A BILL FOR AN ACT

To further amend title 52 of the Code of the Federated States of Micronesia, as amended, by amending section 505 thereof, as amended by Public Law No. 10-57, and by amending section 506 thereof, as amended by Public Law No. 10-57, for the purpose of excluding employees who are exempt from the National Public Service System from eligibility for 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 Federated States of Micronesia, as amended by Public Law No. 10-57, is hereby further amended to 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, /dobb/ /dobb/ /dobb/ /dobb/

(c) Which may be eligible for inclusion
in the program.
21 (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 employee's 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 employee's previous
position is abolished.

(4) A permanent employee holding a position
identified as 'ineligible' for the program under
section 505(1)(a) of this title may become eligible
for inclusion in the program if he submits a written
application and:
(a) A person who is eligible for the program through section 505(1)(b) or (c) agrees, in writing, to become employed in the ineligible position;

(b) The head of the branch or agency containing that ineligible position agrees, in writing, to employ that eligible person in the permanent employee's ineligible position; and

(c) sufficient funds are available in the program.

(d) Notwithstanding the above, no National Government employee who is exempt from the National Public Service System may become eligible to participate in the program through this subsection (4) or otherwise."

Section 2. Section 506 of title 52 of the Code of the Federated States of Micronesia, as amended by Public Law No. 10-57, 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 choose to 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 and Administration 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. The
written notification shall be given to the employee
both in English and in his indigenous language. The
director of Social Security shall make reasonable
efforts to assure that the employee signs a
statement indicating that he has read the written
notification and understands its contents.

(d) After each eligibility list has been
determined, it shall be promptly delivered to the
Director of the Office of Administrative Services,
or his successor, who shall promptly deliver written
notification to each worker whose position is
described in section 505(1)(c) of this title that if
he chooses to take the benefits of the program, he
and his dependents would have the right to
participate in the National Government Employee's
Health Insurance Plan if he pays 100 percent of the
premiums for himself and his dependents to the plan.
This written notification shall be given to the
employee both in English and in his indigenous
language. The Director of the Office of
Administrative Services, or is successor, shall make
reasonable efforts to assure that the employee signs
a statement indicating that he has read the written
notification and understands its contents.

(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.
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) Compensation received by an employee
pursuant to this chapter or received by a State
employee in accordance with a similar severance
program 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;
(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; and

(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.

(d) Subsection 506(6) of this title shall be retroactive to the date that the employee received compensation pursuant to this chapter or a similar State severance program.

(78) 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 descent and distribution."

Section 3. 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: 4/9/98  Introduced by: Wagner M. Lawrence