

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
2 Federated States of Micronesia is hereby amended to read as follows:

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

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

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

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

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

1 individual's child or spouse in determining the
2 devolution of interstate personal property. 'Child' shall
3 include only the deceased individual's biological
4 children and such adopted children whose confirmed
5 petition for adoption by the wage earner has been
6 presented to the Social Security Administration

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

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

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

25 (8) 'Employee' means

1 (a) any officer of a corporation; or

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

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

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

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

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

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

22 (a) 'Currently insured individual' means any
23 individual who has had not less than eight quarters of
24 coverage during the 13-quarter period ending with:

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

1 (ii) the quarter in which he became entitled
2 to old age insurance benefits; or

3 (iii) the quarter in which he became disabled,
4 whichever first occurs

5 (b) 'Fully insured individual' means any
6 individual who has not less than one quarter of coverage
7 for each year beginning after June 30, 1968, or for each
8 year after attaining the age of 21, whichever is later,
9 and up to but excluding the year in which he attained
10 retirement age, became disabled, or died, whichever first
11 occurred, except that in no case shall an individual be a
12 fully insured individual unless he has at least 12
13 quarters of coverage.

14 (12) 'Quarter' and 'calendar quarter' mean a period of
15 three calendar months ending on March 31st, June 30th,
16 September 30th, or December 31st. 'Quarter of coverage'
17 means a quarter in which the individual has been paid \$50
18 or more in wages in employment subject to this subtitle

19 (13) 'Wages' means remuneration paid subject to the
20 provisions of this subtitle, including the cash value of
21 all remuneration paid in any medium other than cash and
22 remuneration accruing to a self-employed person.

23 Remuneration accruing to a self-employed person shall be
24 deemed to be twice the amount paid to the highest paid
25 employee reported by the self-employed person in a

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

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

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

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

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

1 private home of an employer;

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

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

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

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

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

20 (a) the audited accounts of the income and
21 expenditure and the balance in the Social Security
22 Retirement Fund for the last completed fiscal;

23 (b) a statement showing the estimated income and
24 expenditure for the fiscal year in progress, together
25 with such summaries, schedules, and supporting data as

1 may be deemed necessary;

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

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

7 (2) For the next ensuing fiscal year, the estimated
8 costs of administration including salaries and wages,
9 purchase of office supplies, operational expenses, and
10 the maintenance of branch offices shall not exceed an
11 expenditure maximum equal to 11 percent of the estimated
12 income for that year from contributions and interest and
13 dividend income on investments less investment expenses,
14 provided that such expenditure shall be based upon
15 contributions and interest and dividend income on
16 investments less investment expenses, determined on a
17 maximum wage contribution of \$3,000 per quarter. Any
18 increase in the wage contribution shall not affect the
19 calculation of the maximum allowable expenditure. The
20 audited accounts and the budget for the ensuing fiscal
21 year shall be approved by the Board and submitted to the
22 President and the Congress of the Federated States of
23 Micronesia. Should the estimated costs of administration
24 exceed the expenditure maximum, legislative approval of
25 the budgeted administration expenses is required."

1 Section 3 Section 801 of title 53 of the Code of the
2 Federated States of Micronesia is hereby amended to read as follows:

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

5 (1) All employees, wherever employed by an employer
6 incorporated or doing business in the Federated States of
7 Micronesia, shall be covered unless both the employer and
8 the employee are currently subject to any other
9 recognized Social Security System. The highest
10 administrator of the Social Security System, or his
11 designees, shall cause at least two unannounced
12 employment site checks to be conducted upon every non-
13 government employee who first begins to contribute to the
14 Social Security System after age 45 to ensure that such
15 non-government employee is actually engaged in an
16 employer-employee relationship that will allow him to be
17 covered and eligible for benefits under this subtitle.
18 The two employment site checks shall not be conducted
19 within one month of each other and both shall be
20 conducted within the first six months of the employee's
21 first contribution payment to the Social Security System.
22 For the purposes of this subtitle, any elected official
23 in any Government unit or body in the Federated States of
24 Micronesia is deemed to be an employee employed by a
25 Federated States of Micronesia employer. The

1 governmental unit or body to which such person is elected
2 is subject to the provisions in this subtitle relating to
3 the duty and obligations of a Federated States of
4 Micronesia employer.

5 2) Every person who:

6 (a) is fully insured;

7 (b) has attained age 60; and

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

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

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

22 Section 4. Section 802 of title 53 of the Code of the
23 Federated States of Micronesia is hereby amended to read as follows

24 "Section 802 Surviving spouse benefits.

25 (1) Every surviving spouse who:

1 (a) was married to an individual who died fully
2 insured; and

3 (b) files an application;
4 shall be entitled to a surviving spouse insurance
5 benefit, subject to the earnings test as defined in this
6 subtitle.

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

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

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

18 "Section 803. Surviving child benefits.

19 (1) Every surviving child who:

20 (a) was dependent upon an "individual who died
21 fully insured or currently insured; and

22 (b) has filed a complete application with the
23 Social Security Administrator for survivor's insurance;
24 shall be entitled to a surviving child's insurance
25 benefit, subject to the earnings test as defined in this

1 subtitle.

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

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

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

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

19 (d) marriage; or

20 (e) adoption.

21 (3) A surviving child shall be deemed to have been
22 dependent upon his parent or adopting parent unless that
23 parent or adopting parent was not living in the same
24 household with or contributing to the support of such
25 child prior to his death. The child's insurance benefit

1 shall be paid to the individual upon whom the child is
2 currently dependent, except such benefit shall be subject
3 to the earnings test as defined in this subtitle.

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

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

12 "Section 803A. Disability benefits.

13 (1) Every person who:

14 (a) is fully insured;

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

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

21 (2) Disability insurance benefits shall be paid for
22 each month, beginning with the first month of the waiting
23 period and ending with the month preceding the month in
24 which the disabled individual dies or recovers from his
25 disability.

1 (3) Notwithstanding the provisions of subsections (1)
2 and (2) above, retroactive payments shall not be made for
3 more than the twenty-four (24) months immediately
4 preceding the month in which the disabled individual has
5 submitted an application."

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

9 "Section 811. International agreements.

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

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

23 (a) the term 'social security system' means, with
24 respect to a foreign country, a social insurance or
25 pension system which is of general application in the

1 country and under which periodic benefits, or the
2 actuarial equivalent thereof, are paid on account of old
3 age, death or disability; and

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

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

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

15 (i) that in the case of an individual who has
16 at least 8 quarters of coverage as defined in section
17 603(11) of this title and periods of coverage under the
18 social security system of a foreign country which is a
19 party to such agreement, that individual's periods of
20 coverage under the social security system of that foreign
21 country may be combined with periods of coverage under
22 this title and otherwise considered for the purposes of
23 establishing entitlement to and the amount of old-age,
24 survivors, and disability insurance benefits under this
25 title;

1 (ii) that employment or self-employment, or
2 any service which is recognized as equivalent to
3 employment or self-employment under this title or the
4 social security system of a foreign country which is a
5 party to such agreement, shall, on or after the effective
6 date of such agreement, result in a period of coverage
7 under the system established under this title or under
8 the system established under the laws of such foreign
9 country, but not under both, and shall further set forth
10 the methods and conditions for determining under which
11 system employment, self-employment, or other service
12 shall result in a period of coverage; and

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

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

23 (c) Any such agreement may contain other
24 provisions which are not inconsistent with the other
25 provisions of this title and which the President deems

1 appropriate to carry out the purposes of this section.

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

7 (5) *Reports to Congress.* The Board shall include as
8 part of its annual submission to Congress required by
9 section 703 of this title, a report describing each
10 agreement that was in effect at any time during the
11 previous fiscal year. The report shall state the
12 estimated number of individuals affected by each
13 agreement and the effect of each agreement on the
14 estimated income and expenditures of the programs
15 established by this chapter."

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1 Section 8. This act shall become law upon approval by the
2 President of the Federated States of Micronesia or upon its becoming
3 law without such approval.

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6 **The President of The Federated States of Micronesia,**
7 **the honorable Leo A. Falcam, approved Public Law No.**
8 **12 - 76 on February 17, 2003.**

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