AN ACT

To amend the Federated States of Micronesia Social Security Act, Public Law No. 2-74, codified as subtitle II of title 53 of the Code of the Federated States of Micronesia, 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 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) ‘Became disabled’ means the first month in which an individual is under a disability and is both fully and currently insured.

(2) ‘Board’ means the Federated States of Micronesia Social Security Board provided for by section 701 of this subtitle.

(3) ‘Child or spouse’ means that an applicant is the child or spouse of an individual if the court of the State in which the individual was domiciled at the time of his death has or would find the applicant to be the individual’s child or spouse in determining the devolution of interstate personal property.

(4) ‘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.

(5) ‘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 twelve months.

(6) ‘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.

(7) ‘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.

(8) ‘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.

(9) ‘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.

(10) ‘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 thirteen 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 twenty-one, 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 twelve quarters of coverage.

(11) ‘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 fifty dollars or more in wages in employment subject to this subtitle.

(12) ‘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, $2,000 maximum per quarter. 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 $2,000 maximum. 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 $2,000 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 his 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 605 of title 53 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

“Section 605. Violations - Penalties and interest - Attorney’s fees and costs.

(1) Any person who knowingly makes any false statement or who falsifies any report to or record of the Federated States of Micronesia Social Security System in an attempt to defraud the system is guilty of a misdemeanor and upon conviction thereof shall be imprisoned for a
period of not more than one year, or fined not more than $2,000 or both.

(2) Any person who willfully fails to report wages paid or pay contributions required thereon is guilty of a misdemeanor and, in addition to any other penalty prescribed by law, such a person shall also pay penalties not in excess of one hundred percent of the tax due plus interest to the Board as it by regulation shall require.

(3) Any covered employer who fails to submit the quarterly report and pay the social security tax within ten days after the end of the quarter shall be considered delinquent. The Board or its authorized representatives shall be vested with the authority to levy a penalty of not more than $1,000 on delinquent employers.

(4) If any tax or penalty imposed by this subtitle is not paid on or before the date prescribed for such payment, there shall be collected, in addition to such tax and penalty, interest on the unpaid balance of the tax principal at the rate of twelve percent per annum from its due date until the date it is paid. In the event that any tax, interest, or penalty due under this subtitle is referred to an attorney or trail counselor for collection, whether or not suit is brought for the collection thereof, the taxpayer shall additionally be liable for reasonable attorney’s or trial counselor’s fees and costs of collection,
including court costs.”

Section 3. 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 time 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 year;

(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 eleven percent of
the estimated income for that year from contributions and
interest and dividend income on investments less investment
expenses. 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 4. Chapter 6 of title 53 of the Code of the Federated
States of Micronesia is hereby amended by adding a new section 607 to
read as follows:

“Section 607. Lien for taxes. All taxes, including
penalties and interest accrued thereon, imposed or
authorized under this subtitle shall be a lien upon any
property of the employer, having priority over all other
claims and liens including liens for other taxes, and may
be collected by levy upon such property in the same manner
as the levy of an execution.”

Section 5. Section 701 of title 53 of the Code of the
Federated States of Micronesia is hereby amended to read as
follows:

“Section 701. Board - Established - Composition - Compensation. There is created a Federated States of Micronesia Social Security Board of five members nominated by the President and confirmed by the Congress of the Federated States of Micronesia to operate the Social Security Program authorized by this subtitle. Nominations to the Board shall take into account the need to have adequate geographical representation and to have representatives from public and private sector employers and employees. Members of the Board shall serve three-year terms, and the Board shall provide for its own organization and procedure. Any vacancies on the Board shall be filled for the unexpired term only. Where a vacancy is for one year or less, it shall be filled by appointment by the President, otherwise vacancies shall be filled by nomination by the President and confirmation by the Congress. The Social Security Administrator shall be an ex officio member of the Board. Members of the Board who are not State or National Government employees shall be paid at the rate of $30 per day and necessary travel expenses when actually attending meetings of the Board.”

Section 6. Section 801 of title 53 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

“Section 801. Scope of coverage; Verification of
employment.

(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 forty-five years 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 1 month from each other and both shall be conducted within the first 6 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. The 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.
Every person who:

(a) is a fully insured individual, as defined in this
subtitle;

(b) has attained age sixty years; and

(c) has filed application for old age insurance shall
be entitled to an old age insurance benefit for each month,
beginning with the month for which both paragraphs
(a) and (b) of this subsection are satisfied and ending
with the month preceding the month in which he dies,
subject to the earnings test as defined in this subtitle.”

Section 7. Section 804 of title 53 of the Code of the
Federated States of Micronesia is hereby 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 of 16.5 percent of
the first $10,000 of cumulative covered earnings, plus
2.7 percent of cumulative covered earnings in excess of
$10,000 but not in excess of the next $30,000, plus
1.35 percent of cumulative covered earnings in excess of
$40,000 but not in excess of the next $30,000, plus .675
percent of cumulative covered earnings in excess of $70,000.
Earnings for employment after commencement of payments for
old age 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 forty-three dollars twenty cents if the benefit amount calculated in accordance with subsection (1) of this section is less than forty-three dollars twenty cents monthly.

(3) An individual who is both fully and currently insured and who has been under a 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 the 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 8. Section 806 of title 53 of the Code of the
Federated States of Micronesia is hereby amended to read as follows:

“Section 806. Amount of survivor insurance benefits.

(1) The surviving spouse of a fully insured worker
eligible in accordance with section 802 shall be paid a
monthly benefit or disability in an amount equal to sixty
percent of the retirement or disability insurance benefit
calculated for the deceased spouse at the date of death.

(2) Each eligible child of an insured worker shall be
entitled to a monthly benefit of fifteen percent of the
retirement insurance benefit calculated for the deceased
parent at the date of death.

(3) If the spouse of the deceased insured worker is
eligible for retirement benefit based on his or her own
employment coverage, the survivor insurance benefit shall
be reduced by the amount of such retirement benefit.

(4) In no event shall the total survivor benefit paid
to the spouse and children exceed the retirement benefit
calculated for the decedent as of the date of death, nor
shall it be less than forty-three dollars twenty cents a
month computed prior to the application of subsection (3)
of this section.”

Section 9. Section 903 of title 53 of the Code of the
Federated States of Micronesia is hereby amended to read as follows:

“Section 903. Employee refunds. When a covered employee
is reported with earnings in excess of the quarterly
maximum and taxes on the excess are withheld and paid into
the Federated States of Micronesia Social Security
Retirement Fund, the excess employee tax during the four
quarters ending December 31st of each year shall be
refunded to the employee within ninety days of that
date; provided, that the excess employee taxes are one
dollar or more. No refund, however, shall be granted to
the employer or employers of such employee of taxes paid by
such employers on account of wages paid by them to the
employee.”

Section 10. Section 904 of title 53 of the Code of the
Federated States of Micronesia is hereby amended to read as follows:

“Section 904. Reporting - Social security card and
number. The Administration shall furnish each employer
forms for recordkeeping and reporting of contributions
which shall show in addition to other information specified
by the Board the employer account number and the employee
social security number. Numbers shall be issued by the
Administration from a permanent register maintained by it.
Each employer shall report quarterly, on the prescribed
forms, and pay taxes due thereon to the Administration in
accordance with the Board’s regulation and subject to
interest and penalty for failure so to do. Each employee
shall be assigned a social security number and a card
bearing this number.”

Section 11. Section 1004 of title 53 of the Code of the
Federated States of Micronesia is hereby amended to read as follows:

“Section 1004. Investment of funds — Authorized
investments enumerated. The Board may invest and reinvest
its moneys:
(1) in bonds or other evidences of indebtedness of
the Federated States of Micronesia or the United States;
(2) in bonds or other evidences of indebtedness of
any State of the Federated States of Micronesia or of the
United States; provided, that such bonds or other evidences
of indebtedness are guaranteed as to principal and interest
or; provided, that such bonds or evidences of indebtedness
are payable from revenues or earnings specifically pledged
for the payment of principal and interest on such
obligations, and for the payment of which a lawful sinking
fund or reserve fund has been established and is being
maintained, but only if no default in payment of principal
or interest on the obligations to be purchased has occurred
within five years of the date of investment therein, or, if
such obligations were issued less than five years prior to
the date of investment, no default in payment of principal
or interest has occurred on the obligations to be purchased
nor on any other obligations of the issuer within five
years of such investments; provided always, that at the
time of purchase the total cost price of all bonds or
evidences of indebtedness in any one State does not exceed
twenty-five percent of the value of the invested assets of
the fund at that time;

(3) in bonds, debentures, notes, and other evidences
of indebtedness issued or assumed by Federated States of
Micronesia institutions, created or existing under the laws
of the Federated States of Micronesia, including housing
authorities, when such obligations are guaranteed as to
principal and interest by the Government of the Federated
States of Micronesia; provided always, that at the time of
purchase the total cost price of all investments in any
single institution does not exceed twenty-five percent of
the value of the invested assets of the fund at that time;

(4) in bonds, debentures, notes, and other evidences
of indebtedness issued, assumed, or guaranteed by any
solvent institution created or existing under the law of
the United States or of any state or territory thereof, or
of the Federated States of Micronesia, which are not in default as to principal or interest and which are secured by collateral worth at least fifty percent more than the par value of the entire issue of such obligations, but only if not more than one-third of the total value of such required collateral consists of common stock; provided always, that at the time of purchase the total cost price of all investments in any single institution does not exceed twenty-five percent of the value of the invested assets of the fund at that time;

(5) in common stock; provided, that:

(a) the stock is listed on a recognized United States stock exchange,

(b) no dividends on the stock have been omitted or deferred during the five years prior to the date of purchase, and

(c) purchase of a stock would not result in the fund holding stock in one corporation in excess of ten percent or in one industry group in excess of twenty-five percent of the value of the invested assets of the fund at that time."
Section 12. 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 President John R. Hagelgamp

on December 29, 1988