
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, 804, and 806 of title 53, to reduce the Social Security retirement benefits received by an individual between the ages of 60 and 62 and amend the quarterly deductible wages, 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, as amended by Public Laws Nos. 12-
3 76, 14-37, 14-86, 15-73 and 16-10, is hereby further amended to
4 read as follows:

5 "Section 603. Definitions [~~of title 53 of the code of~~
6 ~~the Federated States of Micronesia, as amended is hereby~~
7 ~~further the amended to read as follows:]~~. In this
8 chapter, unless the context otherwise requires, the
9 following definitions shall be applicable:

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

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

18 (3) 'Board' means the Federated States of Micronesia

1 Social Security Board provided for by section 701 of
2 this subtitle.

3 (4) 'Child or spouse' means an applicant that the
4 court of the State in which an individual was domiciled
5 at the time of his death has or would find to be the
6 individual's child or spouse in determining the
7 devolution of intestate personal property. 'Child'
8 shall include only the deceased individual's biological
9 children and such adopted children whose confirmed
10 petition for adoption by the wage earner has been
11 presented to the Social Security Administration and who
12 were adopted by the wage earner on or prior to the wage
13 earner's 55th birthday of the adopting parent, shall be a
14 'child' for the purposes of this title unless, the
15 Social Security Administrator makes a determination
16 that, due to exceptional circumstances, the person shall
17 be so entitled. In reaching a determination that
18 exceptional circumstances apply, the Social Security
19 Administrator shall satisfy himself or herself that
20 future eligibility for social security benefits was not
21 a significant factor in the decision to adopt and may
22 consider any available, relevant information including,
23 but not limited to:

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

1 (b) if one or both biological parents were alive
2 at the time of adoption, whether one or both parents
3 were acting or were capable of acting as a primary
4 caregiver at that time;

5 (c) whether the adopting parent is a relative of
6 the adopted child;

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

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

15 (f) any other factor the Social Security
16 Administrator considers relevant.

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

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

26 (7) 'Earning test' means that an individual who

1 receives a retirement, disability, or survivor benefit
2 and who works in covered or non-covered employment shall
3 have his quarterly benefit reduced by one dollar for
4 each two dollars earned in a quarter, except there shall
5 be no reduction for the first \$300 earned in a quarter.
6 The reduction shall be applied in one of the subsequent
7 two quarters immediately after the quarter in which the
8 earnings were made, or as soon as possible thereafter.
9 All benefit recipients have an affirmative duty to
10 disclose to the FSM Social Security Administration all
11 earnings from either covered or non-covered employment
12 for which time they are receiving or claiming benefits.
13 Under certain circumstances as defined in section 804,
14 the earnings test may not apply to old age benefits
15 received by an individual between the ages of 60 and
16 [~~64~~] 62 who turns 60, after January 1, 2011.

17 (8) 'Employee' means:

18 (a) any officer of a corporation; or

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

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

25 (d) any self-employed person who had more than
26 \$10,000 of annual gross revenue in the preceding

1 calendar year.

2 (9) 'Employer means:

3 (a) For purposes of this act, employer means the
4 person, business organization or other organization, or
5 national or state or municipal government or agency,
6 that pursuant to common law rules of employment is the
7 actual person or organization responsible for the
8 formation and continuation of the working relationship
9 with employee.

10 (b) The Social Security Administration has the
11 right to determine the actual employer of employees for
12 purposes of implementing this act, and need not rely on
13 the characterization provided.

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

1 several between the president of the corporation, and
2 all shareholders with greater than a 30% interest in the
3 corporation.

4 Under this definition all such persons are jointly
5 defined as the employer, for all purposes including the
6 implementation of criminal penalties.

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

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

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

25 (13) 'Insured status' can mean any of the
26 following:

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

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

5 (ii) the quarter in which he became entitled
6 to old age insurance benefits at age sixty (60);

7 (iii) the quarter in which he became disabled,
8 whichever occurs first.

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

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

15 (ii) the quarter in which he became entitled
16 to old age insurance benefits at age sixty (60);

17 (iii) the quarter in which he became disabled,
18 whichever occurs first.

19 (c) 'Fully insured individual' means any
20 individual whose total cumulative quarters of coverage
21 are at least as great as the number of years calculated
22 from the later of the date the worker turned age twenty-
23 one (21), or June 30, 1968, to the date the worker
24 attains age sixty (60), dies or becomes disabled. For
25 this purpose, partial years shall be counted as whole
26 years (for example 37.25 years would be rounded up to 38

1 years). In no case shall an individual be a fully
2 insured individual unless he has at least 12 quarters of
3 coverage:

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

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

23 (iii) For individuals who become disabled
24 after December 31, 2006, no more than 45 quarters of
25 coverage and employee contributions to the Social
26 Security System of at least \$1,500 are required to be

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

6 (d) 'Fully insured status' means:

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

24 (ii) 'Fully insured' means for individuals
25 who become disabled on or after January 1, 2010, at
26 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
26 beginning October 1, 2003. This maximum quarterly

1 amount shall increase to \$6,000 on January 1, 2008[7].
2 Effective on January 01, 2011, deductible wages shall be
3 \$10,000 per quarter, and on January 01, 2014 deductible
4 wages shall be \$15,000 per quarter. [~~\$7,000 on January~~
5 ~~1, 2013, \$8,000 on January 1, 2018, \$9,000 on January 1,~~
6 ~~2023, and \$10,000 on January 1, 2028.~~] Remuneration
7 accruing to a self-employed person who has no covered
8 employees shall, for each quarter of a year, be deemed
9 to be five (5) percent of the gross revenue of the
10 business or gross revenue of all businesses for the
11 previous calendar year, subject to a \$3,000 maximum per
12 quarter through September 30, 2003 and a maximum of
13 \$5,000 per quarter beginning October 1, 2003. This
14 maximum quarterly amount shall increase to \$6,000 on
15 January 1, 2008[7]. Effective on January 01, 2011,
16 deductable wages shall be \$10,000 per quarter, and on
17 January 01, 2014 deductible wages shall be \$15,000 per
18 quarter. [~~\$7,000 on January 1, 2013, \$8,000 on January~~
19 ~~1, 2018, \$9,000 on January 1, 2023, and \$10,000 on~~
20 ~~October 1, 2028.~~] Remuneration paid for any service,
21 which is more or less than a whole dollar shall, as may
22 be prescribed by regulations, be computed to the nearest
23 dollar. Wages shall not include:

24 (a) that part of remuneration in excess of \$3,000
25 through September 30, 2003 and in excess of \$5,000
26 beginning October 1, 2003, in excess of \$6,000

1 beginning January 1, 2008, in excess of \$10,000
2 beginning January 01, 2011, in excess of \$15,000
3 beginning January 01, 2014, [~~in excess of \$7,000~~
4 ~~beginning January 1, 2013, in excess of \$8,000 beginning~~
5 ~~January 1, 2018, in excess of \$9,000 beginning on~~
6 ~~January 1, 2023, and in excess of \$10,000 beginning on~~
7 ~~January 1, 2028,]~~ paid in a quarterly reporting period
8 by one employer;

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

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

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

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

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

1 Section 2. Section 804 of title 53 of the Code of the Federated
2 States of Micronesia, as amended by Public Law Nos. 14-37, 14-86,
3 15-73 and 16-10, is hereby further amended to read as follows:

4 "Section 804. Amount of retirement and disability
5 insurance benefits.

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

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

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

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

1 (i) For individuals who are [~~65~~] 63 and
2 over; 16.5% of the first \$10,000 of cumulative covered
3 earnings, plus 3 percent of cumulative covered earnings
4 in excess of \$10,000 but not in excess of the next
5 \$30,000.00, plus 2% of the cumulative covered earnings
6 in excess of \$40,000 but not in excess of the next
7 \$262,500, plus one percent of cumulative covered
8 earnings in excess of \$302,500.

9 (ii) For individuals who turn 60 after
10 January 1, 2011, such individual from ages 60 to [~~64~~] 62
11 will receive fifty percent (50%) of the total of all the
12 described benefits in this subsection, 16.5% of the
13 first \$10,000 of cumulative covered earnings, plus 3
14 percent of cumulative covered earnings in excess of
15 \$10,000 but not in excess of the next \$30,000, plus 2%
16 of the cumulative covered earnings in excess of \$40,000
17 but not in excess of the next \$262,500, plus one percent
18 of cumulative covered earnings in excess of \$302,500.
19 These payments in this subsection only, shall be made
20 without reduction pursuant to the earnings test in
21 section 603(7).

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

24 (d) Earnings for covered employment after
25 commencement of payments for retirement or disability
26 insurance benefits shall be included in benefit

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

8 (e) In the event, benefits have been received
9 under section 804(1)(c)(ii), such benefits shall be
10 automatically adjusted when the individual reaches age
11 ~~[65]~~ 63.

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

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

26 (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~~] 63, but with existing
13 quarters of coverage. Further, the amount of the
14 benefit as so determined shall, if the individual is
15 receiving a periodic workmen's compensation benefit, be
16 reduced each month by the excess of the sum of the
17 workmen's compensation benefit for that month, and the
18 benefit payable under this act over eighty percent of
19 one-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
26 it would have been paid if the commutation had not

1 occurred.”

2 Section 3. Section 806 of title 53 of the Code of the
3 Federated States of Micronesia, as amended by Public Laws Nos. 14-
4 37, 15-73 and 16-10, is hereby further amended to read as follows:

5 “Section 806. Amount of survivor insurance benefits.

6 (1) The surviving spouse of a fully insured worker
7 eligible in accordance with section 802 of this chapter
8 shall be paid a monthly benefit or disability in an
9 amount equal to 60 percent of the retirement or
10 disability insurance benefit calculated for the deceased
11 spouse at the date of death. For a fully insured worker
12 who dies after January 1, 2011, the benefit will be
13 calculated as if he or she retired at age [~~65~~] 63, but
14 with existing quarters of coverage.

15 (2) Each eligible child of an insured worker shall be
16 entitled to a monthly benefit of 15 percent of the
17 retirement insurance benefit calculated for the deceased
18 parent at the date of death. For a fully insured worker
19 who dies after January 1, 2011, the benefit will be
20 calculated as if he or she retired at age [~~65~~] 63, but
21 with existing quarters of coverage.

22 (3) If the spouse of the deceased insured worker is
23 eligible for retirement or disability benefits based on
24 his or her own employment coverage, and is also eligible
25 for survivors' benefits, the spouse shall receive
26 whatever benefit pays the highest monthly benefit. In

1 addition, the surviving spouse shall be entitled to
2 receive a lump sum equal to four percent of the
3 cumulative covered earnings upon which the lower benefit
4 is based, less the sum of all benefits already received
5 on the basis of those cumulative covered earnings. If
6 the spouse elects to accept the lump sum payment, he or
7 she shall lose credit for all quarters of coverage
8 earned up to the date of application. If that
9 individual returns to work, he or she shall start over
10 again to earn quarters of coverage leading to being
11 currently or fully insured.

12 (4) The monthly benefit paid to the surviving
13 child(ren) shall be based on the higher of the two
14 benefits that have been earned by the deceased parents
15 if fully or currently insured. In addition the
16 surviving child(ren) shall be entitled to receive a lump
17 sum equal to two percent of the other deceased's
18 parent's cumulative covered earnings, less the sum of
19 all benefits, if any, received by the deceased parent.

20 (5) The total survivors' benefit paid to the spouse
21 and children may not exceed the retirement benefit
22 calculated for the decedent as of the date of death
23 except that if the surviving spouse receives benefits
24 based on his or her own employment coverage, that amount
25 plus the survivors' benefits for the children may exceed
26 the amount of the deceased's retirement benefit. In no

1 event shall the amount paid be less than the minimum
2 established by the Social Security Administration, as
3 set out in section 804 of title 53 of the Code of the
4 Federated States of Micronesia."

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

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12 Date: 9/24/10

Introduced by: /s/ Joseph J. Urusemal
Joseph J. Urusemal

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