

---

A BILL FOR AN ACT

To amend section 603 of title 53 of the Code of the Federated States of Micronesia (Annotated), to amend the definition of "quarter of coverage" to ensure that quarters of coverage continue to accrue when the nation is under a Declaration of Emergency and individuals are receiving unemployment assistance, 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 (Annotated), is hereby amended  
3 to read as follows:

4                   "Section 603. Definitions.

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

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

13                   (3) "Board" means the Federated States of  
14 Micronesia Social Security Board provided for by  
15 section 701 of this subtitle.

16                   (4) "Child or spouse" means an applicant that the  
17 court of the State in which an individual was  
18 domiciled at the time of his death has or would find

---

---

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

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

23 (b) if one or both biological parents  
24 were alive at the time of adoption, whether one or  
25 both parents were acting or were capable of acting

1 as a primary caregiver at that time;

2 (c) whether the adopting parent is a  
3 relative of the adopted child;

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

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

12 (f) any other factor the Social Security  
13 Administrator considers relevant.

14 (5) "Contributions" means the tax imposed upon  
15 income of covered employees and the tax imposed upon  
16 employers on account of wages paid to a covered  
17 employee.

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

24 (7) "Earning test" means that an individual who  
25 receives a retirement, disability, or survivor

---

---

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

18 (8) "Employee" means:

19 (a) any officer of a corporation; or

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

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

1 in a given quarter; or

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

5 (9) "Employer" means:

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

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

18 (c) Employer may be an individual,  
19 partnership, corporation or other type of business  
20 venture or non-business organization, national or  
21 municipal or state organization or agencies thereof,  
22 and which in certain circumstances may be more than  
23 one, that is responsible for the payment of all  
24 Social Security taxes. For partnerships, the  
25 liability shall be joint and several among all

---

---

1 partners. For other types of business or non-  
2 business organizations that are not corporations,  
3 the liability shall be joint and several as if the  
4 organization was a common law partnership. For  
5 corporations, if the corporation fails to meet its  
6 tax obligations when due, the liability shall be  
7 joint and several between the president of the  
8 corporation, and all shareholders with greater than  
9 a 30% interest in the corporation.

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

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

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

1           (12) "Family employment" means employment of a  
2 worker by a member of the household, a parent or a  
3 son or daughter except that the worker may apply to  
4 the Board for a determination that such employment  
5 is bona fide covered employment subject to this  
6 subtitle.

7           (13) "Insured status" can mean any of the  
8 following:

9                   (a) "Currently insured individual" means  
10 any individual who has had not less than 20 quarters  
11 of coverage during the 25 quarter period ending  
12 with:

- 13                           (i) the quarter in which he died; or  
14                           (ii) the quarter in which he became  
15 entitled to old age insurance benefits at age 60; or  
16                           (iii) the quarter in which he became  
17 disabled, whichever first occurs.

18                   (b) For individuals who qualified as a  
19 currently insured person prior to December 31, 2006,  
20 the number of quarters to qualify as a currently  
21 insured person was not less than eight quarters of  
22 coverage during the 13 quarter period ending with:

- 23                           (i) the quarter in which he died; or  
24                           (ii) the quarter in which he became  
25 entitled to old age insurance benefits at age 60;

1 (iii) the quarter in which he became  
2 disabled, whichever occurs first.

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

14 (i) For individuals who attain age  
15 60, die or become disabled on or before December 31,  
16 2006, no more than 38 quarters of coverage are  
17 required to be fully insured and there is no minimum  
18 amount required for employee contributions to the  
19 Social Security System.

20 (ii) For individuals who turn 60 or  
21 die after December 31, 2006, no more than 50  
22 quarters of coverage and employee contributions to  
23 the Social Security System of at least \$2,500 are  
24 required to be fully insured. Should an  
25 individual's employee contributions total less than



---

---

1           \$2,500 as of the date of termination of employment  
2           or death, the individual or their surviving spouse  
3           may pay the difference to the FSM Social Security  
4           Administration in a single sum payment in order to  
5           become fully insured. The surviving children will  
6           be eligible for benefits so long as the individual  
7           was currently insured at the time of the  
8           individual's death.

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

19                           (d) "Fully insured status" means:

20                                   (i) For individuals who turn 60 or  
21           die after January 01, 2010, shall have total  
22           cumulative quarters of coverage equaling 50 quarters  
23           of coverage or greater, and employee contributions  
24           to the Social Security System of at least \$2,500 are  
25           required to be fully insured. Employee

---

---

1 contributions are the contributions defined in  
2 section 901 only. Should an individual's employee  
3 contributions total less than \$2,500 as of the date  
4 of qualification as a fully insured individual, the  
5 individual or their surviving spouse may pay the  
6 difference to the FSM Social Security Administration  
7 in a single sum payment in order to be fully  
8 insured. If the individual or the surviving spouse  
9 is unable to pay the difference on the minimum  
10 contribution, the individual or surviving spouse can  
11 opt for lump sum payment equal to the total employee  
12 contribution.

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

---

1           insured.

2           (14) "Quarter" and "calendar quarter" mean a  
3           period of three calendar months ending on March  
4           31st, June 30th, September 30th, or December 31st.  
5           "Quarter of coverage" means a quarter in which the  
6           individual has been paid \$300 or more in wages in  
7           covered employment subject to this subtitle[+] or  
8           the individual receiving unemployment assistance  
9           during a time the nation is under a Declaration of  
10          Emergency.

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

---

---

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

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

24 (b) any payment on account of sickness  
25 or accident disability, or medical or

1 hospitalization expenses made by an employer to or  
2 on behalf of an employee;

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

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

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

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

19 Section 2. This act shall become law upon approval by the  
20 President of the Federated States of Micronesia or upon its  
21 becoming law without such approval.

22

23 Date: 5/14/21

Introduced by: /s/ Wesley W. Simina  
Wesley W. Simina

24

25