

AN ACT

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
3 follows:

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

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

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

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

19 (4) 'Child or spouse' means an applicant that the

1 court of the State in which an individual was domiciled
2 at the time of his death has or would find to be the
3 individual's child or spouse in determining the
4 devolution of intestate personal property. 'Child'
5 shall include only the deceased individual's biological
6 children and such adopted children whose confirmed
7 petition for adoption by the wage earner has been
8 presented to the Social Security Administration.

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

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

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

1 earnings were made, or as soon as possible thereafter.

2 (8) 'Employee' means:

3 (a) any officer of a corporation; or

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

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

10 (d) any self-employed person who had more than
11 \$10,000 of annual gross revenue in the preceding
12 calendar year.

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

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

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

25 (a) 'Currently insured individual' means any

1 individual who has had not less than eight quarters of
2 coverage during the 13-quarter period ending with:

- 3 (i) the quarter in which he died; or
4 (ii) the quarter in which he became entitled
5 to old age insurance benefits; or
6 (iii) the quarter in which he became disabled,
7 whichever first occurs.

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

17 (12) 'Quarter' and 'calendar quarter' mean a period of
18 three calendar months ending on March 31st, June 30th,
19 September 30th, or December 31st. 'Quarter of coverage'
20 means a quarter in which the individual has been paid
21 \$50 or more in wages in employment subject to this
22 subtitle.

23 (13) 'Wages' means remuneration paid subject to the
24 provisions of this subtitle, including the cash value of
25 all remuneration paid in any medium other than cash and

1 remuneration accruing to a self-employed person.

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

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

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

25 (c) any payment made to or on behalf of an

1 employee or to the employee's beneficiary from a trust
2 or annuity;

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

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

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

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

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

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

1 (a) the audited accounts of the income and
2 expenditure and the balance in the Social Security
3 Retirement Fund for the last completed fiscal year;

4 (b) a statement showing the estimated income and
5 expenditure for the fiscal year in progress, together
6 with such summaries, schedules, and supporting data as
7 may be deemed necessary;

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

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

13 (2) For the next ensuing fiscal year, the estimated
14 costs of administration including salaries and wages,
15 purchase of office supplies, operational expenses, and
16 the maintenance of branch offices shall not exceed an
17 expenditure maximum equal to 11 percent of the estimated
18 income for that year from contributions and interest and
19 dividend income on investments less investment expenses,
20 provided that such expenditure shall be based upon
21 contributions and interest and dividend income on
22 investments less investment expenses, determined on a
23 maximum wage contribution of \$3,000 per quarter. Any
24 increase in the wage contribution shall not affect the
25 calculation of the maximum allowable expenditure. The

1 audited accounts and the budget for the ensuing fiscal
2 year shall be approved by the Board and submitted to the
3 President and the Congress of the Federated States of
4 Micronesia. Should the estimated costs of
5 administration exceed the expenditure maximum,
6 legislative approval of the budgeted administration
7 expenses is required."

8 Section 3. Section 801 of title 53 of the Code of the
9 Federated States of Micronesia is hereby amended to read as
10 follows:

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

13 (1) All employees, wherever employed by an employer
14 incorporated or doing business in the Federated States
15 of Micronesia, shall be covered unless both the employer
16 and the employee are currently subject to any other
17 recognized Social Security System. The highest
18 administrator of the Social Security System, or his
19 designees, shall cause at least two unannounced
20 employment site checks to be conducted upon every non-
21 government employee who first begins to contribute to
22 the Social Security System after age 45 to ensure that
23 such non-government employee is actually engaged in an
24 employer-employee relationship that will allow him to be
25 covered and eligible for benefits under this subtitle.

1 The two employment site checks shall not be conducted
2 within one month of each other and both shall be
3 conducted within the first six months of the employee's
4 first contribution payment to the Social Security
5 System. For the purposes of this subtitle, any elected
6 official in any Government unit or body in the Federated
7 States of Micronesia is deemed to be an employee
8 employed by a Federated States of Micronesia employer.
9 The governmental unit or body to which such person is
10 elected is subject to the provisions in this subtitle
11 relating to the duty and obligations of a Federated
12 States of Micronesia employer.

13 (2) Every person who:

14 (a) is fully insured;

15 (b) has attained age 60; and

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

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

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

6 Section 4. Section 802 of title 53 of the Code of the
7 Federated States of Micronesia is hereby amended to read as
8 follows:

9 "Section 802. Surviving spouse benefits.

10 (1) Every surviving spouse who:

11 (a) was married to an individual who died fully
12 insured; and

13 (b) files an application;

14 shall be entitled to a surviving spouse insurance
15 benefit, subject to the earnings test as defined in this
16 subtitle.

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

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

1 application."

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

5 "Section 803. Surviving child benefits.

6 (1) Every surviving child who:

7 (a) was dependent upon an individual who died
8 fully insured or currently insured; and

9 (b) has filed a complete application with the
10 Social Security Administrator for survivor's insurance;
11 shall be entitled to a surviving child's insurance
12 benefit, subject to the earnings test as defined in this
13 subtitle.

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

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

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

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

7 (d) marriage; or

8 (e) adoption.

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

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

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

1 "Section 803A. Disability benefits.

2 (1) Every person who:

3 (a) is fully insured;

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

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

11 (2) Disability insurance benefits shall be paid for
12 each month, beginning with the first month of the
13 waiting period and ending with the month preceding the
14 month in which the disabled individual dies or recovers
15 from his disability.

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

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

24 "Section 811. International agreements.

25 (1) *Purpose of agreement.* The President is authorized

1 to enter into agreements establishing totalization
2 arrangements between the social security system
3 established by this title and the social security system
4 of any foreign country, for the purposes of establishing
5 entitlement to and the amount of old-age, survivors,
6 disability, or derivative benefits based on a
7 combination of an individual's periods of coverage under
8 the social security system established by this title and
9 the social security system of such foreign country.
10 Such agreements shall be subject to the approval of
11 Congress by resolution.

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

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

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

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

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

5 (i) that in the case of an individual who
6 has at least 8 quarters of coverage as defined in
7 section 603(11) of this title and periods of coverage
8 under the social security system of a foreign country
9 which is a party to such agreement, that individual's
10 periods of coverage under the social security system of
11 that foreign country may be combined with periods of
12 coverage under this title and otherwise considered for
13 the purposes of establishing entitlement to and the
14 amount of old-age, survivors, and disability insurance
15 benefits under this title;

16 (ii) that employment or self-employment, or
17 any service which is recognized as equivalent to
18 employment or self-employment under this title or the
19 social security system of a foreign country which is a
20 party to such agreement, shall, on or after the
21 effective date of such agreement, result in a period of
22 coverage under the system established under this title
23 or under the system established under the laws of such
24 foreign country, but not under both, and shall further
25 set forth the methods and conditions for determining

1 under which system employment, self-employment, or other
2 service shall result in a period of coverage; and

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

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

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

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

22 (5) *Reports to Congress.* The Board shall include as
23 part of its annual submission to Congress required by
24 section 703 of this title, a report describing each
25 agreement that was in effect at any time during the

1 previous fiscal year. The report shall state the
2 estimated number of individuals affected by each
3 agreement and the effect of each agreement on the
4 estimated income and expenditures of the programs
5 established by this chapter."
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16 Section 8. This act shall become law upon approval by the
17 President of the Federated States of Micronesia or upon its
18 becoming law without such approval.
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22 February 17, _____, 2003
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/s/ Leo A. Falcam
Leo A. Falcam
President
Federated States of Micronesia