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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. 5-120, 7-118, 9-056, 12-76, 14-37 and 14-86, by amending the following provisions of title 53, sections 603, 605, 607, 801, 802, 803, 803A, 804, 806, 809, 901, 902, 1006 and adding new sections 812, and 813, to provide for greater financial stability for the FSM Social Security Administration and to reduce its un-funded liability, by raising tax rates, providing varying optional benefit payouts, clarifying definitions, and to change restrictions to the types of investment that Social Security may engage in, and for other purposes.

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

1           Section 1. Section 603 of title 53 of the Code of the  
2 Federated States of Micronesia, as amended by Public Laws Nos. 5-  
3 120, 7-118, 12-76, 14-37 and 14-86 is hereby further amended as  
4 follows:

5           "Section 603 of title 53 of the Code of the Federated  
6 States of Micronesia, as amended, is hereby further  
7 amended to read as follows by amending subsection (7)  
8 and further amending subsection (12), and by adding  
9 definition of employer and amending as follows:

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

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1 an individual is under a disability.

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

5 (4) 'Child or spouse' means an applicant that the  
6 court of the State in which an individual was domiciled  
7 at the time of his death has or would find to be the  
8 individual's child or spouse in determining the  
9 devolution of intestate personal property. 'Child'  
10 shall include only the deceased individual's biological  
11 children and such adopted children whose confirmed  
12 petition for adoption by the wage earner has been  
13 presented to the Social Security Administration and who  
14 were adopted by the wage earner on or prior to the wage  
15 earner's 55<sup>th</sup> birthday.

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

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

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

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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 [any] which time [~~period during which they are~~  
13 ~~received earnings and for which~~] they are receiving or  
14 claiming benefits. Under certain circumstances as  
15 defined in section 804, the earnings test may not apply  
16 to old age benefits received by an individual between  
17 the ages of 60 and 64, after January 1, 2008.

18 (8) 'Employee' means:

19 (a) any officer of a corporation; or

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

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

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1 (d) any self-employed person who had more than  
2 \$10,000 of annual gross revenue in the preceding  
3 calendar year.

4 (9) 'Employer means:

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

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

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

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1           corporations, if the corporation fails to meet its tax  
2           obligations when due, the liability shall be joint and  
3           several between the president of the corporation, and  
4           all shareholders with greater than a 30% interest in the  
5           corporation.

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

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

15           ~~[(10)]~~ (11) 'Employment, non-covered' or 'non-covered  
16           employment' means any employment engaged in by an  
17           employee where coverage is statutorily exempt in the  
18           Federated States of Micronesia, family employment, or  
19           employment by an employee outside of the Federated  
20           States of Micronesia and which is not taxable by the FSM  
21           Social Security Administration.

22           ~~[(11)]~~ (12) 'Family employment' means employment of a  
23           worker by a member of the household, a parent or a son  
24           or daughter except that the worker may apply to the  
25           Board for a determination that such employment is bona

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1           fide covered employment subject to this subtitle.

2       [~~(12)~~] (13) 'Insured status' can mean any of the  
3           following:

4                   (a) 'Currently insured individual' means any  
5           individual who has had not less than twenty quarters of  
6           coverage during the 25quarter period ending with:

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

8                           (ii) the quarter in which he became entitled  
9           to old age insurance benefits [~~;~~ ~~or~~] at age sixty (60);

10                          (iii) the quarter in which he became disabled,  
11           whichever first occurs.

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

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

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

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

22                   (c) 'Fully insured individual' means any  
23           individual whose total cumulative quarters of coverage  
24           are at least as great as the number of years calculated  
25           from the later of the date the worker turned age twenty-

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1           one (21) or June 30, 1968, to the date the worker  
2           attains age sixty (60), dies or becomes disabled. For  
3           this purpose, partial years shall be counted as whole  
4           years (for example 37.25 years would be rounded up to 38  
5           years). In no case shall an individual be a fully  
6           insured—individual unless he has at least 12 quarters of  
7           coverage

8                           (i) For individuals who attain age sixty  
9                           (60), die or become disabled on or before December 31,  
10                          2006, no more than thirty-eight (38) quarters of  
11                          coverage are required to be fully insured and there is  
12                          no minimum amount required for employee contributions to  
13                          the Social Security System.

14                          (ii) For individuals who turn sixty (60) or  
15                          die after December 31, 2006, no more than fifty (50)  
16                          quarters of coverage and employee contributions to the  
17                          Social Security System of at least \$2500 are required to  
18                          be fully insured. Should an individuals' employee  
19                          contributions total less than \$2,500 as of the date of  
20                          termination of employment or death, the individual or  
21                          their surviving spouse may pay the difference to the FSM  
22                          Social Security Administration in a single sum payment  
23                          in order to become fully insured. The surviving  
24                          children will be eligible for benefits so long as the  
25                          individual was currently—insured at the time of the

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1 individual's death.

2 (iii) For individuals who become disabled  
3 after December 31, 2006, no more than 45 quarters of  
4 coverage and employee contributions to the Social  
5 Security System of at least \$1500 are required to be  
6 fully insured. Should an individuals' employee  
7 contributions total less than \$1,500 as of the date of  
8 termination from employment, the individual may pay the  
9 difference to the FSM Social Security Administration in  
10 a single sum payment in order to become fully insured.

11 (iv) For individuals who turn sixty (60) or  
12 die after December 31, 2007, shall have total cumulative  
13 quarters of coverage equaling fifty (50) quarters of  
14 coverage or greater, and employee contributions to the  
15 Social Security System of at least \$2,500.00 are  
16 required to be fully insured. Employee contributions  
17 are the contributions defined in section 901 only.  
18 Should an individual's employee contributions total less  
19 than \$2,500.00 as of the date of qualification as a  
20 fully insured individual, the, individual or their  
21 surviving spouse may pay the difference to the FSM  
22 Social Security Administration in a single sum payment  
23 in order to be fully insured. If the individual or the  
24 surviving spouse is unable to pay the difference on the  
25 minimum contribution, the individual or surviving spouse



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1           can opt for lump sum payment equals to the total  
2           employee contribution. The surviving children will be  
3           eligible for benefits so long as the individual was  
4           currently insured or fully insured at the time of the  
5           individual's death.

6                   (v) For individuals who become disabled on  
7           or after January 1, 2008, at least forty-five (45)  
8           quarters of coverage are needed to be defined as fully  
9           insured, and they must also meet the definition of  
10           currently insured at the time of the onset of their  
11           disability. Additionally, employee contributions to the  
12           Social Security System of at least \$1,500.00 are  
13           required to be fully insured. Should an individual's  
14           employee contribution total less than \$1,500.00 as of  
15           the date of disability, the individual may pay the  
16           difference to the FSM Social Security Administration in  
17           a single lump sum payment in order to be fully insured.

18   ~~[(13)]~~   (14) 'Quarter' and 'calendar quarter' mean a  
19           period of three calendar months ending on March 31st,  
20           June 30th, September 30th, or December 31st. 'Quarter of  
21           coverage' means a quarter in which the individual has  
22           been paid \$300 or more in wages in covered employment  
23           subject to this subtitle.

24   ~~[(14)]~~   (15) 'Wages' means remuneration paid subject to the  
25           provisions of this subtitle, including the cash value of

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

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

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

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

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

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

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1 (f) remuneration from family employment subject  
2 to the provisions of this subtitle.

3 Section 2. Section 605 of title 53 of the Code of the  
4 Federated States of Micronesia, as amended by Public Laws Nos. 5-  
5 120 and 14-37 is hereby further amended as follows:

6 "Section 605. Violations – Penalties and interest –  
7 Attorney's fees and costs.

8 (1) Any person who knowingly makes any false statement  
9 or who falsifies any report to or record of the  
10 Federated States of Micronesia Social Security System in  
11 an attempt to defraud the system is guilty of a  
12 misdemeanor and upon conviction thereof shall be  
13 imprisoned for a period of not more than one year, or  
14 fined not more than \$2,000 or both. Any employer who  
15 intentionally fails to pay the employer's FSM Social  
16 Security taxes in any given quarter, or any employer who  
17 intentionally withholds FSM Social Security taxes from  
18 an employee's wages and does not pay FSM Social Security  
19 taxes on behalf of that employee, or any employer who  
20 employs an employee and knowingly fails to withhold FSM  
21 Social Security taxes on that employee is guilty of a  
22 misdemeanor and upon conviction thereof shall be  
23 imprisoned not more than one year, or fined not more  
24 than \$2,000.00 or both. In addition to this criminal  
25 penalty, if an employer is determined by his failure to

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1           have paid either the employer's or employee's  
2           contributions to the FSM Social Security Administration,  
3           and the employee is denied benefits by the FSM Social  
4           Security Administration because of a lack of quarters of  
5           coverage, and the contributions withheld would have  
6           caused the employee to be fully or currently insured and  
7           eligible for benefits, the employer shall be responsible  
8           directly for the payment of all benefits that would  
9           accrue to the employee or his beneficiaries under this  
10          act. If the employer, after the initial denial,  
11          subsequently makes back payments, the FSM Social  
12          Security Administration can seek repayment from the  
13          employer of all benefits paid to the employee as a  
14          penalty for the failure to pay.

15           (2) Any [~~person~~] employer who willfully fails to  
16           report wages paid or pay contributions required thereon  
17           is guilty of a misdemeanor and, in addition to any other  
18           penalty prescribed by law, such an [~~person~~] employer  
19           shall also pay penalties not in excess of 100 percent of  
20           the tax due plus interest to the Board as it by  
21           regulation shall require.

22           (3) Any person who receives benefits to which he or  
23           she is not entitled shall be liable to repay the Social  
24           Security Administration those benefits, and in addition  
25           to the remedies under section 808 of this subtitle, may

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1           be subject to civil action for recovery of those  
2           benefits.

3           (4) Any covered employer who fails to submit the  
4           quarterly report and pay the social security tax within  
5           ten days after the end of the quarter shall be  
6           considered delinquent. The Board or its authorized  
7           representatives shall be vested with the authority to  
8           levy a penalty of not more than \$1,000.00 per quarter on  
9           delinquent employers.

10          (5) If any tax or penalty imposed by this subtitle is  
11          not paid on or before the date prescribed for such  
12          payment, the Board or its authorized representatives  
13          shall be vested with the authority to collect, in  
14          addition to such tax and penalty, interest on the unpaid  
15          balance of the tax principal at the rate of 12 percent  
16          per annum from its due date until the date it is paid.

17          (6) In the event that any claim for monies is due to  
18          the Social Security Administration under this subtitle  
19          is referred to an attorney or trial counselor for  
20          collection, whether or not suit is brought for the  
21          collection thereof, the individual or entity shall  
22          additionally be liable for reasonable attorney or trial  
23          counselor fees and costs of collection, including court  
24          costs incurred by the Social Security The Social  
25          Security Administration in its discretion may waive part

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1 or all of any attorney fee and costs awardable under  
2 this section.

3 (7) In the event of a violation of subsections (1),  
4 (2), (4), (5) or (6), the payments or penalties defined  
5 apply to the employer, as defined in section 603(9), and  
6 the payments or penalties, including criminal penalties,  
7 defined in these subsections can be enforced on the  
8 persons defined in section 603(9). In addition, for  
9 municipal organizations, states of the Federated States  
10 of Micronesia, or any agencies of any of the above, the  
11 Director of Finance, or its equivalent position of such  
12 organization is responsible for payments as described  
13 herein, and the payments or penalties, including  
14 criminal penalties, defined in these subsections can be  
15 enforced against such chief financial officer."

16 Section 3. Section 607 of title 53 of the Code of the  
17 Federated States of Micronesia, as amended by Public Law 5-120, is  
18 hereby further amended to read as follows:

19 "Section 607. Lien for taxes.

20 (1) All taxes, including penalties and interest  
21 accrued thereon, imposed or authorized under this  
22 subtitle shall be a lien upon any property of the  
23 employer, having priority over all other claims and  
24 liens including liens for other taxes, and may be  
25 collected by levy upon such property in the same manner

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1 as the levy of an execution.

2 (2) All taxes, including penalties and interest  
3 accrued thereon, imposed or authorized under this  
4 subtitle owed by a state or municipal government, or any  
5 agency thereof, shall be subject to a writ of  
6 garnishment of all moneys owed by the FSM National  
7 Government to any state or municipal government or any  
8 agency thereof, and such writ of garnishment shall have  
9 priority over any claim for such moneys in any manner by  
10 the particular state or municipal government or agency  
11 thereof."

12 Section 4. Section 801 of title 53 of the Code of the  
13 Federated States of Micronesia, as amended by Public Laws Nos. 5-  
14 120, 12-76 and 14-37, by amendment of subsection (2) and which  
15 shall read as follows:

16 "Section 801. Scope of Coverge; Verification of  
17 Employment.

18 (1) Every person who:

19 (a) is fully insured

20 (b) has attained age 60; and

21 (c) has filed a complete application with the  
22 Social Security Administrator for old age insurance  
23 shall be entitled to an old age insurance benefit  
24 subject to the earnings test as defined and applied in  
25 this subtitle.



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

6           (3) Notwithstanding the provisions of subsections (1)  
7           and (2) above, retroactive payment shall be limited to  
8           the twelve (12) months immediately preceding the month  
9           in which the individual entitled to benefits has  
10          submitted an application.

11          (4) In an application for benefits under this section,  
12          whether individually or as a dependent, the applicant  
13          has the burden to come forward with evidence and to take  
14          all steps necessary to file a completed application.  
15          The Social Security Administration has the right to deny  
16          an application for benefits solely on the basis of non-  
17          compliance."

18          Section 5. Section 802 of title 53 of the Code of the  
19          Federated States of Micronesia, as amended by Public Law No. 12-  
20          76, is hereby further amended to read as follows by adding a new  
21          subsection (4), which shall read as follows:

22                 "Section 802. Surviving spouse benefits.

23                 (1) Every surviving spouse who:

24                         (a) was married to an individual who died fully  
25                         insured; and

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1 (b) files an application;  
2 shall be entitled to a surviving spouse insurance  
3 benefit, subject to the earnings test as defined in this  
4 subtitle.

5 (2) Surviving spouse benefit payments shall be paid  
6 for each month commencing with the month of the death of  
7 the fully insured spouse and ending with the month  
8 preceding the month in which the surviving spouse dies  
9 or remarries.

10 (3) Notwithstanding the provisions of subsections (1)  
11 and (2) above, retroactive payments shall be limited to  
12 the twelve (12) months immediately preceding the month  
13 in which the surviving spouse has submitted an  
14 application.

15 (4 ) Notwithstanding the provisions of subsections (1),  
16 (2) and (3) above, and applying to all applications  
17 filed after January 1, 2008, the total amount of months  
18 a spouse may receive a spousal benefit under any  
19 circumstance is limited to a total of 120 months. This  
20 time limitation does not run for any month when the  
21 benefit is totally offset by the earnings test, or any  
22 month the spouse receives his or her own benefit instead  
23 of a spousal benefit. If the spouse is also a fully  
24 insured individual and he or she were eligible for an  
25 old age or disability benefit but the benefit was lesser

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1           than the spousal benefit, at the end of the 120 months  
2           the spouse can still collect his or her own old age or  
3           disability benefit. This subtitle does not apply to  
4           surviving spouse who is fifty-five (55) years of age and  
5           older during the time of eligibility.”

6           Section 6. Section 803 of title 53 of the Code of the  
7 Federated States of Micronesia, as amended by Public Laws Nos. 9-  
8 056 and 12-76, is hereby further amended to read as follows by  
9 amendment of subsections (2a) and which shall read as follows:

10           “Section 803. Dependent’s benefits

11           (1) Every surviving child who:

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

14                   (b) has filed a complete application with the  
15 Social Security Administrator for survivor’s insurance;  
16 shall be entitled to a surviving child’s insurance  
17 benefit, subject to the earnings test as defined in this  
18 subtitle.

19           (2) A surviving child’s insurance benefit shall be  
20 paid for each month beginning with the month of the  
21 death of the individual who died fully insured or  
22 currently insured and shall end with the month preceding  
23 the month which contains the first to occur of the  
24 following events:

25                   (a) attainment of age twenty (20) [~~-(22)~~] In the

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1 case of a surviving child who is bona fide student; or

2 (b) ceasing to be disabled after attainment of  
3 age eighteen (18) in the case of surviving child who was  
4 disabled before attainment of age twenty-two (22); or

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

11 (d) marriage; or

12 (e) adoption.

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

22 (3) Notwithstanding the provisions of subsection (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 child or the surviving child's

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1 guardian has submitted an application.”

2 Section 7. Section 803A of title 53 of the Code of the  
3 Federated States of Micronesia, as amended by Public Law No. 12-  
4 76, is hereby further amended to read as follows by amendment of  
5 all subsections and which shall read as follows:

6 “Section 803A. Disability benefits.

7 (1) Every person who:

8 (a) is both currently and fully insured;

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

11 (c) has filed a complete application with the  
12 Social Security Administrator for disability insurance  
13 shall be entitled to a disability insurance benefit,  
14 subject to the earnings test as defined in this  
15 subtitle.

16 (2) Disability insurance benefits shall be paid for  
17 each month, beginning with the month of the waiting  
18 period and ending with the month preceding the month in  
19 which the disabled individual dies or recovers from  
20 disability.

21 (3) Notwithstanding the provisions of subsections (1)  
22 and (2) above, retroactive payments shall not be made  
23 for more than the twenty-four (24) months immediately  
24 preceding the month in which the disabled individual has  
25 submitted an application.

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1           (4) For persons disabled on or before December 31,  
2           2007, that person to be eligible must only be fully  
3           insured to qualify for disability benefits, if they  
4           comply with the rest of this section."

5           Section 8. Section 804 of title 53 of the Code of the  
6 Federated States of Micronesia, as amended by Public Law Nos. 5-  
7 120, 7-118, 9-56, 14-37 and 14-86 is hereby amended to read as  
8 follows:

9           "Section 804. Amount of retirement and disability  
10           insurance benefits.

11           (1) An insured eligible individual shall be paid a  
12 monthly old age benefit for life, except for any month  
13 of disqualification as provided by this subtitle, or in  
14 the event of an election under section 812, in an amount  
15 calculated upon an annual basis as follows:

16           (a) For benefit payments that begin prior to  
17 January 1, 2007; 16.5 percent of the first \$10,000 of  
18 cumulative covered earnings, plus three percent of  
19 cumulative covered earnings in excess of \$10,000 but not  
20 in excess of the next \$30,000, plus two percent of  
21 cumulative covered earnings in excess of \$40,000.

22           (b) For benefit payments that begin on or after  
23 January 1, 2007 but before January 01, 2008; 16.5  
24 percent of the first \$10,000 of cumulative covered  
25 earnings, plus three percent of cumulative covered

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1 earnings in excess of \$10,000 but not in excess of the  
2 next \$30,000, plus two percent of cumulative covered  
3 earnings in excess of \$40,000 but not in excess of the  
4 next \$262,500, plus one percent of cumulative covered  
5 earnings in excess of \$302,500.

6 (c) For benefit payments that begin on or after  
7 January 1, 2008:

8 (i) For individuals who are 65 and over;  
9 16.5% of the first \$10,000.00 of cumulative covered  
10 earnings, plus 3 percent of cumulative covered earnings  
11 in excess of \$10,000.00 but not in excess of the next  
12 \$30,000.00, plus 2% of the cumulative covered earnings  
13 in excess of \$40,000.00 but not in excess of the next  
14 \$262,500.00, plus one percent of cumulative covered  
15 earnings in excess of \$302,500.00.

16 (ii) For individuals 60 to 64, fifty percent  
17 (50%) of the total of all the described benefits in this  
18 subsection, 16.5% of the first \$10,000.00 of cumulative  
19 covered earnings, plus 3 percent of cumulative covered  
20 earnings in excess of \$10,000.00 but not in excess of  
21 the next \$30,000.00, plus 2% of the cumulative covered  
22 earnings in excess of \$40,000.00 but not in excess of  
23 the next \$262,500.00, plus one percent of cumulative  
24 covered earnings in excess of \$302,500.00. These  
25 payments in this subsection only, shall be made without

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1           reduction pursuant to the earnings test in section  
2           603(7).

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

5                   (d) Earnings for covered employment after  
6           commencement of payments for retirement or disability  
7           insurance benefits shall be included in benefit  
8           calculations upon subsequent application for benefits,  
9           but such earnings shall be applicable for benefits for  
10          months after the calendar year in which such earnings  
11          occurred. For the purpose of this section cumulative  
12          covered earnings includes earnings on which  
13          contributions have been paid by the individual to the  
14          Trust Territory Social Security System.

15                   (e) In the event, benefits have been received  
16          under section 804(1)(c)(ii), such benefits shall be  
17          automatically adjusted when the individual reaches age  
18          65.

19                   (f) For purposes of interpreting this section  
20          "benefit payments begin on" is defined to mean the date,  
21          whether retroactive or current when a benefit payment is  
22          paid for a specific month. A benefit payment may begin  
23          prior to the application date, subject to retroactive  
24          payment limitations defined in this act.

25           (2) An insured, eligible individual shall be paid a



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1 minimum monthly benefit of seventy five dollars if the  
2 benefit amount calculated in accordance with subsection  
3 (1) of this section is less than seventy five dollars  
4 monthly. Effective on January 1, 2012, the minimum  
5 monthly benefit shall be \$100. The minimum monthly  
6 benefit if calculated per insured worker, not per  
7 recipient.

8 (3) An individual who is currently and fully insured  
9 and who has been under a disability for three full  
10 calendar months and the onset of disability occurred on  
11 or after January 01, 2008 shall be paid a monthly  
12 benefit for life or until recovery from the disability,  
13 except for any month of disqualification as provided by  
14 this subtitle in an amount calculated in accordance with  
15 the preceding subsections of this section, and as if he  
16 retired at age 65, but with existing quarters of  
17 coverage. Further, the amount of the benefit as so  
18 determined shall, if the individual is receiving a  
19 periodic workmen's compensation benefit, be reduced each  
20 month by the excess of the sum of the workmen's  
21 compensation benefit for that month and the benefit  
22 payable under this act over eighty percent of one-  
23 twelfth of the highest annual covered wages in the  
24 period consisting of the year in which the disability  
25 occurred and the preceding five years. If a workmen's

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1 compensation benefit was payable in periodic benefits  
2 but was commuted to a lump sum, for purposes of this  
3 subsection it will be considered that the periodic  
4 benefit originally available was paid in each month that  
5 it would have been paid if the commutation had not  
6 occurred."

7 (4) Monthly benefit payments but not monthly  
8 disability payments as calculated under this section are  
9 also subject to the limits outlined in section 813, and  
10 may be reduced accordingly, irregardless of the  
11 calculations outlined in this section."

12 Section 9. Section 806 of title 53 of the Code of the  
13 Federated States of Micronesia, as amended by Public Laws Nos. 5-  
14 112, 7-119 and 14-37, is hereby further amended to read as follows  
15 by amendment of all subsections and which shall read as follows:

16 "Section 806. Amount of survivor insurance benefits.

17 (1) The surviving spouse of a fully insured worker  
18 eligible in accordance with section 802 of this chapter  
19 shall be paid a monthly benefit or disability in an  
20 amount equal to 60 percent of the retirement or  
21 disability insurance benefit calculated for the deceased  
22 spouse at the date of death as if the fully insured  
23 worker had retired at age 65, but with existing quarters  
24 of coverage.

25 (2) Each eligible child of an insured worker shall be

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1 entitled to a monthly benefit of 15 percent of the  
2 retirement insurance benefit calculated for the deceased  
3 parent at the date of death as if the fully insured  
4 worker had retired at age 65, but with existing quarters  
5 of coverage,

6 (3) If the spouse of the deceased injured worker is  
7 eligible for retirement or disability benefits based on  
8 his or her own employment coverage, and is also eligible  
9 for survivors' benefits, the spouse shall receive  
10 whatever benefit pays the highest monthly benefit. In  
11 addition, the surviving spouse shall be entitled to  
12 receive a lump sum equal to four percent of the  
13 cumulative covered earnings upon which the lower benefit  
14 is based, less the sum of all benefits already received  
15 on the basis of those cumulative covered earnings. If  
16 the spouse elects to accept the lump sum payment, he or  
17 she shall lose credit for all quarters of coverage  
18 earned up to the date of application. If that individual  
19 returns to work, he or she shall start over again to  
20 earn quarters of coverage leading to being currently or  
21 fully insured.

22 (4) The monthly benefit paid to the surviving  
23 child(ren) shall be based on the higher of the two  
24 benefits that have been earned by the deceased parents  
25 if fully or currently insured. In addition the

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1 surviving child(ren) shall be entitled to receive a lump  
2 sum equal to two percent of the other deceased's  
3 parent's cumulative covered earnings, less the sum of  
4 all benefits, if any, received by the deceased parent.

5 (5) The total survivors' benefit paid to the spouse  
6 and children may not exceed the retirement benefit  
7 calculated for the decedent as of the date of death  
8 except that if the surviving spouse receives benefits  
9 based on his or her own employment coverage, that amount  
10 plus the survivors' benefits for the children may exceed  
11 the amount of the deceased's retirement benefit. In no  
12 event shall the amount paid be less than the minimum  
13 established by the Social Security Administration, as  
14 set out in section 804 of title 53 of the Code of the  
15 Federated States of Micronesia."

16 Section 10. Section 809 of title 53 of the Code of the  
17 Federated States of Micronesia, as amended by Public Laws Nos. 14-  
18 37 and 14-86 is hereby further amended to read as follows:

19 Section 809. Payment of benefits to foreign citizens  
20 outside Federated States of Micronesia.

21 Unless modified by a totalization or other international  
22 agreement, benefit payments under this act shall be paid  
23 to a beneficiary who is not a citizen or a national of  
24 the Federated States of Micronesia, as follows:

25 (1) Payments shall be made to citizens and nationals

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1 of the Republic of Palau, the Republic of the Marshall  
2 Islands, and the United States as if they were citizens  
3 or nationals of the Federated States of Micronesia as  
4 long as the Social Security Administration of those  
5 nations gives citizens and nationals of the Federated  
6 States of Micronesia reciprocal treatment.

7 (2) For applications filed after the passage of this  
8 current bill, payments shall be made to citizens and  
9 nationals of other nations if they are fully insured at  
10 the time of application, in a lump sum equal to the  
11 total amount contributed to the Social Security  
12 Administration by the employee under section 901 of this  
13 act, while employed in the Federated States of  
14 Micronesia as of the date the employee turns age 60, or  
15 dies prior to age 60. All payments due under this  
16 section shall be payable over six months, from the date  
17 of death, or the date of turning age 60, and/or the date  
18 of filing an application for such benefits, whichever is  
19 later subject to the residency provision in paragraph d.

20 (3) For applications filed prior to the date of  
21 passage of this bill, payments shall be made to citizens  
22 and nationals of other nations in a lump sum equal to  
23 the total amount contributed to the Social Security  
24 Administration by the employee while employed in the  
25 Federated States of Micronesia as of the date the

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1 employee ceases to be a resident of the Federated States  
2 of Micronesia in accordance with paragraph (d) of this  
3 section.

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

12 (5) In determining the benefits and entitlements under  
13 this title for an individual who receives a lump sum  
14 payment in accordance with paragraphs (b), (c) or (d) of  
15 this section and who subsequently returns to the  
16 Federated States of Micronesia to undertake further  
17 covered employment, no covered quarters, employee  
18 contributions or employer contributions accrued by the  
19 individual prior to receiving a lump sum payment shall  
20 be counted."

21 Section 11. Section 901 of title 53 of the Code of the  
22 Federated States of Micronesia, as amended by Public Law No. 14-  
23 37, is hereby further amended to read as follows by amending  
24 subsection (1), which shall read as follows:

25 "Section 901. Employee contributions.

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1           (1) There is hereby imposed on every employee a tax  
2 equal to the following percentages of wages received by  
3 him with respect to employment subject to this subtitle:

4           (a) with respect to wages paid from the effective  
5 date of this act through June 30, 1985, the rate shall  
6 be two percent;

7           (b) with respect to wages paid from July 1, 1985,  
8 through June 30, 1990, the rate shall be three percent;

9           (c) with respect to wages paid from July 1, 1990,  
10 through June 30, 1995, the rate shall be four percent;

11           (d) with respect to wages paid from July 1, 1995,  
12 through June 30, 2000, the rate shall be five percent;

13           (e) with respect to wages paid from July 1, 2000,  
14 to September 30, 2008, the rate shall be six percent.

15           (f) with respect to wages paid from September 30,  
16 2008, to September 30, 2012, the rate shall be seven  
17 percent.

18           (g) with respect to wages paid after September  
19 30, 2012, the rate shall be seven point five (7.5)  
20 percent."

21           Section 12. Section 902 of title 53 of the Code of the  
22 Federated States of Micronesia, as amended, is hereby further  
23 amended to read as follows by adding subsection (6), which shall  
24 read as follows:

25           "Section 902. Employer contributions.

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1           There is hereby imposed on every employer an excise tax,  
2           with respect to having an individual in his employ,  
3           equal to the following percentages of wages, paid by him  
4           with respect to employment subject to this subtitle:

5           (1) with respect to wages paid from the effective date  
6           of this act through June 30, 1985, the rate shall be two  
7           percent;

8           (2) with respect to wages paid from July 1, 1985,  
9           through June 30, 1990,  
10          the rate shall be three percent;

11          (3) with respect to wages paid from July 1, 1990,  
12          through June 30, 1995, the rate shall be four percent;

13          (4) with respect to wages paid from July 1, 1995,  
14          through June 30, 2000, the rate shall be five percent;

15          (5) with respect to wages paid after June 30, 2000,  
16          the rate shall be six percent.

17          (6) with respect to wages paid after September 30,  
18          2008, the rate shall be seven percent.

19          (7) with respect to wages paid after September 30,  
20          2012, the rate shall be seven point five (7.5) percent."

21          Section 13. Section 53 of the Code of the Federated States  
22 of Micronesia, as amended is hereby further amended to read as  
23 follows by adding a new section 812, which shall read as follows:

24          "Section 812. Optional Lump Sum Benefit for FSM Citizen  
25          Fully Insured Employees



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1           In order to provide alternative means for the retirement  
2           of fully insured employees who are FSM citizens, a fully  
3           insured employee may elect to receive a lump sum payment  
4           of all benefits contributed by him or her at the time of  
5           his application, which will be payable in the following  
6           manner upon his turning the age of 60. This election  
7           must be made in the following manner as outlined in  
8           subsection (1) and is subject to the limitations of  
9           subsection (2).

10           (1) A lump sum benefit will be paid to an eligible  
11           fully insured employee upon turning the age of 60,  
12           when:

13                   (a) A fully completed application is submitted by  
14                   the employee requesting payment of the lump sum benefit;

15                   (b) The application is submitted to the FSM Social  
16                   Security Administration Office prior to the employee's  
17                   60<sup>th</sup> birthday'

18                   (c) The employee is fully insured and an FSM  
19                   citizen at the time of the submission of his  
20                   application;

21                   (d) The employee and his spouse on their behalf  
22                   and on behalf of any minor children sign a waiver of the  
23                   right to receive monthly benefits for either death,  
24                   disability, old age, or children's benefit (sections  
25                   801, 802, 803 and 803A) in order to receive the lump sum

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1           benefit identified in this section.

2           (2) Payment of the lump sum benefit is limited as  
3           follows:

4           (a) If an individual elects to accept the lump  
5           sum payment, he or she shall lose credit for all  
6           quarters of coverage earned up to the date of  
7           application. If that individual returns to work, he or  
8           she shall start over again to earn quarters of coverage  
9           leading to being currently or fully insured. Only  
10           individuals who are citizens of the Federated States of  
11           Micronesia are eligible for this optional lump sum  
12           payment.

13           (b) The lump sum payment will be paid upon the  
14           employee attaining the age of 60, unless subsection (c)  
15           applies.

16           (c) In the event the lump sum payment is greater  
17           than \$5,000.00, the lump sum payment will be divided  
18           into six (6) month payments, with one-sixth of the  
19           payment due on the employee's 60<sup>th</sup> birthday, and one-  
20           sixth of the payment paid in each succeeding month. In  
21           the event the lump sum is equal or greater than  
22           \$10,000.00, the lump sum payment will be divided into  
23           twelve (12) month payments, with one-twelve of the  
24           payment due on the employee's 60 birthday, and one-  
25           twelve of the payment paid in each succeeding month.

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1                   (d) In the event the employee dies between the  
2                   filing of the application and the time the optional lump  
3                   sum payment is fully paid, the employee's heirs as  
4                   defined in section 807(2) shall be paid the balance of  
5                   the optional lump sum payment within 90 days of evidence  
6                   of death is submitted to the FSM Social Security  
7                   Administration.

8                   (e) Once this election is made, no monthly  
9                   benefits shall be paid to the employee, spouse, or any  
10                  minor children for either death, disability, old age, or  
11                  children's benefit (sections 801, 802, 803 and 803A).  
12                  This election is irrevocable at the time it is made by  
13                  the filing of the application."

14           Section 14. Section 813 if title 53 of the Code of the  
15 Federated States of Micronesia, as amended is hereby further  
16 amended to read as follows by amending section 809, which shall  
17 read as follows:

18                   "Section 813. Reduction of Benefits Upon Exhaustion of  
19                   Contributions.

20                   For benefit payments that begin prior to continue after  
21                   January 1,2008, the Social Security Administration will  
22                   pay out benefits as calculated in section 804, up until  
23                   the total contributions paid under sections 901 and 902  
24                   have been paid out. In the calendar year following this  
25                   event, monthly benefits shall be reduced to 70% of the

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1           previous benefit to all benefit recipients. This  
2           reduction will not apply to any disability benefits as  
3           calculated in section 804 and paid under section 803A  
4           nor will it apply to any survivor benefits paid under  
5           section 806."

6           Section 15. Section 1006 of title 53 of the Code of the  
7 Federated States of Micronesia, as amended, is hereby further  
8 amended to read as follows and which shall read as follows:

9           "Section 1006. Authorized investments.

10          Investments may be made in:

11           (1) Government obligations. Obligations issued or  
12           guaranteed as to principal and interest by the National  
13           Government and/or the State governments of the Federated  
14           States of Micronesia or by the government of the United  
15           States, provided that the principal and interest on each  
16           obligation are payable in the currency of the United  
17           States.

18           (2) Corporate obligations and mortgage backed  
19           securities. Obligations of any public or private entity  
20           or corporation created or existing under the laws of the  
21           Federated States of Micronesia or of the United States  
22           or any state, territory or commonwealth thereof, or  
23           obligations of any other government or economic  
24           community which are payable in United State dollars, or  
25           pass through and other mortgage backed securities,

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1 provided that:

2 (a) The is of an agency of the United States  
3 Government, or

4 (b) The obligation is of an agency of the  
5 Federated States of Micronesia Government, or

6 (c) The obligation is investment grade rated [~~in~~  
7 ~~one of the three highest categories~~] by one of two  
8 nationally recognized rating agencies; and

9 (d) No investment under this heading exceeds ten  
10 percent of the market value of the Fund or ten percent  
11 of the outstanding value of the issue at the time of  
12 purchase.

13 (e) Preferred and common stocks, Shares of  
14 preferred or common stocks of any corporation created or  
15 existing under the laws if the Federated States of  
16 Micronesia or under the laws of the United States or any  
17 state, territory or commonwealth thereof, or any other  
18 nation, provided that:

19 (i) The purchase of such shares shall be  
20 considered reasonable and prudent by the investment  
21 advisor at the time of purchase;

22 (ii) No more than ten [~~five~~] percent of the  
23 market value of the Fund shall be invested in the stock  
24 of any one corporation; and

25 (iii) Not more than twenty-five [~~ten~~] percent

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1 of the market value of the Fund shall be invested in any  
2 one industry group.

3 (iv) Such shares are readily marketable and  
4 actively traded on a recognized national or regional  
5 stock exchange, physical or electronic.

6 (d) Insurance company obligations. Contracts and  
7 agreements supplemental thereto providing for  
8 participation in one or more accounts of a life  
9 insurance company authorized to do business in the  
10 Federated States of Micronesia or in any state,  
11 territory or commonwealth of the United States, provided  
12 that the total market value of these investments at no  
13 time shall exceed ten percent of the total market value  
14 of all investment of the Fund.

15 (e) The establishment of an FSM Credit Union,  
16 which could then invest locally by making loans and  
17 taking deposits. The establishment of such a credit  
18 union, can be accomplished by Board action and through  
19 the issuance of regulations."

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25 Section 16. This act shall become law upon approval by the

