AN ACT

To further amend Title 53 of the Code of the Federated States of Micronesia, as amended, by amending sections 603, 804 and 809 and to enact a new section 903 thereof, to revise certain definitions, to change benefit levels, to change the time at and circumstances in which expatriate workers may access their contributions, to allow for voluntary participation in the Social Security system, and for other purposes.

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

Section 1. Section 603 of Title 53 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 5-120, 7-118, 12-76 and 14-37 is hereby further 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) ‘Become 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.
Notwithstanding anything in this subsection, no person,
adopted after December 31, 2006 and after the 55th
birthday of the adopting parent, shall be a ‘child’ for
the purposes of this title unless, the Social Security
Administrator makes a determination that, due to
exceptional circumstances, the person shall be so
entitled. In reaching a determination that exceptional
circumstances apply, the Social Security Administrator
shall satisfy himself or herself that future eligibility
for social security benefits was not a significant factor
in the decision to adopt and my consider any available,
relevant information including, but not limited to:
(a) Whether the adopted child’s biological mother,
and/or biological father were alive at the time the
adoption took place;
(b) If one or both biological parents were alive
at the time of adoption, whether one or both parents were
acting or were capable of acting as a primary caregiver at that time;

(c) Whether the adopting parent is a relative of the adopted child;

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

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

(f) Any other factor the Social Security Administrator considers relevant.

(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. The
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.
All benefit recipients have an affirmative duty to
disclose to the FSM Social Security Administration all
earnings from either covered or non-covered employment
for any time period during which they received earnings
and for which they are receiving or claiming benefits.

(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, covered’ or ‘covered 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) 'Employment, noncovered' or 'noncovered employment'
means any employment engaged in by an employee where
coverage is statutorily exempt in the Federated States of
Micronesia, family employment, or employment by an
employee outside the Federated States of Micronesia and
which is not taxable by the FSM Social Security
Administration.

(11) '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.

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

(a) 'Currently insured individual' means any
individual who has had not less than twenty quarters of
coverage during the 25-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 whose total cumulative quarters of coverage
are at least as great as the number of years calculated from the later of the date the worker turned age twenty-one (21) or June 30, 1968, to the date the worker attains age sixty (60), dies or becomes disabled. For this purpose, partial years shall be counted as whole years (for example 37.25 years would be rounded up to 38 years). In no case shall an individual be a fully insured individual unless he has at least 12 quarters of coverage.

(i) For individuals who attain age sixty (60), die or become disabled on or before December 31, 2006, no more than thirty-eight (38) quarters of coverage are required to be fully insured.

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

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

(13) ‘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 $300 or more in wages in covered employment subject to this subtitle.

(14) ‘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.
beginning October 1, 2003. This maximum quarterly amount shall increase to $6,000 on January 1, 2008, $7,000 on January 1, 2013, $8,000 on January 1, 2018, $9,000 on January 1, 2023, and $10,000 on January 1, 2028.

Remuneration accruing to a self-employed person who has no covered employees shall, for each quarter of a year, be deemed to be 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 beginning October 1, 2003. The maximum quarterly amount shall increase to $6,000 on January 1, 2008, $7,000 on January 1, 2013, $8,000 on January 1, 2018, $9,000 on January 1, 2023, and $10,000 on January 1, 2028. 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 beginning October 1, 2003, in excess of $6,000 beginning January 1, 2008, in excess of $7,000 beginning January 1, 2013, in excess of $8,000 beginning January 1, 2018, in excess of $9,000 beginning January 1, 2023, and in excess of $10,000 beginning on January 1, 2028, 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 804 of Title 53 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 5-120, 7-118, 9-56 and 14-37, is hereby further amended to read as follows:

“Section 804. Amount of retirement and disability insurance benefits.

(1) An insured eligible individual shall be paid a monthly old age benefit for life, except for any month of disqualification as provided by this subtitle, in an
amount calculated upon an annual basis as follows: For benefit payments that begin prior to January 1, 2007; 16.5 percent of the first $10,000 of cumulative covered earnings, plus 3 percent of cumulative covered earnings in excess of $10,000 but not in excess of the next $30,000, plus 2 percent of cumulative covered earnings in excess of $40,000. For benefit payments that begin on or after January 1, 2007; 16.5 percent of the first $10,000 of cumulative covered earnings, plus 3 percent of cumulative covered earnings in excess of $10,000 but not in excess of the next $30,000, plus 2 percent of cumulative covered earnings in excess of $40,000 but not in excess of the next $262,500, plus one percent of cumulative covered earnings in excess of $302,500. Earnings for covered employment after commencement of payments for retirement or disability insurance benefits shall be included in benefit calculations upon subsequent application for benefits, but such earnings shall be applicable for benefits for months after the calendar year in which such earnings occurred. For the purpose of this section cumulative covered earnings includes earnings on which contributions have been paid by the individual to the Trust Territory Social Security System.

(2) An insured, eligible individual shall be paid a minimum monthly benefit of seventy five dollars if the
benefit amount calculated in accordance with subsection (1) of this section is less than seventy five dollars monthly. Effective January 1, 2012, the minimum monthly benefit shall be $100.

(3) An individual who is fully insured and who has been under disability for three full calendar months shall be paid a monthly benefit for life or until recovery from the disability, except for any month of disqualification as provided by this subtitle in an amount calculated in accordance with the preceding subsections of this section. Further, the amount of the benefit as so determined shall, if the individual is receiving a periodic workmen’s compensation benefit, be reduced each month by the excess of the sum of the workmen’s compensation benefit for that month and the benefit payable under this act over eighty percent of one-twelfth of the highest annual covered wages in the period consisting of the year in which the disability occurred and the preceding five years. If a workmen’s compensation benefit was payable in periodic benefits but was commuted to a lump sum, for purposes of this subsection it will be considered that the periodic benefit originally available was paid in each month that it would have been paid if the commutation had not occurred.”
Section 3. Section 809 of Title 53 of the Code of the Federated States of Micronesia, as amended by Public Law 14-37, is hereby further amended to read as follows:

“Section 809. Payments to foreign citizens outside Federated States of Micronesia.

Unless modified by a totalization or other international agreement, payments under this act shall be paid to a beneficiary who is not a citizen or national of the Federated States of Micronesia and does not reside in the Federated States of Micronesia, as follows:

(a) Payments shall be made to citizens and nationals of the Republic of Palau, the Republic of the Marshall Islands and the United States as if they were citizens or nationals of the Federated States of Micronesia as long as the Social Security Administration of those nations gives citizens and nationals of the Federated States of Micronesia reciprocal treatment.

(b) Payments shall be made to citizens and nationals of other nations in a lump sum equal to the total amount contributed to the Social Security Administration by the employee while employed in the Federated States of Micronesia as of the date the employee ceases to be a resident of the Federated States of Micronesia in accordance with paragraph (c) of this section. However, the lump sum shall be reduced by any
payments made by the Social Security Administration to
the employee or a surviving spouse or child before the
lump sum is awarded.

(c) For the purposes of this section, an
individual resides in the Federated States of
Micronesia if they are present in the territory of the
Federated States of Micronesia for 180 days out of the
last 365 days and have ties to the Federated States of
Micronesia that indicate residence such as a home,
vehicle, bank accounts or personal property.

(d) In determining the benefits and
entitlements under this title for an individual who
receives a lump sum payment in accordance with
paragraph (b) of this section and who subsequently
returns to the Federated States of Micronesia to
undertake further covered employment, no covered
quarters, employee contributions or employer
contributions accrued by the individual prior to
receiving a lump sum payment shall be counted.”

Section 4. Section 903 of Title 53 of the Code of the
Federated States of Micronesia, as amended by Public Laws No.
5-120, is hereby renumbered Section 904.

Section 5. Section 904 of Title 53 of the Code of the
Federated States of Micronesia, as amended by Public Laws No.
5-120, is renumbered Section 905.
Section 6. A new section 903 is hereby enacted to read as follows:

"Section 903. Voluntary Contributions.

(1) Any self employed person who has less than $10,000 of annual gross revenue may make voluntary contributions to the Social Security Administration in order to become eligible to receive benefits under this Title. The remuneration of such person shall be deemed to be $1,250 per quarter or $5,000 per year and such persons must pay both the employee and employer contributions in order to be so eligible.

(2) Any person who is a citizen of Micronesia and is working as an employee outside of the Federated States of Micronesia, Republic of Palau or Republic of the Marshall Islands may make voluntary contributions to the Social Security Administration in order to become eligible to receive benefits. The remuneration of such persons shall be deemed to be minimum of $1,250 a quarter or $5,000 a year and such persons must pay both the employee and employer contribution in order to be covered."
Section 9. This act shall become effective immediately upon this act become law. This act shall become law upon approval by the President of the Federated States of Micronesia or upon its becoming law without such approval.

Signed by Redley Killion for Joseph J. Urusemal on October 23, 2006