

---

---

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 and 804 to restore the benefits levels of retirees turning 60 years of age on or after January 1, 2011 to one hundred percent, to make a technical correction, and for other purposes.

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

1           Section 1. Section 603 of title 53 of the Code of the  
2 Federated States of Micronesia, as amended by Public Laws Nos.  
3 12-76, 14-37, 14-86, 15-73, and 16-10 is hereby further amended  
4 to read as follows:

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

10           (1) 'Application' means the prescribed form or  
11 forms 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 804A of this  
15 act.

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

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

---

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

3           (4) 'Child or spouse' means an applicant that the  
4           court of the State in which an individual was  
5           domiciled at the time of his death has or would find  
6           to be the individual's child or spouse in determining  
7           the devolution of intestate personal property.

8           'Child' shall include only the deceased individual's  
9           biological children and such adopted children whose  
10          confirmed petition for adoption by the wage earner  
11          has been presented to the Social Security  
12          Administration and who were adopted by the wage  
13          earner on or prior to the wage earner's 55<sup>th</sup> birthday  
14          of the adopting parent, shall be a 'child' for the  
15          purposes of this title unless, the Social Security  
16          Administrator makes a determination that, due to  
17          exceptional circumstances, the person shall be so  
18          entitled. In reaching a determination that  
19          exceptional circumstances apply, the Social Security  
20          Administrator shall satisfy himself or herself that  
21          future eligibility for social security benefits was  
22          not a significant factor in the decision to adopt and  
23          may consider any available, relevant information  
24          including, but not limited to:

25                 (a) whether the adopted child's biological

1 mother, and/or biological father were alive at the  
2 time the adoption took place;

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

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

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

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

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

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

23 (6) 'Disability' means inability to engage in any  
24 substantial gainful employment by reason of any  
25 medically determinable physical or mental impairment

---

1           which can be expected to result in death or which has  
2           lasted or can be expected to last for a continuous  
3           period of not less than 12 months.

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

23          (8) 'Employee' means:

24                  (a) any officer of a corporation; or

25                  (b) any individual who, under the usual common

---

1 law rules applicable in determining the employer-  
2 employee relationship, has the status of an employee;  
3 or

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

7 (d) any self-employed person who had more than  
8 \$10,000 of annual gross revenue in the preceding  
9 calendar year.

10 (9) 'Employer means:

11 (a) For purposes of this act, employer means  
12 the person, business organization or other  
13 organization, or national or state or municipal  
14 government or agency, that pursuant to common law  
15 rules of employment is the actual person or  
16 organization responsible for the formation and  
17 continuation of the working relationship with  
18 employee.

19 (b) The Social Security Administration has the  
20 right to determine the actual employer of employees  
21 for purposes of implementing this act, and need not  
22 rely on the characterization provided.

23 (c) Employer may be an individual,  
24 partnership, corporation or other type of business  
25 venture or non-business organization, national or

---

1           municipal or state organization or agencies thereof,  
2           and which in certain circumstances may be more than  
3           one, that is responsible for the payment of all  
4           Social Security taxes. For partnerships, the  
5           liability shall be joint and several among all  
6           partners. For other types of business or non-  
7           business organizations that are not corporations, the  
8           liability shall be joint and several as if the  
9           organization was a common law partnership. For  
10          corporations, if the corporation fails to meet its  
11          tax obligations when due, the liability shall be  
12          joint and several between the president of the  
13          corporation, and all shareholders with greater than a  
14          30% interest in the corporation.

15          Under this definition all such persons are jointly  
16          defined as the employer, for all purposes including  
17          the implementation of criminal penalties.

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

24          (11) 'Employment, non-covered' or 'non-covered  
25          employment' means any employment engaged in by an

---

1 employee where coverage is statutorily exempt in the  
2 Federated States of Micronesia, family employment, or  
3 employment by an employee outside of the Federated  
4 States of Micronesia and which is not taxable by the  
5 FSM Social Security Administration.

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

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

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

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

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

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

23 (b) For individuals who qualified as a  
24 currently insured person prior to December 31, 2006,  
25 the number of quarters to qualify as a currently

---

1           insured person was not less than eight quarters of  
2           coverage during the thirteen quarter period ending  
3           with:

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

5                       (ii) the quarter in which he became  
6           entitled to old age insurance benefits at age sixty  
7           (60);

8                       (iii) the quarter in which he became  
9           disabled, whichever occurs first.

10                      (c) 'Fully insured individual' means any  
11           individual whose total cumulative quarters of  
12           coverage are at least as great as the number of years  
13           calculated from the later of the date the worker  
14           turned age twenty-one (21), or June 30, 1968, to the  
15           date the worker attains age sixty (60), dies or  
16           becomes disabled. For this purpose, partial years  
17           shall be counted as whole years (for example 37.25  
18           years would be rounded up to 38 years). In no case  
19           shall an individual be a fully insured individual  
20           unless he has at least 12 quarters of coverage:

21                       (i) For individuals who attain age sixty  
22           (60), die or become disabled on or before December  
23           31, 2006, no more than thirty-eight (38) quarters of  
24           coverage are required to be fully insured and there  
25           is no minimum amount required for employee



---

1 contributions to the Social Security System.

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

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

25 (d) 'Fully insured status' means:

---

1                   (i) For individuals who turn sixty (60)  
2                   or die after January 01, 2010, shall have total  
3                   cumulative quarters of coverage equaling fifty (50)  
4                   quarters of coverage or greater, and employee  
5                   contributions to the Social Security System of at  
6                   least \$2,500 are required to be fully insured.  
7                   Employee contributions are the contributions defined  
8                   in section 901 only. Should an individual's employee  
9                   contributions total less than \$2,500 as of the date  
10                  of qualification as a fully insured individual, the  
11                  individual or their surviving spouse may pay the  
12                  difference to the FSM Social Security Administration  
13                  in a single sum payment in order to be fully insured.  
14                  If the individual or the surviving spouse is unable  
15                  to pay the difference on the minimum contribution,  
16                  the individual or surviving spouse can opt for lump  
17                  sum payment equal to the total employee contribution.

18                  (ii) 'Fully insured' means for individuals  
19                  who become disabled on or after January 1, 2010, at  
20                  least forty-five (45) quarters of coverage are needed  
21                  to be defined as fully insured, and they must also  
22                  meet the definition of currently insured at the time  
23                  of the onset of their disability. Additionally,  
24                  employee's contributions to the Social Security  
25                  System of at least \$1,500 are required to be fully

---

1           insured. Should an individual's employee  
2           contribution total less than \$1,500 as of the date of  
3           disability, the individual may pay the difference to  
4           the FSM Social Security Administration in a single  
5           lump sum payment in order to be fully insured.

6           (14) 'Quarter' and 'calendar quarter' mean a period  
7           of three calendar months ending on March 31st, June  
8           30th, September 30th, or December 31st. 'Quarter of  
9           coverage' means a quarter in which the individual has  
10          been paid \$300 or more in wages in covered employment  
11          subject to this subtitle.

12          (15) 'Wages' means remuneration paid subject to the  
13          provisions of this subtitle, including the cash value  
14          of all remuneration paid in any medium other than  
15          cash and remuneration accruing to a self-employed  
16          person. Remuneration accruing to a self-employed  
17          person shall be deemed to be twice the amount paid to  
18          the highest paid employee reported by the self-  
19          employed person in a quarter, with a maximum of  
20          \$3,000 per quarter through September 30, 2003 and a  
21          maximum of \$5,000 per quarter beginning October 1,  
22          2003. This maximum quarterly amount shall increase  
23          to \$6,000 on January 1, 2008, \$7,000 on January 1,  
24          2013, \$8,000 on January 1, 2018, \$9,000 on January 1,  
25          2023, and \$10,000 on January 1, 2028. Remuneration

---

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

16                 (a) that part of remuneration in excess of  
17                 \$3,000 through September 30, 2003 and in excess of  
18                 \$5,000 beginning October 1, 2003, in excess of  
19                 \$6,000 beginning January 1, 2008, in excess of \$7,000  
20                 beginning January 1, 2013, in excess of \$8,000  
21                 beginning January 1, 2018, in excess of \$9,000  
22                 beginning on January 1, 2023, and in excess of  
23                 \$10,000 beginning on January 1, 2028, paid in a  
24                 quarterly reporting period by one employer;

25                 (b) any payment on account of sickness or

1 accident disability, or medical or hospitalization  
2 expenses made by an employer to or on behalf of an  
3 employee;

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

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

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

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

19 Section 2. Section 804 of title 53 of the Code of the  
20 Federated States of Micronesia, as amended by Public Laws Nos.  
21 14-37, 14-86, 15-73, and 16-10 is hereby further amended to  
22 read as 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  
2 month of disqualification as provided by this  
3 subtitle, in an amount calculated upon an annual  
4 basis as follows:

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

11 (b) For benefit payments that begin on or  
12 after January 1, 2007 [~~but before January 01, 2011~~];  
13 16.5 percent of the first \$10,000 of cumulative  
14 covered earnings, plus three percent of cumulative  
15 covered earnings in excess of \$10,000 but not in  
16 excess of the next \$30,000, plus two percent of  
17 cumulative covered earnings in excess of \$40,000 but  
18 not in excess of the next \$262,500, plus one percent  
19 of cumulative covered earnings in excess of \$302,500.

20 (c) [~~For benefit payments that begin on or~~  
21 ~~after January 1, 2011:~~

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

---

1           ~~the next \$30,000.00, plus 2% of the cumulative~~  
2           ~~covered earnings in excess of \$40,000 but not in~~  
3           ~~excess of the next \$262,500, plus one percent of~~  
4           ~~cumulative covered earnings in excess of \$302,500.~~  
5           ~~—————(ii) For individuals who turn 60 after~~  
6           ~~January 1, 2011, such individual from ages 60 to 64~~  
7           ~~will receive fifty percent (50%) of the total of all~~  
8           ~~the described benefits in this subsection, 16.5% of~~  
9           ~~the first \$10,000 of cumulative covered earnings,~~  
10          ~~plus 3 percent of cumulative covered earnings in~~  
11          ~~excess of \$10,000 but not in excess of the next~~  
12          ~~\$30,000, plus 2% of the cumulative covered earnings~~  
13          ~~in excess of \$40,000 but not in excess of the next~~  
14          ~~\$262,500, plus one percent of cumulative covered~~  
15          ~~earnings in excess of \$302,500. These payments in~~  
16          ~~this subsection only, shall be made without reduction~~  
17          ~~pursuant to the earnings test in section 603(7).~~  
18          ~~—————(iii) For individuals under age 60, benefit~~  
19          ~~payments would be calculated the same as subsection~~  
20          ~~(i).~~  
21          ~~—————(e)] Earnings for covered employment after~~  
22          ~~commencement of payments for retirement or disability~~  
23          ~~insurance benefits shall be included in benefit~~  
24          ~~calculations upon subsequent application for~~  
25          ~~benefits, but such earnings shall be applicable for~~

---

1 benefits for months after the calendar year in which  
2 such earnings occurred. For the purpose of this  
3 section cumulative covered earnings includes earnings  
4 on which contributions have been paid by the  
5 individual to the Trust Territory Social Security  
6 System.

7 ~~[(c) In the event, benefits have been received~~  
8 ~~under section 804(1)(c)(ii), such benefits shall be~~  
9 ~~automatically adjusted when the individual reaches~~  
10 ~~age 65.]~~

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

18 (2) An insured, eligible individual shall be paid a  
19 minimum monthly benefit of seventy five dollars if  
20 the benefit amount calculated in accordance with  
21 subsection (1) of this section is less than seventy  
22 five dollars monthly. Effective on January 1, 2011,  
23 the minimum monthly benefit shall be \$100. The  
24 minimum monthly benefit is calculated per insured  
25 worker, not per recipient.



---

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

1           purposes of this subsection it will be considered  
2           that the periodic benefit originally available was  
3           paid in each month that it would have been paid if  
4           the commutation had not occurred."

5           Section 3. This act shall become law upon approval by the  
6           President of the Federated States of Micronesia or upon its  
7           becoming law without such approval.

8

9   Dated: 7/25/11

Introduced by: /s/ David W. Panuelo  
David W. Panuelo

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24