code of the  
13 Federated States of Micronesia."

14 Section 4. Section 901 of title 53 of the Code of the Federated  
15 States of Micronesia, as amended by Public Laws Nos. 14-37, 15-73  
16 and 16-10, is hereby further amended to read as follows:

17 "Section 901. Employee contributions.

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

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

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

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

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

5 (e) with respect to wages paid from July 1, 2000,  
6 to October 01, [~~2010~~] 2011, the rate shall be six  
7 percent.

8 (f) with respect to wages paid on and after  
9 October 01, [~~2010~~] 2011, to [~~January 1, 2013~~] December  
10 31, 2012, the rate shall be seven percent.

11 (g) with respect to wages paid on and after  
12 January 1, 2013, the rate shall be seven point five  
13 (7.5) percent."

14 Section 5. Section 902 of title 53 of the Code of the  
15 Federated States of Micronesia, as amended by Public Law Nos. 14-  
16 37, 15-73 and 16-10, is hereby further amended to read as follows:

17 "Section 902. Employer contributions.

18 (1) There is hereby imposed on every employer an  
19 excise tax, with respect to having an individual in his  
20 employment, equal to the following percentages of wages,  
21 paid by him with respect to employment subject to this  
22 subtitle:

23 (~~1a~~) with respect to wages paid from the effective  
24 date of this act through June 30, 1985, the rate shall  
25 be two percent;

1           (2b) with respect to wages paid from July 1, 1985,  
2           through June 30, 1990, the rate shall be three percent;  
3           (3c) with respect to wages paid from July 1, 1990,  
4           through June 30, 1995, the rate shall be four percent;  
5           (4d) with respect to wages paid from July 1, 1995,  
6           through June 30, 2000, the rate shall be five percent;  
7           (5e) with respect to wages paid [~~after June 30,~~  
8           from July 1, 2000 to September 30, 2011, the rate  
9           shall be six percent-;]  
10          (6f) with respect to wages paid [~~on and after~~  
11          from October 01, [~~2010~~] 2011, to December 30, 2012,  
12          the rate shall be seven percent-;]  
13          (7g) with respect to wages paid on and after January 1,  
14          2013, the rate shall be seven point five (7.5) percent.”

15          Section 6. This act shall become law upon approval by the  
16          President of the Federated States of Micronesia or upon its  
17          becoming law without such approval.

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19          Date: 9/25/10

Introduced by: /s/ Peter M. Christian  
Peter M. Christian

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