A BILL FOR AN ACT

To further amend title 52 of the Code of the Federated States of Micronesia, as amended, by amending sections 505, 506 and 507 for the purpose of adding additional eligibility criteria for participation in the National Government Employees' Early Retirement Program, and for other purposes.

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

1. Section 505 of title 52 of the Code of the
2. Federated States of Micronesia is hereby further amended to
3. read as follows:

"Section 505. Eligibility; procedures.

Eligibility for the benefits under this chapter

shall be determined as follows:

(1) Within 60 days of the end of the First
Regular Session of the Tenth Congress of the
Federated States of Micronesia, before or during
which session the President shall have submitted a
National Government Restructuring Plan for review
and action by the Congress, the President of the
Federated States of Micronesia for the executive
branch, the Chief Justice of the Supreme Court of
the Federated States of Micronesia for the
judiciary branch, the Speaker of the Congress of
the Federated States of Micronesia for the
Congress, and the chief executive officer of each
agency of the National Government shall submit to
the President, or his designee, a list for their
respective branch or agency of the National
Government. Each list may be updated from time to
time and shall include each position:

(a) Ineligible for inclusion in the
program. A position shall be ineligible if such
position is exempt by law from the provisions of
the Public Service System Act, except that such
ineligibility shall not apply to the occupant of a
position included in section 117(8) of this title
if such occupant is not re-employed by the
National Government in a section 117(8) position
after the enactment of a law reducing the number
of executive branch departments and offices; or
provides essential public services and if
abolished would cause the National Government to
fail to provide such essential public services;

(b) Which shall be terminated because
such position is to be abolished; and

(c) Which may be eligible for inclusion
in the program.

(2) A permanent employee in a position which
shall be terminated under section 505(1)(b) of
this chapter shall be automatically deemed a
participant in the program subject only to the
abolishment of the position. Such abolishment may
occur at anytime during the program period but not
less than 90 days after the employee receives
notice that the position is to be abolished,
except that such 90-day period can be waived by
the employee.
(3) A permanent employee in a position eligible for inclusion in the program under section 505(1)(c) of this chapter may participate in the program by submitting a written application to the Office of Administrative Services and if:

(a) There are funds available in the program;

(b) Long-term cost savings would be achieved by the employees participation in the program; and

(c) The respective branch or agency of government may abolish the position without compromising essential public services or such position may be filled by a permanent or probationary employee and such employees previous position is abolished."

Section 2. Section 506 of title 52 of the Code of the Federated States of Micronesia is hereby further amended to read as follows:

"Section 506. Compensation.

(1) Subject to the availability of funds, an employee eligible for participation in the program and less than 60 years of age may choose to receive either:

(a) a lump sum payment equal to 48 bi-
weekly base salary payments; or

(b) 52 bi-weekly base salary payments.

(2) (a) Subject to the availability of funds, an employee eligible for participation in the program, who is more than 55 years of age and not yet eligible for FSM Social Security Administration (hereinafter "SSA") retirement benefits, may retire and may choose to receive the benefits described in section 506(1)(a) or (b), or may receive a lump sum payment equaling 6 base salary pay periods and a monthly amount equal to the monthly SSA retirement benefits that the person would have received if he had been 60 years of age when his employment with the National Government ceased due to his participation in the Early Retirement Program. Such payments shall terminate upon the person reaching the age of 60 or becoming eligible for SSA retirement benefits, whichever occurs first. The Secretary of the Department of Finance may enter into an agreement with the SSA authorizing the SSA to administer the payments under this subsection. The agreement may also provide for the collection of reasonable administrative fees by the SSA.
(b) If a participating employee disputes National Government records that indicate what his age is, and if resolution of the dispute would control the amount of the benefits that the worker would receive under section 506, the worker may request a determination of the dispute by the Director of the Social Security Administration (hereinafter, 'the Director'). Such a request must be in writing. The Director must resolve the dispute promptly, and he may receive any evidence that he deems appropriate in resolving such a dispute. The Director must make written findings explaining his evaluation of the evidence presented to him and explaining his ultimate resolution of the dispute. The Director must also provide a copy of those written findings to the employee in question.

(c) After each eligibility list has been determined, it shall be promptly transmitted to the Director of Social Security, who shall promptly deliver written notification to each worker who is between 53 and 59 years of age and whose position is described in section 505 (1)(c), of the following: how many 'quarters of coverage' the worker has accumulated for the purposes of
Social Security benefits, whether that number is sufficient to entitle the worker to Social Security retirement benefits at age 60 and, if not, how many more 'quarters of coverage' the employee would have to accumulate to become entitled to such benefits.

(3) Subject to the availability of funds, an employee who is more than 60 years of age and eligible to receive SSA retirement benefits and who is otherwise eligible to participate in the program, shall receive a lump sum payment equal to 6 bi-weekly base salary periods.

(4) Subject to the availability of funds, and notwithstanding any other provisions of this chapter, employees of the National Government who participate in the program based upon their eligibility pursuant to section 505(1)(a) of this chapter shall receive the lesser amount of either:

(a) a lump sum payment equal to 48 bi-weekly base salary payments, or 52 base salary payments; or

(b) a lump sum payment that is equal to their pro rata share of a total amount that is equivalent to $52,000 multiplied by the total number of positions included in section 117(8) of
this title which are abolished pursuant to enacted
law that reduces the number of executive branch
departments and offices.

(4) The following adjustments shall be
made from each payment due to an employee:

(a) Any advance annual or sick leave
owed by the employee;

(b) Any salary advance;

(c) Any per diem or other travel
advance including outstanding travel
authorizations; and any other adjustment which the
employee may owe to the National Government, or
which the National Government may owe to the
employee.

(d) If authorized by the employee in
writing, amounts requested by the employee to be
deducted from compensation received pursuant to
subsection (1)(b) of this section, and remitted to
a third party, provided that no more than two such
remittances shall be permitted for each employee
at any one time and that each such remittance must
be in effect for at least six months, unless
otherwise provided by law. A remittance under
this sub-section shall be binding upon the
employee in accordance with the terms of the
request therefor, including but not limited to any
prohibition on canceling the remittance without
the consent of the third-party payee, provided
that the terms of the remittance are otherwise in
accordance with applicable law, including but not
limited to usury laws.

(5 §) For purposes of this chapter,
compensation received by an employee pursuant to
this chapter shall be exempted from the
(a) Provisions of sections 901 and 902
of title 53 to the extent that such compensation
shall not be deemed wages received by the
employee; and

(b) Provisions of section 121 of title
54 to the extent that such compensation shall not
be deemed wages or salaries received by the
employee.

(c) Provisions of section 603(6) of
title 53 to the extent that such compensation
shall not be deemed dollars earned in a quarter by
the employee.

(6 §) If a participating employee dies, his
entitlement to compensation under the Program
shall survive and the remainder shall be paid to
persons or entities in accordance with the general
law of descent and distribution or in accordance
with customary law if the applicable jurisdiction
does not have general law of decent and
distribution."

Section 3. Section 507 of title 52 of the Code of the
Federated States of Micronesia is hereby further amended to
read as follows:

"Section 507. Ineligibility for re-employment. Any
employee who receives compensation under the
program shall not be eligible for re-employment in
any capacity by the National Government or any
agency of the National Government prior to
September 30, 2001, except that such ineligibility
shall not apply to program participants who are
re-employed by the National Government in the
following positions:

(1) members of the Congress of the Federated
States of Micronesia;
(2) the President and Vice President of the
Federated States of Micronesia; and
(3) persons appointed to any positions by the
President with the advice and consent of the
Congress of the Federated States of Micronesia,
except that program participants who receive
compensation pursuant to section 506(4) of this
chapter shall not be eligible for re-employment by the National Government in any position appointed by the President with the advice and consent of Congress prior to September 30, 2001."

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

Date: 6/04/97

Introduced by: Joseph Urusemal (by request)