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A BILL FOR AN ACT

To amend sections 603 and 804 of title 53 of the Code of the Federated States of Micronesia (Annotated), to provide that: old age benefits received on or after October 1, 2021, by an individual age 65 and over shall no longer be subject to the earning test; that on or after October 1, 2021, earnings for covered employment after commencement of payments for retirement shall not be included in benefit calculations upon subsequent applications for benefits; 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 to  
3 read as follows:

4                   "Section 603. Definitions.

5                   (1) 'Application' means the prescribed form or forms  
6 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 this  
10 act.

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

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

16                   (4) 'Child or spouse' means an applicant that the  
17 court of the State in which an individual was domiciled

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1 at the time of his death has or would find to be the  
2 individual's child or spouse in determining the  
3 devolution of intestate personal property. 'Child'  
4 shall include only the deceased individual's biological  
5 children and such adopted children whose confirmed  
6 petition for adoption by the wage earner has been  
7 presented to the Social Security Administration and who  
8 were adopted by the wage earner on or prior to the wage  
9 earner's 55<sup>th</sup> birthday of the adopting parent, shall be  
10 a 'child' for the purposes of this title unless, the  
11 Social Security Administrator makes a determination  
12 that, 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 not  
17 a significant factor in the decision to adopt and may  
18 consider any available, relevant information including,  
19 but not limited to:

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

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

1           caregiver at that time;

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

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

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

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

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

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

23                   (7) 'Earning test' means that an individual who  
24          receives a retirement, disability, or survivor benefit  
25          and who works in covered or non-covered employment shall

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1           have his quarterly benefit reduced by one dollar for  
2           each two dollars earned in a quarter, except there shall  
3           be no reduction for the first \$300 earned in a quarter.  
4           The reduction shall be applied in one of the subsequent  
5           two quarters immediately after the quarter in which the  
6           earnings were made, or as soon as possible thereafter.  
7           All benefit recipients have an affirmative duty to  
8           disclose to the FSM Social Security Administration all  
9           earnings from either covered or non-covered employment  
10          for which time they are receiving or claiming benefits.  
11          Under certain circumstances as defined in section 804,  
12          the earnings test may not apply to old age benefits  
13          received by an individual between the ages of 60 and 64  
14          who turns 60, after January 1, 2011, or to old age  
15          benefits received on or after October 1, 2021, by an  
16          individual age 65 and over.

17                 (8) 'Employee' means:

18                         (a) any officer of a corporation; or

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

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

25                         (d) any self-employed person who had more than

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1           \$10,000 of annual gross revenue in the preceding  
2           calendar year.

3           (9) 'Employer means:

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

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

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

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

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

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

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

22 (12) 'Family employment' means employment of a  
23 worker by a member of the household, a parent or a son  
24 or daughter except that the worker may apply to the  
25 Board for a determination that such employment is bona

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1           fide covered employment subject to this subtitle.

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

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

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

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

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

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

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

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

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

22                   (c) 'Fully insured individual' means any  
23           individual whose total cumulative quarters of coverage  
24           are at least as great as the number of years calculated  
25           from the later of the date the worker turned age twenty-

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

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

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



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1 individual's death.

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

11 (d) 'Fully insured status' means:

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

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1 contribution, the individual or surviving spouse can opt  
2 for lump sum payment equal to the total employee  
3 contribution.

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

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

23 (15) 'Wages' means remuneration paid subject to the  
24 provisions of this subtitle, including the cash value of  
25 all remuneration paid in any medium other than cash and

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

25 (a) that part of remuneration in excess of \$3,000

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

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

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

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

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

25 (f) remuneration from family employment subject

1           to the provisions of this subtitle.”

2           Section 2. Section 804 of title 53 of the Code of the  
3 Federated States of Micronesia (Annotated) is hereby amended to  
4 read as follows:

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

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

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

17           (b) For benefit payments that begin on or after  
18 January 1, 2007 but before January 01, 2011; 16.5  
19 percent of the first \$10,000 of cumulative covered  
20 earnings, plus three percent of cumulative covered  
21 earnings in excess of \$10,000 but not in excess of the  
22 next \$30,000, plus two percent of cumulative covered  
23 earnings in excess of \$40,000 but not in excess of the  
24 next \$262,500, plus one percent of cumulative covered  
25 earnings in excess of \$302,500.

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1                   (c) For benefit payments that begin on or after  
2                   January 1, 2011:

3                   (i) For individuals who are 65 and over;  
4                   16.5% of the first \$10,000 of cumulative covered  
5                   earnings, plus 3 percent of cumulative covered earnings  
6                   in excess of \$10,000 but not in excess of the next  
7                   \$30,000.00, plus 2% of the cumulative covered earnings  
8                   in excess of \$40,000 but not in excess of the next  
9                   \$262,500, plus one percent of cumulative covered  
10                  earnings in excess of \$302,500. Benefit payments under  
11                  this subsection that begin on or after October 1, 2021,  
12                  shall be made without reduction pursuant to the earnings  
13                  test in section 603(7).

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

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1 section 603(7).

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

4 (d) ~~[Earnings]~~ For benefit payments that begin  
5 before October 1, 2021, earnings for covered employment  
6 after commencement of payments for retirement or  
7 disability insurance benefits shall be included in  
8 benefit calculations upon subsequent application for  
9 benefits, but such earnings shall be applicable for  
10 benefits for months after the calendar year in which  
11 such earnings occurred. For benefit payments that begin  
12 on or after October 1, 2021, earnings for covered  
13 employment after commencement of payments for disability  
14 insurance benefits shall be included in benefit  
15 calculations upon subsequent application for benefits,  
16 but earnings for covered employment after commencement  
17 of payments for retirement benefits shall not be  
18 included in benefit calculations upon subsequent  
19 application for benefits. For the purpose of this  
20 section cumulative covered earnings includes earnings on  
21 which contributions have been paid by the individual to  
22 the Trust Territory Social Security System.

23 (e) In the event, benefits have been received  
24 under section 804(1)(c)(ii), such benefits shall be  
25 automatically adjusted when the individual reaches age

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1           65.

2                   (f) For purposes of interpreting this section  
3           "benefit payments begin on" is defined to mean the date,  
4           whether retroactive or current when a benefit payment is  
5           paid for a specific month. A benefit payment may begin  
6           prior to the application date, subject to retroactive  
7           payment limitations defined in this act.

8                   (2) An insured, eligible individual shall be paid a  
9           minimum monthly benefit of seventy five dollars if the  
10          benefit amount calculated in accordance with subsection  
11          (1) of this section is less than seventy five dollars  
12          monthly. Effective on January 1, 2011, the minimum  
13          monthly benefit shall be \$100. The minimum monthly  
14          benefit is calculated per insured worker, not per  
15          recipient.

16                  (3) An individual who is currently and fully insured  
17          and who has been under a disability for three full  
18          calendar months and the onset of disability occurred on  
19          or after January 01, 2011, or an individual who was  
20          fully insured and the onset of disability occurred prior  
21          to this bill becoming law shall be paid a monthly  
22          benefit for life or until recovery from the disability,  
23          except for any month of disqualification as provided by  
24          this subtitle in an amount calculated in accordance with  
25          the preceding subsections of this section, and for an



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1 individual with an onset of disability on or after  
2 January 1, 2011, he or she will receive benefits as if  
3 he or she retired at age 65, but with existing quarters  
4 of coverage. Further, the amount of the benefit as so  
5 determined shall, if the individual is receiving a  
6 periodic workmen's compensation benefit, be reduced each  
7 month by the excess of the sum of the workmen's  
8 compensation benefit for that month, and the benefit  
9 payable under this act over eighty percent of one-  
10 twelfth of the highest annual covered wages in the  
11 period consisting of the year in which the disability  
12 occurred and the preceding five years. If a workmen's  
13 compensation benefit was payable in periodic benefits  
14 but was commuted to a lump sum, for purposes of this  
15 subsection it will be considered that the periodic  
16 benefit originally available was paid in each month that  
17 it would have been paid if the commutation had not  
18 occurred."

19 Section 3. 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.

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23 Date: 5/20/21

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

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