
A BILL FOR AN ACT

To further amend title 53 of the Code of the Federated States of Micronesia (Annotated), as amended, by amending sections 603, 801, 802, 803, 803A, 804, and 805 thereof, to discontinue the application of the Social Security System earnings test, 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 Federated
2 States of Micronesia (Annotated), is hereby amended to read as follows:

3 "Section 603. Definitions.

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

9 (2) "Became disabled" means the first month in which an
10 individual is under a disability.

11 (3) "Board" means the Federated States of Micronesia
12 Social Security Board provided for by section 701 of this
13 subtitle.

14 (4) "Child or spouse" means an applicant that the
15 court of the State in which an individual was domiciled
16 at the time of his death has or would find to be the
17 individual's child or spouse in determining the
18 devolution of intestate personal property. "Child" shall
19 include only the deceased individual's biological

1 children and such adopted children whose confirmed
2 petition for adoption by the wage earner has been
3 presented to the Social Security Administration and who
4 were adopted by the wage earner on or prior to the wage-
5 earner's 55th birthday of the adopting parent, shall be
6 a "child" for the purposes of this title unless, the
7 Social Security Administrator makes a determination
8 that, due to exceptional circumstances, the person shall
9 be so entitled. In reaching a determination that
10 exceptional circumstances apply, the Social Security
11 Administrator shall satisfy himself or herself that
12 future eligibility for social security benefits was not
13 a significant factor in the decision to adopt and may
14 consider any available, relevant information including,
15 but not limited to:

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

19 (b) if one or both biological parents were alive at the
20 time of adoption, whether one or both parents were acting or
21 were capable of acting as a primary caregiver at that time;

22 (c) whether the adopting parent is a relative of the
23 adopted child;

24 (d) whether, at the time the adoption took place, there
25 were relatives, not including the adopting parents, who would

1 have been appropriate guardians for the adopted child;

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

5 (f) any other factor the Social Security Administrator
6 considers relevant.

7 (5) "Contributions" means the tax imposed upon income of
8 covered employees and the tax imposed upon employers on
9 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 12
15 months.

16 (7) "Earning test" means that an individual who receives a
17 retirement, disability, or survivor benefit and who works in
18 covered or non-covered employment shall have his quarterly
19 benefit reduced by one dollar for each two dollars earned in
20 a quarter, except there shall be no reduction for the first
21 \$300 earned in a quarter. The reduction shall be applied in
22 one of the subsequent two quarters immediately after the
23 quarter in which the earnings were made, or as soon as
24 possible thereafter. Until April 1, 2026, all benefit
25 recipients have an affirmative duty to disclose to the FSM

1 Social Security Administration all earnings from either
2 covered or non-covered employment for which time they are
3 receiving or claiming benefits. ~~[Under certain circumstances~~
4 ~~as defined in section 804, the earnings test may not apply to~~
5 ~~old age benefits received by an individual between the ages~~
6 ~~of 60 and 64 who turns 60, after January 1, 2011.] Beginning~~
7 April 1, 2026, the earnings test shall not apply to any
8 benefits under this chapter.

9 (8) "Employee" means:

10 (a) any officer of a corporation; or

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

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

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

19 (9) "Employer" means:

20 (a) For purposes of this Act, employer means the
21 person, business organization or other organization, or
22 national or state or municipal government or agency, that
23 pursuant to common law rules of employment is the actual
24 person or organization responsible for the formation and
25 continuation of the working relationship with employee.

1 (b) The Social Security Administration has the right to
2 determine the actual employer of employees for purposes of
3 implementing this Act, and need not rely on the
4 characterization provided.

5 (c) Employer may be an individual, partnership,
6 corporation or other type of business venture or non-business
7 organization, national or municipal or state organization or
8 agencies thereof, and which in certain circumstances may be
9 more than one, that is responsible for the payment of all
10 Social Security taxes. For partnerships, the liability shall
11 be joint and several among all partners. For other types of
12 business or non-business organizations that are not
13 corporations, the liability shall be joint and several as if
14 the organization was a common law partnership. For
15 corporations, if the corporation fails to meet its tax
16 obligations when due, the liability shall be joint and
17 several between the president of the corporation, and all
18 shareholders with greater than a 30% interest in the
19 corporation.

20 Under this definition all such persons are jointly defined as
21 the employer, for all purposes including the implementation
22 of criminal penalties.

23 (10) "Employment, covered" or "covered employment" means
24 any service by an employee for an employer incorporated or
25 doing business within the Federated States of Micronesia

1 employing him, irrespective of where such employment is
2 performed, except family employment.

3 (11) "Employment, non-covered" or "non-covered employment"
4 means any employment engaged in by an employee where coverage
5 is statutorily exempt in the Federated States of Micronesia,
6 family employment, or employment by an employee outside of
7 the Federated States of Micronesia and which is not taxable
8 by the FSM Social Security Administration.

9 (12) "Family employment" means employment of a worker by a
10 member of the household, a parent or a son or daughter except
11 that the worker may apply to the Board for a determination
12 that such employment is bona fide covered employment subject
13 to this subtitle.

14 (13) "Insured status" can mean any of the following:

15 (a) "Currently insured individual" means any
16 individual who has had not less than 20 quarters of coverage
17 during the 25 quarter period ending with:

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

19 (ii) the quarter in which he became entitled to old
20 age insurance benefits at age 60; or

21 (iii) the quarter in which he became disabled,
22 whichever first occurs.

23 (b) For individuals who qualified as a currently
24 insured person prior to December 31, 2006, the number of
25 quarters to qualify as a currently insured person was not

1 less than eight quarters of coverage during the 13 quarter
2 period ending with:

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

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

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

8 (c) "Fully insured individual" means any individual whose
9 total cumulative quarters of coverage are at least as great
10 as the number of years calculated from the later of the date
11 the worker turned age 21, or June 30, 1968, to the date the
12 worker attains age 60, dies or becomes disabled. For this
13 purpose, partial years shall be counted as whole years (for
14 example 37.25 years would be rounded up to 38 years). In no
15 case shall an individual be a fully insured individual unless
16 he has at least 12 quarters of coverage:

17 (i) For individuals who attain age 60, die or become
18 disabled on or before December 31, 2006, no more than 38
19 quarters of coverage are required to be fully insured and
20 there is no minimum amount required for employee
21 contributions to the Social Security System.

22 (ii) For individuals who turn 60 or die after
23 December 31, 2006, no more than 50 quarters of coverage and
24 employee contributions to the Social Security System of at
25 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.

(d) "Fully insured status" means:

(i) For individuals who turn 60 or die after January 01, 2010, shall have total cumulative quarters of coverage equaling 50 quarters of coverage or greater, and employee contributions to the Social Security System of at least \$2,500 are required to be fully insured. Employee contributions are the contributions defined in section 901 only. Should an individual's employee contributions total

1 less than \$2,500 as of the date of qualification as a fully
2 insured individual, the individual or their surviving spouse
3 may pay the difference to the FSM Social Security
4 Administration in a single sum payment in order to be fully
5 insured. If the individual or the surviving spouse is unable
6 to pay the difference on the minimum contribution, the
7 individual or surviving spouse can opt for lump sum payment
8 equal to the total employee contribution.

9 (ii) "Fully insured" means for individuals who
10 become disabled on or after January 1, 2010, at least 45
11 quarters of coverage are needed to be defined as fully
12 insured, and they must also meet the definition of currently
13 insured at the time of the onset of their disability.
14 Additionally, employee's contributions to the Social Security
15 System of at least \$1,500 are required to be fully insured.
16 Should an individual's employee contribution total less than
17 \$1,500 as of the date of disability, the individual may pay
18 the difference to the FSM Social Security Administration in a
19 single lump sum payment in order to be fully insured.

20 (14) "Quarter" and "calendar quarter" mean a period of
21 three calendar months ending on March 31st, June 30th,
22 September 30th, or December 31st. "Quarter of coverage" means
23 a quarter in which the individual has been paid \$300 or more
24 in wages in covered employment subject to this subtitle.

25 (15) "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 five 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 October 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

1 through September 30, 2003 and in excess of \$5,000 beginning
2 October 1, 2003, in excess of \$6,000 beginning January 1,
3 2008, in excess of \$7,000 beginning January 1, 2013, in
4 excess of \$8,000 beginning January 1, 2018, in excess of
5 \$9,000 beginning on January 1, 2023, and in excess of \$10,000
6 beginning on January 1, 2028, paid in a quarterly reporting
7 period by one employer;

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

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

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

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

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

24 Section 2. Section 801 of title 53 of the Code of the Federated
25 States of Micronesia (Annotated) is hereby amended to read as follows:

1 "Section 801. Scope of coverage; Verification of employment;
2 Old age benefits.

3 (1) All employees, wherever employed by an employer
4 incorporated or doing business in the Federated States of
5 Micronesia, shall be covered unless both the employer and the
6 employee are currently subject to any other recognized Social
7 Security System. The administrator of the Social Security
8 System, or his designees, shall cause at least two
9 unannounced employment site checks to be conducted upon every
10 non-government employee actually engaged in an employer-
11 employee relationship that will allow him to be covered and
12 eligible for benefits under this subtitle. The two
13 employment site checks shall be conducted within a month of
14 each other and both shall be conducted within the first six
15 months of the employee's first contribution payment to the
16 Social Security System. For the purposes of this subtitle,
17 any elected official in any Government unit or body in the
18 Federated States of Micronesia is deemed to be an employee
19 employed by a Federated States of Micronesia employer. The
20 governmental unit or body to which such person is elected is
21 subject to the provisions in this subtitle relating to the
22 duty and obligations of the Federated States of Micronesia
23 employer.

24 (2) Every person who:

25 (a) is fully insured;

1 (b) has attained age 60; and

2 (c) has filed a complete application with the Social
3 Security Administrator for old age insurance
4 shall be entitled to an old age insurance benefit subject to
5 the earnings test as defined and applied in this subtitle;
6 provided, however, that the earnings test shall no longer
7 apply beginning April 1, 2026.

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

13 (4) Notwithstanding the provisions of subsections (2) and
14 (3) of this section, retroactive payments shall be limited to
15 the 12 months immediately preceding the month in which the
16 individual entitled to benefits has submitted an application.

17 (5) In an application for benefits under this section,
18 whether individually or as a dependent, the applicant has the
19 burden to come forward with evidence and to take all steps
20 necessary to file a completed application. The Social
21 Security Administration has the right to deny an application
22 for benefits solely on the basis of non-compliance with the
23 application process, or the failure of the applicant to
24 produce reasonably available documents or information."

25 Section 3. Section 802 of title 53 of the Code of the Federated

1 States of Micronesia (Annotated) is hereby amended to read as follows:

2 "Section 802. Surviving spouse benefits.

3 (1) Every surviving spouse who:

4 (a) was married to an individual who died fully
5 insured; and

6 (b) files an application

7 shall be entitled to a surviving spouse insurance
8 benefit, subject to the earnings test as defined in this
9 subtitle; provided, however, that the earnings test shall no
10 longer apply beginning April 1, 2026.

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

15 (3) Notwithstanding the provisions of subsections (1) and
16 (2) of this section, retroactive payments shall be limited to
17 the 12 months immediately preceding the month in which the
18 surviving spouse has submitted an application."

19 Section 4. Section 803 of title 53 of the Code of the Federated
20 States of Micronesia (Annotated) is hereby amended to read as follows:

21 "Section 803. Dependent's benefits.

22 (1) Every surviving child who:

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

25 (b) has filed a complete application with the Social

1 Security Administrator for survivor's insurance[†]
2 shall be entitled to a surviving child's insurance benefit,
3 subject to the earnings test as defined in this subtitle;
4 provided, however, that the earnings test shall no longer
5 apply beginning April 1, 2026.

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

11 (a) attainment of age 22 in the case of a surviving
12 child who is a bona fide student; or

13 (b) ceasing to be disabled after attainment of age 18
14 in the case of a surviving child who was disabled before
15 attainment of age 22; or

16 (c) attainment of age 18 in the case of any surviving
17 child not described in preceding paragraphs (a) and (b) of
18 this subsection, except that benefits shall be payable during
19 the disability of a surviving child who was disabled before
20 the attainment of age 22 regardless of the child's age; or

21 (d) marriage; or

22 (e) adoption.

23 (3) A surviving child shall be deemed to have been
24 dependent upon his parent or adopting parent unless that
25 parent or adopting parent was not living in the same

household with or contributing to the support of such child prior to his death. The child's insurance benefit shall be paid to the individual upon whom the child is currently dependent, except that, before April 1, 2026, such benefit shall be subject to the earnings test as defined in this subtitle.

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

Section 5. Section 803A of title 53 of the Code of the Federated States of Micronesia (Annotated) is hereby amended to read as follows:

"Section 803A. Disability benefits.

(1) Every person who:

(a) is both currently and fully insured;

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

(c) has filed a complete application with the Social Security Administrator for disability insurance shall be entitled to a disability insurance benefit, subject to the earnings test as defined in this subtitle; provided, however, that the earnings test shall no longer apply beginning April 1, 2026.

(2) Disability insurance benefits shall be paid for each

1 month, beginning with the month of the waiting period and
2 ending with the month preceding the month in which the
3 disabled individual dies or recovers from his disability.

4 (3) Notwithstanding the provisions of subsections (1) and
5 (2) of this section, retroactive payments shall not be made
6 for more than the 24 months immediately preceding the month
7 in which the disabled individual has submitted an
8 application.

9 (4) For persons disabled on or before January 1, 2010,
10 that person to be eligible must only be fully insured to
11 qualify for disability benefits, if they comply with the rest
12 of this section."

13 Section 6. Section 804 of title 53 of the Code of the Federated
14 States of Micronesia (Annotated) is hereby amended to read as follows:

15 "Section 804. Amount of retirement and disability insurance
16 benefits.

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

21 (a) For benefit payments that begin prior to January 1,
22 2007; 16.5 percent of the first \$10,000 of cumulative covered
23 earnings, plus three percent of cumulative covered earnings
24 in excess of \$10,000 but not in excess of the next \$30,000,
25 plus two percent of cumulative covered earnings in excess of

1 \$40,000.

2 (b) For benefit payments that begin on or after January
3 1, 2007 but before January 1, 2011; 16.5 percent of the first
4 \$10,000 of cumulative covered earnings, plus three percent of
5 cumulative covered earnings in excess of \$10,000 but not in
6 excess of the next \$30,000, plus two percent of cumulative
7 covered earnings in excess of \$40,000 but not in excess of
8 the next \$262,500, plus one percent of cumulative covered
9 earnings in excess of \$302,500.

10 (c) For benefit payments that begin on or after January
11 1, 2011:

12 (i) For individuals who are 65 and over; 16.5% of the first
13 \$10,000 of cumulative covered earnings, plus three percent of
14 cumulative covered earnings in excess of \$10,000 but not in
15 excess of the next \$30,000, plus two percent of the
16 cumulative covered earnings in excess of \$40,000 but not in
17 excess of the next \$262,500, plus one percent of cumulative
18 covered earnings in excess of \$302,500. Before April 1,
19 2026, individuals are entitled to receive either 50% of the
20 total described benefits in this subsection without the
21 earnings test reduction under section 603(7) of this subtitle
22 ~~[. Alternatively, individuals are entitled to]~~ or 100% of
23 the total described benefits in this subsection subject to
24 the earnings test reduction under section 603(7) of this
25 subtitle. Beginning April 1, 2026, individuals are entitled

1 to receive 100% of the total described benefits in this
2 subsection without the earnings test reduction under section
3 603(7) of this subtitle.

4 (ii) For individuals who turn 60 after January 1,
5 2011, such individual from ages 60 to 64 will receive 50% of
6 the total of all the described benefits in this subsection,
7 16.5% of the first \$10,000 of cumulative covered earnings,
8 plus three percent of cumulative covered earnings in excess
9 of \$10,000 but not in excess of the next \$30,000, plus two
10 percent of the cumulative covered earnings in excess of
11 \$40,000 but not in excess of the next \$262,500, plus one
12 percent of cumulative covered earnings in excess of \$302,500.
13 These payments in this subsection shall be made without
14 reduction pursuant to the earnings test in section 603(7) of
15 this subtitle.

16 (d) Earnings for covered employment after commencement
17 of payments for retirement or disability insurance benefits
18 shall be included in benefit calculations upon subsequent
19 application for benefits, but such earnings shall be
20 applicable for benefits for months after the calendar year in
21 which such earnings occurred, and beginning April 1, 2026,
22 such earnings shall not be subject to the earnings test, as
23 defined under section 603(7) of this subtitle. For the
24 purpose of this section cumulative covered earnings includes
25 earnings on which contributions have been paid by the

1 individual to the Trust Territory Social Security System.

2 (e) In the event, benefits have been received under
3 section 804(1)(c)(ii), such benefits shall be automatically
4 adjusted when the individual reaches age 65.

5 (f) For purposes of interpreting this section "benefit
6 payments begin on" is defined to mean the date, whether
7 retroactive or current when a benefit payment is paid for a
8 specific month. A benefit payment may begin prior to the
9 application date, subject to retroactive payment limitations
10 defined in this Act.

11 (2) An insured, eligible individual shall be paid a
12 minimum monthly benefit of \$75 if the benefit amount
13 calculated in accordance with subsection (1) of this section
14 is less than \$75 monthly. Effective on January 1, 2011, the
15 minimum monthly benefit shall be \$100. The minimum monthly
16 benefit is calculated per insured worker, not per recipient.

17 (3) An individual who is currently and fully insured and
18 who has been under a disability for three full calendar
19 months and the onset of disability occurred on or after
20 January 01, 2011, or an individual who was fully insured and
21 the onset of disability occurred prior to this bill becoming
22 law shall be paid a monthly benefit for life or until
23 recovery from the disability, except for any month of
24 disqualification as provided by this subtitle in an amount
25 calculated in accordance with the preceding subsections of

1 this section, and for an individual with an onset of
2 disability on or after January 1, 2011, he or she will
3 receive benefits as if he or she retired at age 65, but with
4 existing quarters of coverage. Further, the amount of the
5 benefit as so determined shall, if the individual is
6 receiving a periodic workmen's compensation benefit, be
7 reduced each month by the excess of the sum of the workmen's
8 compensation benefit for that month, and the benefit payable
9 under this Act over 80 percent of one-twelfth of the highest
10 annual covered wages in the period consisting of the year in
11 which the disability occurred and the preceding five years.
12 If a workmen's compensation benefit was payable in periodic
13 benefits but was commuted to a lump sum, for purposes of this
14 subsection it will be considered that the periodic benefit
15 originally available was paid in each month that it would
16 have been paid if the commutation had not occurred."

17 Section 7. Section 805 of title 53 of the Code of the Federated
18 States of Micronesia (Annotated) is hereby amended to read as follows:

19 "Section 805. Reemployment after retirement.

20 In the event an individual who is receiving retirement insurance
21 benefits returns to covered employment, the benefit shall be
22 recomputed at the end of the calendar year and paid as provided in
23 this subtitle beginning with the year after the calendar year the
24 earnings were made; provided, however, that beginning April 1,

