

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 1. Section 505 of title 52 of the Code of the  
2   Federated States of Micronesia, as amended by Public Law No.  
3   10-57, is hereby further amended to 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 judiciary  
16          branch, the Speaker of the Congress of the Federated  
17          States of Micronesia for the Congress, and the chief  
18          executive officer of each agency of the National  
19          Government shall submit to the President, or his  
20          designee, a list for their respective branch or  
21          agency of the National Government. Each list may be  
22          updated from time to time and shall include each  
23          position:

24                   (a) Ineligible for inclusion in the  
25          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 or a position that is a successor to 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.

(d) Notwithstanding subsection 505(1)(a) of this section, a position that is exempt by law from the provisions of the Public Service System Act may be eligible for inclusion in the program if the appropriate official described in subsection 505(1) of this section and the Secretary of Finance determine:

1 (1) Կիսավճարովի/հիշված/մասնավոր/հոգ  
2 քաղաքացի/հասնելի/համար/հետևյալ/համար/համար  
3 ձեռնարկ/համար/համար/համար/համար/համար  
4 Գործարար/համար/համար/համար/համար/համար  
5 քաղաքացի/հետևյալ/համար/համար/համար/համար

6 (2) Կիսավճարովի/հիշված/մասնավոր/հոգ  
7 Կիսավճարովի/հիշված/մասնավոր/հոգ/համար/համար/համար  
8 Գործարար/համար/համար/համար/համար/համար  
9 (3) Կիսավճարովի/հիշված/մասնավոր/հոգ  
10 Կիսավճարովի/հիշված/մասնավոր/հոգ/համար/համար/համար  
11 Կիսավճարովի/հիշված/մասնավոր/հոգ/համար/համար/համար  
12 Կիսավճարովի/հիշված/մասնավոր/հոգ/համար/համար/համար  
13 Կիսավճարովի/հիշված/մասնավոր/հոգ/համար/համար/համար  
14 Կիսավճարովի/հիշված/մասնավոր/հոգ/համար/համար/համար

15 (4) Կիսավճարովի/հիշված/մասնավոր/հոգ  
16 Կիսավճարովի/հիշված/մասնավոր/հոգ/համար/համար/համար  
17 Կիսավճարովի/հիշված/մասնավոր/հոգ/համար/համար/համար  
18 Կիսավճարովի/հիշված/մասնավոր/հոգ/համար/համար/համար  
19 Կիսավճարովի/հիշված/մասնավոր/հոգ/համար/համար/համար  
20 Կիսավճարովի/հիշված/մասնավոր/հոգ/համար/համար/համար

21 (2) A permanent employee in a position which  
22 shall be terminated under section 505(1)(b) of this  
23 chapter shall be automatically deemed a participant  
24 in the program subject only to the abolishment of  
25 the position. Such abolishment may occur at anytime



1 during the program period but not less than 90 days  
2 after the employee receives notice that the position  
3 is to be abolished, except that such 90-day period  
4 can be waived by the employee.

5 (3) A permanent employee in a position  
6 eligible for inclusion in the program under section  
7 505(1)(c) of this chapter may participate in the  
8 program by submitting a written application to the  
9 Office of Administrative Services and if:

10 (a) There are funds available in the  
11 program;

12 (b) Long-term cost savings would be  
13 achieved by the employee's participation in the  
14 program; and

15 (c) The respective branch or agency of  
16 government may abolish the position without  
17 compromising essential public services or such  
18 position may be filled by a permanent or  
19 probationary employee and such employee's previous  
20 position is abolished.

21 (4) A permanent employee holding a position  
22 identified as 'ineligible' for the program under  
23 section 505(1)(a) of this title may become eligible  
24 for inclusion in the program if he submits a written  
25 application and:

1 (a) A person who is eligible for the  
2 program through section 505(1)(b) or (c) agrees, in  
3 writing, to become employed in the ineligible  
4 position;

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

9 (c) sufficient funds are available in the  
10 program.

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

16 Section 2. Section 506 of title 52 of the Code of the  
17 Federated States of Micronesia, as amended by Public Law No.  
18 10-57, is hereby further amended to read as follows:

19 "Section 506. Compensation.

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

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

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

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

25 (b) If a participating employee disputes

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

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



1 benefits at age 60 and, if not, how many more  
2 'quarters of coverage' the employee would have to  
3 accumulate to become entitled to such benefits. The  
4 written notification shall be given to the employee  
5 both in English and in his indigenous language. The  
6 director of Social Security shall make reasonable  
7 efforts to assure that the employee signs a  
8 statement indicating that he has read the written  
9 notification and understands its contents.

10 (d) After each eligibility list has been  
11 determined, it shall be promptly delivered to the  
12 Director of the Office of Administrative Services,  
13 or his successor, who shall promptly deliver written  
14 notification to each worker whose position is  
15 described in section 505(1)(c) of this title that if  
16 he chooses to take the benefits of the program, he  
17 and his dependents would have the right to  
18 participate in the National Government Employee's  
19 Health Insurance Plan if he pays 100 percent of the  
20 premiums for himself and his dependents to the plan.  
21 This written notification shall be given to the  
22 employee both in English and in his indigenous  
23 language. The Director of the Office of  
24 Administrative Services, or his successor, shall make  
25 reasonable efforts to assure that the employee signs



1 a statement indicating that he has read the written  
2 notification and understands its contents.

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

9 (A) Subject to the availability of  
10 funds, and notwithstanding any other  
11 provisions of this chapter, employees of the  
12 National Government who participate in the  
13 program based upon their eligibility pursuant  
14 to Section 505(1) of this chapter may  
15 choose to receive:

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

18 (b) 52 bi-weekly base salary  
19 payments; unless the number of positions that  
20 were held by such participants exceeds the  
21 number of positions included in Section  
22 117(8) of this title that are abolished  
23 pursuant to or enacted law that reduces the  
24 number of executive branch departments and  
25 offices and are not yet established by that

enacted law as successor positions, in which  
event such participants may choose to receive  
either:

(c) a lump sum benefit that is equal  
to a pro rata share of \$52,000 multiplied by  
the number of section 117(b) positions that  
are abolished and are not re-established  
through successor positions by the enacted  
law described in subsection 4(b) of this  
section; or

(d) 52 equivalent bi-weekly payments  
that, in the aggregate, amount to 1.083 times  
the amount described in subsection 4(c) of  
this section.

(54) 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

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

17 (~~§~~5) Compensation received by an employee  
18 pursuant to this chapter or received by a State  
19 employee in accordance with a similar severance  
20 program shall be exempted from the:

21 (a) Provisions of sections 901 and 902  
22 of title 53 to the extent that such compensation  
23 shall not be deemed wages received by the employee;

24 (b) Provisions of section 121 of title 54 to  
25 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.

(76) 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: 6/9/98

Introduced by:   
Wagner M. Lawrence