Public Law No. 12 - 76

To further amend title 53 of the Code of the Federated States of Micronesia, as amended, by amending sections 603, 606, 801, 802 and 803 and by adding new sections 803A and 811 to make changes in the Social Security Act, 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 Federated States of Micronesia is hereby amended to read as follows:

"Section 603 Definitions In this chapter, unless the context otherwise requires, the following definitions shall be applicable:

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

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

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

(4) 'Child or spouse' means an applicant that the court of the State in which an individual was domiciled at the time of his death has or would find to be the..."
individual's child or spouse in determining the
devolution of interstate personal property. 'Child' shall
include only the deceased individual's biological
children and such adopted children whose confirmed
petition for adoption by the wage earner has been
presented to the Social Security Administration

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

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

(7) 'Earning test' means that an individual who
receives a retirement, disability, or survivor benefit
and who works in covered or noncovered employment shall
have his quarterly benefit reduced by one dollar for each
two dollars earned in a quarter, except there shall be no
reduction for the first $300 earned in a quarter. This
reduction shall be applied in one of the subsequent two
quarters immediately after the quarter in which the
earnings were made, or as soon as possible thereafter.

(8) 'Employee' means
(a) any officer of a corporation; or
(b) any individual who, under the usual common law rules applicable in determining the employer-employee relationship has the status of an employee; or
(c) any self-employed person who has at least one employee for whom he is required to report in a given quarter; or
(d) any self-employed person who had more than $10,000 of annual gross revenue in the preceding calendar year.

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

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

(11) 'Insured status' can mean any of the following:
(a) 'Currently insured individual' means any individual who has had not less than eight quarters of coverage during the 13-quarter period ending with:
(i) the quarter in which he died; or
(ii) the quarter in which he became entitled

to old age insurance benefits; or

(iii) the quarter in which he became disabled,

whichever first occurs

(b) 'Fully insured individual' means any

individual who has not less than one quarter of coverage

for each year beginning after June 30, 1968, or for each

year after attaining the age of 21, whichever is later,

and up to but excluding the year in which he attained

retirement age, became disabled, or died, whichever first

occurred, except that in no case shall an individual be a

fully insured individual unless he has at least 12

quarters of coverage.

(12) 'Quarter' and 'calendar quarter' mean a period of

three calendar months ending on March 31st, June 30th,

September 30th, or December 31st. 'Quarter of coverage'

means a quarter in which the individual has been paid $50

or more in wages in employment subject to this subtitle

(13) 'Wages' means remuneration paid subject to the

provisions of this subtitle, including the cash value of

all remuneration paid in any medium other than cash and

remuneration accruing to a self-employed person.

Remuneration accruing to a self-employed person shall be

deemed to be twice the amount paid to the highest paid

employee reported by the self-employed person in a
quarter, with a maximum of $3,000 per quarter through September 30, 2003 and a maximum of $5,000 per quarter thereafter. Remuneration accruing to a self-employed person who has no covered employees shall, for each quarter of a year, be deemed to be 2.5 percent of the gross revenue of the business for the previous calendar year, subject to a $3,000 maximum per quarter through September 30, 2003 and a maximum of $5,000 per quarter thereafter. Remuneration paid for any service which is more or less than a whole dollar shall, as may be prescribed by regulations, be computed to the nearest dollar. Wages shall not include:

(a) that part of remuneration in excess of $3,000 through September 30, 2003 and in excess of $5,000 thereafter paid in a quarterly reporting period by one employer;

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

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

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

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

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

Section 2. Section 606 of title 53 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 606. Accounts, budget, and costs of administration.

(1) At such times as the Social Security Board may prescribe, the Social Security Administrator shall submit to the Board on forms and in the manner prescribed by the Board a detailed estimate of the budget for the next ensuing fiscal year for the proper conduct of the Social Security System. The Social Security Administrator shall submit to the Board:

(a) the audited accounts of the income and expenditure and the balance in the Social Security Retirement Fund for the last completed fiscal;
(b) a statement showing the estimated income and expenditure for the fiscal year in progress, together with such summaries, schedules, and supporting data as
may be deemed necessary;

(c) a statement showing the estimated balance of
the Social Security Retirement Fund at the close of the
fiscal year in progress; and

(d) a budget showing the estimated income and
expenditure for the next ensuing fiscal year.

(2) For the next ensuing fiscal year, the estimated
costs of administration including salaries and wages,
purchase of office supplies, operational expenses, and
the maintenance of branch offices shall not exceed an
expenditure maximum equal to 11 percent of the estimated
income for that year from contributions and interest and
dividend income on investments less investment expenses,
provided that such expenditure shall be based upon
contributions and interest and dividend income on
investments less investment expenses, determined on a
maximum wage contribution of $3,000 per quarter. Any
increase in the wage contribution shall not affect the
calculation of the maximum allowable expenditure. The
audited accounts and the budget for the ensuing fiscal
year shall be approved by the Board and submitted to the
President and the Congress of the Federated States of
Micronesia. Should the estimated costs of administration
exceed the expenditure maximum, legislative approval of
the budgeted administration expenses is required.”
Section 801 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 801. Scope of coverage; Verification of employment; Old age benefits.

(1) All employees, wherever employed by an employer incorporated or doing business in the Federated States of Micronesia, shall be covered unless both the employer and the employee are currently subject to any other recognized Social Security System. The highest administrator of the Social Security System, or his designees, shall cause at least two unannounced employment site checks to be conducted upon every non-government employee who first begins to contribute to the Social Security System after age 45 to ensure that such non-government employee is actually engaged in an employer-employee relationship that will allow him to be covered and eligible for benefits under this subtitle. The two employment site checks shall not be conducted within one month of each other and both shall be conducted within the first six months of the employee's first contribution payment to the Social Security System.

For the purposes of this subtitle, any elected official in any Government unit or body in the Federated States of Micronesia is deemed to be an employee employed by a Federated States of Micronesia employer.
governmental unit or body to which such person is elected is subject to the provisions in this subtitle relating to the duty and obligations of a Federated States of Micronesia employer.

2) Every person who:

(a) is fully insured;

(b) has attained age 60; and

(c) has filed a complete application with the Social Security Administrator for old age insurance shall be entitled to an old age insurance benefit subject to the earnings test as defined in this subtitle.

(3) Old age insurance benefit payments shall be paid for each month commencing with the month in which both paragraphs (2)(a) and (2)(b) of this section are satisfied and shall end with the month preceding the month in which the applicant dies.

(4) Notwithstanding the provisions of subsections (2) and (3) above, retroactive payments shall be limited to the twelve (12) months immediately preceding the month in which the individual entitled to benefits has submitted an application."

Section 4. Section 802 of title 53 of the Code of the Federated States of Micronesia is hereby amended to read as follows "Section 802 Surviving spouse benefits.

(1) Every surviving spouse who:
(a) was married to an individual who died fully insured; and
(b) files an application;
shall be entitled to a surviving spouse insurance benefit, subject to the earnings test as defined in this subtitle.

(2) Surviving spouse benefit payments shall be paid for each month commencing with the month of death of the fully insured spouse and ending with the month preceding the month in which the surviving spouse dies or remarries.

(3) Notwithstanding the provisions of subsections (1) and (2) above, retroactive payments shall be limited to the twelve (12) months immediately preceding the month in which the surviving spouse has submitted an application.”

Section 5. Section 803 of title 53 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

“Section 803. Surviving child benefits.

(1) Every surviving child who:

(a) was dependent upon an "individual who died fully insured or currently insured; and
(b) has filed a complete application with the Social Security Administrator for survivor's insurance;
shall be entitled to a surviving child's insurance benefit, subject to the earnings test as defined in this
subtitle.

(2) A surviving child's insurance benefit shall be paid for each month beginning with the month of the death of the individual who died fully insured or currently insured and shall end with the month preceding the month which contains the first to occur of the following events:

(a) attainment of age twenty-two (22) in the case of a surviving child who is a bona fide student; or

(b) ceasing to be disabled after attainment of age eighteen (18) in the case of a surviving child who was disabled before attainment of age twenty-two (22); or

(c) attainment of age eighteen (18) in the case of any surviving child not described in preceding paragraphs (a) and (b), except that benefits shall be payable during the disability of a surviving child who was disabled before the attainment of age twenty-two regardless of the child's age; or

(d) marriage; or

(e) adoption.

(3) A surviving child shall be deemed to have been dependent upon his parent or adopting parent unless that parent or adopting parent was not living in the same household with or contributing to the support of such child prior to his death. The child's insurance benefit
shall be paid to the individual upon whom the child is currently dependent, except such benefit shall be subject to the earnings test as defined in this subtitle.

(4) Notwithstanding the provisions of subsections (1) and (2) above, retroactive payments shall be limited to the twelve (12) months immediately preceding the month in which the surviving child or the surviving child's guardian has submitted an application."

Section 6. Title 53 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 803A to read as follows:

"Section 803A. Disability benefits.

(1) Every person who:

(a) is fully insured;

(b) is disabled and has been disabled for at least three full calendar months; and

(c) has filed a complete application with the Social Security Administrator for disability insurance shall be entitled to a disability insurance benefit, subject to the earnings test as defined in this subtitle.

(2) Disability insurance benefits shall be paid for each month, beginning with the first month of the waiting period and ending with the month preceding the month in which the disabled individual dies or recovers from his disability.
(3) Notwithstanding the provisions of subsections (1) and (2) above, retroactive payments shall not be made for more than the twenty-four (24) months immediately preceding the month in which the disabled individual has submitted an application."

Section 7. Title 53 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 811 to read as follows:

"Section 811. International agreements.

(1) Purpose of agreement. The President is authorized to enter into agreements establishing totalization arrangements between the social security system established by this title and the social security system of any foreign country, for the purposes of establishing entitlement to and the amount of old-age, survivors disability, or derivative benefits based on a combination of an individual's periods of coverage under the social security system established by this title and the social security system of such foreign country. Such agreements shall be subject to the approval of Congress by resolution.

(2) Definitions. For the purposes of this section:

(a) the term 'social security system' means, with respect to a foreign country, a social insurance or pension system which is of general application in the
country and under which periodic benefits, or the actuarial equivalent thereof, are paid on account of old age, death or disability; and

(b) the term 'period of coverage' means a period of payment of contributions or a period of earnings based on wages for employment or on self-employment income, or any similar period recognized as equivalent thereto under this title or under the social security system of a country which is a party to an agreement entered into under this section.

(3) Crediting periods of coverage; conditions of payment of benefits.

(a) Any agreement establishing a totalization arrangement pursuant to this section shall provide:

(i) that in the case of an individual who has at least 8 quarters of coverage as defined in section 603(11) of this title and periods of coverage under the social security system of a foreign country which is a party to such agreement, that individual's periods of coverage under the social security system of that foreign country may be combined with periods of coverage under this title and otherwise considered for the purposes of establishing entitlement to and the amount of old-age, survivors, and disability insurance benefits under this title;
(ii) that employment or self-employment, or any service which is recognized as equivalent to employment or self-employment under this title or the social security system of a foreign country which is a party to such agreement, shall, on or after the effective date of such agreement, result in a period of coverage under the system established under this title or under the system established under the laws of such foreign country, but not under both, and shall further set forth the methods and conditions for determining under which system employment, self-employment, or other service shall result in a period of coverage; and

(iii) that where an individual's periods of coverage are combined, the benefit amount payable under this title shall be based on the proportion of such individual's periods of coverage which was completed under this title.

(b) Any such agreement may provide that an individual who is entitled to cash benefits under this title shall, notwithstanding other provisions of title to the contrary, receive such benefits while he resides in a foreign country which is a party to such agreement.

(c) Any such agreement may contain other provisions which are not inconsistent with the other provisions of this title and which the President deems
appropriate to carry out the purposes of this section.

(4) Regulations. The Board shall make rules and regulations and establish such procedures as are reasonable and necessary to implement and administer any agreement which has been entered into in accordance with this section.

(5) Reports to Congress. The Board shall include as part of its annual submission to Congress required by section 703 of this title, a report describing each agreement that was in effect at any time during the previous fiscal year. The report shall state the estimated number of individuals affected by each agreement and the effect of each agreement on the estimated income and expenditures of the programs established by this chapter.”
Section 8. This act shall become law upon approval by the President of the Federated States of Micronesia or upon its becoming law without such approval.

The President of The Federated States of Micronesia, the honorable Leo A. Falcam, approved Public Law No. 12 - 76 on February 17, 2003.