

J&GO

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 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:

4 "Section 505. Eligibility; procedures.

5 Eligibility for the benefits under this chapter
6 shall be determined as follows:

7 (1) Within 60 days of the end of the First
8 Regular Session of the Tenth Congress of the
9 Federated States of Micronesia, before or during
10 which session the President shall have submitted a
11 National Government Restructuring Plan for review
12 and action by the Congress, the President of the
13 Federated States of Micronesia for the executive
14 branch, the Chief Justice of the Supreme Court of
15 the Federated States of Micronesia for the
16 judiciary branch, the Speaker of the Congress of
17 the Federated States of Micronesia for the
18 Congress, and the chief executive officer of each
19 agency of the National Government shall submit to
20 the President, or his designee, a list for their
21 respective branch or agency of the National
22 Government. Each list may be updated from time to
23 time and shall include each position:

24 (a) Ineligible for inclusion in the
25 program. A position shall be ineligible if such

1 position is exempt by law from the provisions of
2 the Public Service System Act, except that such
3 ineligibility shall not apply to the occupant of a
4 position included in section 117(8) of this title
5 if such occupant is not re-employed by the
6 National Government in a section 117(8) position
7 after the enactment of a law reducing the number
8 of executive branch departments and offices; or
9 provides essential public services and if
10 abolished would cause the National Government to
11 fail to provide such essential public services;

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

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

16 (2) A permanent employee in a position which
17 shall be terminated under section 505(1)(b) of
18 this chapter shall be automatically deemed a
19 participant in the program subject only to the
20 abolishment of the position. Such abolishment may
21 occur at anytime during the program period but not
22 less than 90 days after the employee receives
23 notice that the position is to be abolished,
24 except that such 90-day period can be waived by
25 the employee.

1 (3) A permanent employee in a position
2 eligible for inclusion in the program under
3 section 505(1)(c) of this chapter may participate
4 in the program by submitting a written application
5 to the Office of Administrative Services and if:

6 (a) There are funds available in the
7 program;

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

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

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

20 "Section 506. Compensation.

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

25 (a) a lump sum payment equal to 48 bi-

1 weekly base salary payments; or

2 (b) 52 bi-weekly base salary
3 payments.

4 (2) (a) Subject to the availability of
5 funds, an employee eligible for participation in
6 the program, who is more than 55 years of age and
7 not yet eligible for FSM Social Security
8 Administration (hereinafter `SSA') retirement
9 benefits, may retire and may choose to receive the
10 benefits described in section 506(1)(a) or (b), or
11 may receive a lump sum payment equaling 6 base
12 salary pay periods and a monthly amount equal to
13 the monthly SSA retirement benefits that the
14 person would have received if he had been 60 years
15 of age when his employment with the National
16 Government ceased due to his participation in the
17 Early Retirement Program. Such payments shall
18 terminate upon the person reaching the age of 60
19 or becoming eligible for SSA retirement benefits,
20 whichever occurs first. The Secretary of the
21 Department of Finance may enter into an agreement
22 with the SSA authorizing the SSA to administer the
23 payments under this subsection. The agreement may
24 also provide for the collection of reasonable
25 administrative fees by the SSA.

1 (b) If a participating employee disputes
2 National Government records that indicate what his
3 age is, and if resolution of the dispute would
4 control the amount of the benefits that the worker
5 would receive under section 506, the worker may
6 request a determination of the dispute by the
7 Director of the Social Security Administration
8 (hereinafter, 'the Director'). Such a request
9 must be in writing. The Director must resolve the
10 dispute promptly, and he may receive any evidence
11 that he deems appropriate in resolving such a
12 dispute. The Director must make written findings
13 explaining his evaluation of the evidence
14 presented to him and explaining his ultimate
15 resolution of the dispute. The Director must
16 also provide a copy of those written findings to
17 the employee in question.

18 (c) After each eligibility list has
19 been determined, it shall be promptly transmitted
20 to the Director of Social Security, who shall
21 promptly deliver written notification to each
22 worker who is between 53 and 59 years of age and
23 whose position is described in section 505 (1) (c),
24 of the following: how many 'quarters of coverage'
25 the worker has accumulated for the purposes of

1 Social Security benefits, whether that number is
2 sufficient to entitle the worker to Social
3 Security retirement benefits at age 60 and, if
4 not, how many more 'quarters of coverage' the
5 employee would have to accumulate to become
6 entitled to such benefits.

7 (3) Subject to the availability of funds, an
8 employee who is more than 60 years of age and
9 eligible to receive SSA retirement benefits and
10 who is otherwise eligible to participate in the
11 program, shall receive a lump sum payment equal to
12 6 bi-weekly base salary periods.

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

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

22 (b) a lump sum payment that is equal to
23 their pro rata share of a total amount that is
24 equivalent to \$52,000 multiplied by the total
25 number of positions included in section 117(8) of

1 this title which are abolished pursuant to enacted
2 law that reduces the number of executive branch
3 departments and offices.

4 (4 5) The following adjustments shall be
5 made from each payment due to an employee:

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

8 (b) Any salary advance;

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

15 (d) If authorized by the employee in
16 writing, amounts requested by the employee to be
17 deducted from compensation received pursuant to
18 subsection (1)(b) of this section, and remitted to
19 a third party, provided that no more than two such
20 remittances shall be permitted for each employee
21 at any one time and that each such remittance must
22 be in effect for at least six months, unless
23 otherwise provided by law. A remittance under
24 this sub-section shall be binding upon the
25 employee in accordance with the terms of the

1 request therefor, including but not limited to any
2 prohibition on canceling the remittance without
3 the consent of the third-party payee, provided
4 that the terms of the remittance are otherwise in
5 accordance with applicable law, including but not
6 limited to usury laws.

7 (5 6) For purposes of this chapter,
8 compensation received by an employee pursuant to
9 this chapter shall be exempted from the

10 (a) Provisions of sections 901 and 902
11 of title 53 to the extent that such compensation
12 shall not be deemed wages received by the
13 employee; and

14 (b) Provisions of section 121 of title
15 54 to the extent that such compensation shall not
16 be deemed wages or salaries received by the
17 employee.

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

22 (6 7) If a participating employee dies, his
23 entitlement to compensation under the Program
24 shall survive and the remainder shall be paid to
25 persons or entities in accordance with the general

1 law of descent and distribution or in accordance
2 with customary law if the applicable jurisdiction
3 does not have general law of decent and
4 distribution."

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

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

17 (1) members of the Congress of the Federated
18 States of Micronesia;

19 (2) the President and Vice President of the
20 Federated States of Micronesia; and

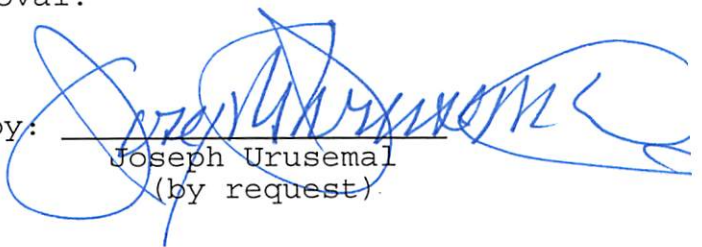
21 (3) persons appointed to any positions by the
22 President with the advice and consent of the
23 Congress of the Federated States of Micronesia,
24 except that program participants who receive
25 compensation pursuant to section 506(4) of this

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1 chapter shall not be eligible for re-employment by
2 the National Government in any position appointed
3 by the President with the advice and consent of
4 Congress prior to September 30, 2001."

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

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9 Date: 6/04/97

Introduced by: 
Joseph Urusemal
(by request)

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