

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, 14-34, 14-37, 14-86, 15-73, and 16-10, by amending sections 603 and 804 thereof, to subject to the earnings test the 50% benefit received by those who are ages 60 to 64 for individuals who turn sixty on or after January 1, 2014, and for other purposes.

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

1 Section 1. Purpose. The purpose of this act is designed to
2 deal with the eventual increase in the mandatory retirement age
3 for National Government employees from 60 to 65. Currently, the
4 50% old age benefit received by seniors 60 to 64 is not subject to
5 the earnings test, meaning that an employee in that age group
6 would receive both 100% of their salary and the full amount of
7 their 50% benefit. Put differently, the 50% benefit is received
8 regardless of how much other income the beneficiary derives, even
9 if they are permitted to continue to work as a full-time National
10 Government employee beyond the age of 60. The 50% benefit is the
11 only benefit currently excluded from the earnings test. All other
12 benefits, including survivors' benefits, are subject to the
13 earnings test. For individuals who turn sixty on or after January
14 1, 2014, the earnings test would then be consistently applied to
15 all benefits, including the 50% benefit. Those who have no other
16 source of income will not have their 50% benefit lowered. The
17 measure is aimed to improve the fiscal security of the Social
18 Security program.

1 Section 2. 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 of~~
6 ~~the Federated States of Micronesia, as amended, is~~
7 ~~hereby further amended to read as follows:~~

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

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

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

19 (4) 'Child or spouse' means an applicant that the
20 court of the State in which an individual was domiciled
21 at the time of his death has or would find to be the
22 individual's child or spouse in determining the
23 devolution of intestate personal property. 'Child'
24 shall include only the deceased individual's biological
25 children and such adopted children whose confirmed

1 petition for adoption by the wage earner has been
2 presented to the Social Security Administration and who
3 were adopted by the wage earner on or prior to the wage
4 earner's 55th birthday of the adopting parent, shall be a
5 'child' for the purposes of this title unless, the
6 Social Security Administrator makes a determination
7 that, due to exceptional circumstances, the person shall
8 be so entitled. In reaching a determination that
9 exceptional circumstances apply, the Social Security
10 Administrator shall satisfy himself or herself that
11 future eligibility for social security benefits was not
12 a significant factor in the decision to adopt and may
13 consider any available, relevant information including,
14 but not limited to:

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

18 (b) if one or both biological parents were alive
19 at the time of adoption, whether one or both parents
20 were acting or were capable of acting as a primary
21 caregiver at that time;

22 (c) whether the adopting parent is a relative of
23 the adopted child;

24 (d) whether, at the time the adoption took
25 place, there were relatives, not including the adopting

1 parents, who would have been appropriate guardians for
2 the adopted child;

3 (e) whether the adopting parent was a primary
4 caregiver for the adopted child at the time of adoption
5 and continued in that role after the adoption took
6 place;

7 (f) any other factor the Social Security
8 Administrator considers relevant.

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

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

18 (7) 'Earning test' means that an individual who
19 receives a retirement, disability, or survivor benefit
20 and who works in covered or non-covered employment shall
21 have his quarterly benefit reduced by one dollar for
22 each two dollars earned in a quarter, except there shall
23 be no reduction for the first \$300 earned in a quarter.
24 The reduction shall be applied in one of the subsequent
25 two quarters immediately after the quarter in which the

1 earnings were made, or as soon as possible thereafter.
2 All benefit recipients have an affirmative duty to
3 disclose to the FSM Social Security Administration all
4 earnings from either covered or non-covered employment
5 for which time they are receiving or claiming benefits.
6 Under certain circumstances as defined in section 804,
7 the earnings test may not apply to old age benefits
8 received by an individual between the ages of 60 and 64
9 who turns 60, after January 1, 2011, but before January
10 1, 2014.

11 (8) 'Employee' means:

12 (a) any officer of a corporation; or

13 (b) any individual who, under the usual common
14 law rules applicable in determining the employer-
15 employee relationship, has the status of an employee; or
16 (c) any self-employed person who has at least one
17 employee for whom he is required to report in a given
18 quarter; or

19 (d) any self-employed person who had more than
20 \$10,000 of annual gross revenue in the preceding
21 calendar year.

22 (9) 'Employer means:

23 (a) For purposes of this act, employer means the
24 person, business organization or other organization, or
25 national or state or municipal government or agency,

1 that pursuant to common law rules of employment is the
2 actual person or organization responsible for the
3 formation and continuation of the working relationship
4 with employee.

5 (b) The Social Security Administration has the
6 right to determine the actual employer of employees for
7 purposes of implementing this act, and need not rely on
8 the characterization provided.

9 (c) Employer may be an individual, partnership,
10 corporation or other type of business venture or non-
11 business organization, national or municipal or state
12 organization or agencies thereof, and which in certain
13 circumstances may be more than one, that is responsible
14 for the payment of all Social Security taxes. For
15 partnerships, the liability shall be joint and several
16 among all partners. For other types of business or non-
17 business organizations that are not corporations, the
18 liability shall be joint and several as if the
19 organization was a common law partnership. For
20 corporations, if the corporation fails to meet its tax
21 obligations when due, the liability shall be joint and
22 several between the president of the corporation, and
23 all shareholders with greater than a 30% interest in the
24 corporation.

25 Under this definition all such persons are jointly

1 defined as the employer, for all purposes including the
2 implementation of criminal penalties.

3 (10) 'Employment, covered' or 'covered employment'
4 means any service by an employee for an employer
5 incorporated or doing business within the Federated
6 States of Micronesia employing him, irrespective of
7 where such employment is performed, except family
8 employment.

9 (11) 'Employment, non-covered' or 'non-covered
10 employment' means any employment engaged in by an
11 employee where coverage is statutorily exempt in the
12 Federated States of Micronesia, family employment, or
13 employment by an employee outside of the Federated
14 States of Micronesia and which is not taxable by the FSM
15 Social Security Administration.

16 (12) 'Family employment' means employment of a
17 worker by a member of the household, a parent or a son
18 or daughter except that the worker may apply to the
19 Board for a determination that such employment is bona
20 fide covered employment subject to this subtitle.

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

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

- 1 (i) the quarter in which he died; or
2 (ii) the quarter in which he became entitled
3 to old age insurance benefits at age sixty (60);
4 (iii) the quarter in which he became disabled,
5 whichever occurs first.

6 (b) For individuals who qualified as a currently
7 insured person prior to December 31, 2006, the number of
8 quarters to qualify as a currently insured person was
9 not less than eight quarters of coverage during the
10 thirteen quarter period ending with:

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

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

1 coverage:

2 (i) For individuals who attain age sixty
3 (60), die or become disabled on or before December 31,
4 2006, no more than thirty-eight (38) quarters of
5 coverage are required to be fully insured and there is
6 no minimum amount required for employee contributions to
7 the Social Security System.

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

21 (iii) For individuals who become disabled
22 after December 31, 2006, no more than 45 quarters of
23 coverage and employee contributions to the Social
24 Security System of at least \$1,500 are required to be
25 fully insured. Should an individual's employee

1 contributions total less than \$1,500 as of the date of
2 termination from employment, the individual may pay the
3 difference to the FSM Social Security Administration in
4 a single sum payment in order to become fully insured:

5 (d) 'Fully insured status' means:

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

23 (ii) 'Fully insured' means for individuals
24 who become disabled on or after January 1, 2010, at
25 least forty-five (45) quarters of coverage are needed to

1 be defined as fully insured, and they must also meet the
2 definition of currently insured at the time of the onset
3 of their disability. Additionally, employee's
4 contributions to the Social Security System of at least
5 \$1,500 are required to be fully insured. Should an
6 individual's employee contribution total less than
7 \$1,500 as of the date of disability, the individual may
8 pay the difference to the FSM Social Security
9 Administration in a single lump sum payment in order to
10 be fully insured.

11 (14) 'Quarter' and 'calendar quarter' mean a period of
12 three calendar months ending on March 31st, June 30th,
13 September 30th, or December 31st. 'Quarter of coverage'
14 means a quarter in which the individual has been paid
15 \$300 or more in wages in covered employment subject to
16 this subtitle.

17 (15) 'Wages' means remuneration paid subject to the
18 provisions of this subtitle, including the cash value of
19 all remuneration paid in any medium other than cash and
20 remuneration accruing to a self-employed person.
21 Remuneration accruing to a self-employed person shall be
22 deemed to be twice the amount paid to the highest paid
23 employee reported by the self-employed person in a
24 quarter, with a maximum of \$3,000 per quarter through
25 September 30, 2003 and a maximum of \$5,000 per quarter

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

19 (a) that part of remuneration in excess of \$3,000
20 through September 30, 2003 and in excess of \$5,000
21 beginning October 1, 2003, in excess of \$6,000
22 beginning January 1, 2008, in excess of \$7,000 beginning
23 January 1, 2013, in excess of \$8,000 beginning January
24 1, 2018, in excess of \$9,000 beginning on January 1,
25 2023, and in excess of \$10,000 beginning on January 1,

1 2028, paid in a quarterly reporting period by one
2 employer;

3 (b) any payment on account of sickness or
4 accident disability, or medical or hospitalization
5 expenses made by an employer to or on behalf of an
6 employee;

7 (c) any payment made to or on behalf of an
8 employee or to the employee's beneficiary from a trust
9 or annuity;

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

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

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

21 Section 2. Section 804 of title 53 of the Code of the
22 Federated States of Micronesia, as amended by Public Laws Nos.
23 14-37, 14-86, 15-73, and 16-10, is hereby amended to read as
24 follows:

25 "Section 804. Amount of retirement and disability

1 insurance benefits.

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

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

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

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

23 (i) For individuals who are 65 and over;
24 16.5% of the first \$10,000 of cumulative covered
25 earnings, plus 3 percent of cumulative covered earnings

1 in excess of \$10,000 but not in excess of the next
2 \$30,000.00, plus 2% of the cumulative covered earnings
3 in excess of \$40,000 but not in excess of the next
4 \$262,500, plus one percent of cumulative covered
5 earnings in excess of \$302,500.

6 (ii) For individuals who turn 60 after
7 January 1, 2011, such individual from ages 60 to 64 will
8 receive fifty percent (50%) of the total of all the
9 described benefits in this subsection, 16.5% of the
10 first \$10,000 of cumulative covered earnings, plus 3
11 percent of cumulative covered earnings in excess of
12 \$10,000 but not in excess of the next \$30,000, plus 2%
13 of the cumulative covered earnings in excess of \$40,000
14 but not in excess of the next \$262,500, plus one percent
15 of cumulative covered earnings in excess of \$302,500.
16 These payments in this subsection only, shall be made
17 without reduction pursuant to the earnings test in
18 section 603(7) for individuals who turn sixty before
19 January 1, 2014.

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

22 (d) Earnings for covered employment after
23 commencement of payments for retirement or disability
24 insurance benefits shall be included in benefit
25 calculations upon subsequent application for benefits,

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

7 (e) 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 age
10 65.

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

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

25 (3) An individual who is currently and fully insured

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

1 it would have been paid if the commutation had not
2 occurred."

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

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7 Date: 5/20/13

Introduced by: /s/ Tony H. Otto
Tony H. Otto

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