

AN ACT

To further amend title 52 of the Code of the Federated States of Micronesia, as amended, by amending sections 112, 163, 202, 203, 206, 207 and 208 for the purpose of creating professional premiums for certain professionals; by further amending section 117, as amended by Public Law No. 5-21, to exempt a position from the Public Service System; and by enacting a new section 211 for the purpose of creating a contract renewal bonus for the same professionals; and for other purposes.

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

1           Section 1.   Section 112 of title 52 of the Code of the  
2 Federated States of Micronesia is hereby amended to read as  
3 follows:

4           "Section 112.   Definitions.   In this chapter, unless the  
5 context requires otherwise, the following definitions  
6 shall apply:

7           (1) 'Adjusted base salary' means the total of base  
8 salary plus marketplace premium, foreign service  
9 premium, or professional premium.   If an employee is not  
10 entitled to any of these premiums, his adjusted base  
11 salary means his base salary.

12           (2) 'Base Salary' means the specific rate of pay for a  
13 given pay level and step as contained within the base  
14 salary schedule established by law. 'Base salary' does  
15 not include premiums under section 163 of this chapter,  
16 professional premiums, differentials under section 164  
17 of this chapter, or transfer, travel per diem, or other  
18 similar allowances.

19           (3) 'Class' or 'class of positions' means a group of  
20 positions sufficiently similar so that all can  
21 reasonably be identified by the same title, be filled by  
22 applying the same qualification standards, and be  
23 equitably compensated by the same salary level.   A class  
24 may consist of only one position or of any greater  
25 number of positions.

26           (4) 'Eligible list' means a list of persons who have

1           been found qualified for appointment to a position in a  
2           particular class. Such a list may be either  
3           reemployment, promotional, or open-competitive.

4           (5) 'Eligible person' or 'eligible' means a person  
5           whose name is on an active eligible list.

6           (6) 'Employee' means a person holding a position in  
7           the public service, whether permanently or otherwise.

8           (7) 'Foreign service premium' means a premium to be  
9           paid in addition to base salary to employees who are  
10          citizens of the Federated States of Micronesia assigned  
11          to permanent duty stations outside the Federated States  
12          of Micronesia.

13          (8) 'Government of the Federated States of Micronesia'  
14          includes the Legislative, the Executive, and the  
15          Judicial Branches and the agencies of the Government of  
16          the Federated States of Micronesia.

17          (9) 'Management official' or 'management' means a  
18          person authorized to make appointments or changes in  
19          status of employees in the public services.

20          (10) 'Market place premium' means a premium based on  
21          the difference between the base salary for a given  
22          position and the prevailing pay rates for equivalent  
23          positions in the relevant labor markets outside the  
24          Federated States of Micronesia.

25          (11) 'Open-competitive examination' means an  
26          examination for positions in a particular class,  
27          admission to which is not limited to persons employed in  
28          the public service.

29          (12) 'Open-competitive list' means a list of persons

1           who have been found qualified by open-competitive  
2           examination for appointment to a position in a  
3           particular class.

4           (13) 'Personnel officer' means the head of the Office  
5           of Personnel of the Government of the Federated States  
6           of Micronesia.

7           (14) 'Position' means a group of duties and  
8           responsibilities assigned by competent authority to be  
9           performed by one person, working full-time or part-time.  
10          A position may be either occupied or vacant.

11          (15) 'Position classification plan' means the  
12          arrangement in a systematic order of the titles of all  
13          classes existing in the public service, with a  
14          description of each class.

15          (16) 'Probation period' means a period of probationary  
16          employment status of not less than six months nor more  
17          than one year from the beginning of an employee's  
18          service in a particular position or class in the public  
19          service.

20          (17) 'Professional premium' means a premium to be paid  
21          in addition to the base salary of any employee who has  
22          achieved advanced professional status in a professional  
23          field set forth under section 163 of this title.

24          (18) 'Promotional examination' means an examination for  
25          positions in a particular class, admission to which is  
26          limited to regular employees in the public service.

27          (19) 'Promotional list' means a list of persons who  
28          have been found qualified by a promotional examination  
29          for appointment to a position in a particular class.

1           (20) 'Public service' means all offices and other  
2 positions in the Government of the Federated States of  
3 Micronesia not exempted by section 117 of this chapter.

4           (21) 'Reemployment list' means a list of persons who  
5 have been regular employees in the public service and  
6 who are entitled to have their names certified for  
7 appointment to a position in the class in which they  
8 last held permanent status, or in a related class in the  
9 same or a lower salary range for which they meet the  
10 qualification requirements.

11          (22) 'Regular employee' or 'permanent employee' means  
12 an employee who has been appointed to a position in the  
13 public service who has successfully completed a  
14 probation period."

15          Section 2. Section 117 of title 52 of the Code of the  
16 Federated States of Micronesia, as amended by Public Law No. 5-21,  
17 is hereby further amended to read as follows:

18          "Section 117. Application of chapter: Exemptions. The  
19 National Public Service System shall apply to all  
20 employees of and positions in the Government of the  
21 Federated States of Micronesia now existing or hereafter  
22 established and to all personnel services performed for  
23 that Government except the following, unless this  
24 chapter or provisions thereof are specifically made  
25 applicable to them:

26           (1) Members of the Congress of the Federated States of  
27 Micronesia;

28           (2) the President and Vice President of the Federated  
29 States of Micronesia;

- 1           (3) Justices and other Judges of the National Courts;
- 2           (4) the legislative counsel, deputy legislative
- 3           counsel, budget officer, director of administration, and
- 4           the clerk of the Congress;
- 5           (5) the Public Auditor;
- 6           (6) the administrative officer of the National Courts;
- 7           (7) the special assistants and secretaries to the
- 8           President and Vice President;
- 9           (8) persons appointed by the President to fill the
- 10          following positions: Secretary of the Department of
- 11          Foreign Affairs, Secretary of the Department Finance and
- 12          Administration, Secretary of the Department of Economic
- 13          Affairs, Secretary of the Department of Transportation,
- 14          Communication and Infrastructure, Secretary of the
- 15          Department of Health, Education and Social Affairs,
- 16          Secretary of the Department of Justice, and Chief Public
- 17          Defender, and their deputies, if any;
- 18          (9) persons appointed to any other positions by the
- 19          President with the advice and consent of the Congress;
- 20          (10) the Representative in Washington and all
- 21          ambassadors;
- 22          (11) persons or organizations retrained by contract
- 23          when the Personnel Officer has certified that the
- 24          service to be performed is special or unique and
- 25          nonpermanent and is essential to the public interest,
- 26          and that, because of the degree of expertise or special
- 27          knowledge required and the nature of the services to be
- 28          performed, it would not be practical to obtain personnel
- 29          to perform such services through normal public service

1 recruitment procedures;

2 (12) persons presently under contract of employment not  
3 included in subsection (11) of this section, during the  
4 life of such contract. No contract of employment shall  
5 be entered into, renewed, or amended after the effective  
6 date of this chapter, except in accordance with the  
7 provisions of this chapter;

8 (13) temporary positions, required in the public  
9 interest, for which the need does not exceed six months;

10 (14) positions requiring part-time or intermittent work  
11 which does not exceed sixty hours in any calendar month;

12 (15) positions filled by inmates, patients, and  
13 students of institutions of the Federated States of  
14 Micronesia;

15 (16) members of any board, public corporation,  
16 commission, or similar body, in their capacity as such;

17 (17) officers, faculty, and employees of the Board of  
18 Regents and the College of Micronesia;

19 (18) positions specifically exempted by any other law  
20 of the Federated States of Micronesia."

21 Section 3. Section 163 of title 52 of the Code of the  
22 Federated States of Micronesia is hereby amended to read as  
23 follows:

24 "Section 163. Premiums. To recognize circumstances of  
25 employment which make it appropriate that consideration  
26 be given to labor market conditions outside the  
27 Federated States of Micronesia, and to recognize and  
28 reward the attainment of certain advanced professional  
29 status, the following premiums are provided to public

1 service employees:

2 (1) Market place premium. An employee who is  
3 recruited in a location outside the Federated States of  
4 Micronesia, who is a noncitizen of the Federated States  
5 of Micronesia, and at the time of original hire, a  
6 nonresident thereof, may be paid a premium based on  
7 labor market conditions in the place of recruitment and  
8 on the level of the base salary.

9 (2) Foreign service premium. An employee who is a  
10 citizen of the Federated States of Micronesia and who is  
11 assigned to a permanent duty station outside the  
12 Federated States of Micronesia may be paid a premium  
13 based on the cost of living in the place of assignment.

14 (3) Professional premium. An employee who has  
15 achieved advanced professional status in one of the  
16 following manners and who is employed in a position  
17 which requires or, after a determination by the Director  
18 of Personnel, directly utilizes such professional status  
19 may receive, in addition to the base salary of his  
20 position, a professional premium. The professional  
21 statuses which qualify an employee for the premium are:

22 (a) attainment of an earned juris doctor in law  
23 and admission to the State Bar of any United States  
24 jurisdiction or to the FSM Supreme Court Bar;

25 (b) attainment of an earned degree in law and  
26 admission to the FSM Supreme Court Bar and four (4)  
27 years of experience in the legal field;

28 (c) admission to the FSM Supreme Court Bar and  
29 eight (8) years of experience in the legal field;

1                   (d) attainment of an earned professional  
2                   certification from any authority recognized in the  
3                   United States as a certified public accountant (CPA);

4                   (e) attainment of an earned degree in engineering  
5                   upon completion of a four-year course of study from a  
6                   college, university or educational institution which is  
7                   accredited by the competent authority in the  
8                   jurisdiction in which the college, university or  
9                   educational institution is located; and

10                   (f) attainment of an earned doctorate in any  
11                   field."

12           Section 4. Section 202 of title 52 of the Code of the  
13 Federated States of Micronesia is hereby amended to read as  
14 follows:

15           "Section 202. Statement of purpose.

16           (1) It is the declared purpose of the Congress of the  
17 Federated States of Micronesia, in establishing a salary  
18 plan, to provide a single uniform base salary schedule  
19 from which shall be derived the base salary to be paid  
20 all employees of the Government of the Federated States  
21 of Micronesia in positions not specifically exempted by  
22 section 117 of this title, regardless of their  
23 nationality or form of employment.

24           (2) The Congress recognizes that, so long as the  
25 Government of the Federated States of Micronesia employs  
26 expatriate personnel, certain premiums must be provided  
27 in addition to base salary in order to attract and  
28 retain such personnel. Therefore, it is the further  
29 purpose of the Congress to establish reasonable

1 standards and limitations for determining such  
2 premiums."

3 Section 5. Section 203 of title 52 of the Code of the  
4 Federated States of Micronesia is hereby amended to read as  
5 follows:

6 "Section 203. Definitions. Except as otherwise  
7 provided in this section, or unless the context clearly  
8 requires otherwise, terms used in this chapter shall  
9 have the meaning ascribed in section 112 of this title.

10 (1) 'Prime contract' means an appointment to a full-  
11 time permanent position which requires the services of a  
12 noncitizen of the Federated States of Micronesia  
13 recruited and hired outside the Federated States of  
14 Micronesia, under an initial contract of not more than  
15 two years' duration.

16 (2) 'Promotion' means movement of an employee to a  
17 position of greater difficulty and responsibility, usually  
18 compensated at a higher pay level than his current  
19 position, but in the same series of classes or clearly  
20 forming part of the same career ladder as his current  
21 position.

22 (3) 'Transfer' means movement of an employee from his  
23 current position to a new position in the same class as  
24 his current position, or in a class so closely related  
25 that similar or identical qualification standards apply  
26 to both positions and compensated at the same pay level  
27 as his current position.

28 (4) 'United States citizen' means, for the purpose of  
29 this chapter, a United States citizen eligible for a

1 United States passport. The enactment of this  
2 definition shall not impair the obligation of any  
3 existing contract with a person who was classified as a  
4 United States citizen by prior law but is not so  
5 classified by this chapter. However, no renewal of such  
6 contract may classify such person as a United States  
7 citizen unless he shall have come eligible for such  
8 classification by the time of renewal."

9 Section 6. Section 206 of title 52 of the Code of the  
10 Federated States of Micronesia is hereby amended to read as  
11 follows:

12 "Section 206. Compensation of employees who are  
13 citizens of the Federated States of Micronesia.

14 (1) Except as otherwise hereinafter provided,  
15 employees who are citizens of the Federated States of  
16 Micronesia shall receive as compensation a base salary  
17 as provided in section 205 of this chapter;

18 (2) Notwithstanding the provisions of subsection (1)  
19 of this section, any employee who is a citizen of the  
20 Federated States of Micronesia and who qualifies for  
21 either the foreign service premium or the professional  
22 premium shall receive the relevant premium in addition  
23 to the base salary for the position."

24 Section 7. Section 207 of title 52 of the Code of the  
25 Federated States of Micronesia is hereby amended to read as  
26 follows:

27 "Section 207. Compensation of employees who are  
28 citizens of the United States.

29 (1) Employees who are citizens of the United States

1 and who are recruited and hired under a prime contract  
2 shall receive the following compensation:

3 (a) a base salary as provided in section 205 of  
4 this chapter; and

5 (b) a market-place premium or, if qualified, a  
6 professional premium.

7 (2) Employees who are citizens of the United States  
8 and who are not covered by the provisions of subsection  
9 (1) of this section shall receive the same base salary  
10 and shall be eligible for the same premiums,  
11 differentials, and allowances as employees who are  
12 citizens of the Federated States of Micronesia in like  
13 positions."

14 Section 8. Section 208 of title 52 of the Code of the  
15 Federated States of Micronesia is hereby amended to read as  
16 follows:

17 "Section 208. Compensation of employees who are third-  
18 country nationals.

19 (1) Employees who are citizens neither of the  
20 Federated States of Micronesia nor of the United States  
21 and who are recruited and hired under a prime contract  
22 in countries other than the Federated States of  
23 Micronesia or the United States shall receive the  
24 following compensation:

25 (a) a base salary as provided in section 205 of  
26 this chapter; and

27 (b) if prevailing rates of pay are substantially  
28 higher in the country of recruitment than in the  
29 Federated States of Micronesia, a market-place premium

1           which shall be determined by the Secretary of the  
2           Department of Finance and Administration, on the basis  
3           of the difference, insofar as it can best be estimated,  
4           between the prevailing rates in the Federated States of  
5           Micronesia and in the country of recruitment. In no  
6           case shall such market-place premium exceed the U.S.  
7           market-place premium for the same pay level and step; or

8                       (c) the relevant professional premium, if the  
9           employee qualifies for such premium.

10                   (2) Employees who are citizens neither of the  
11           Federated States of Micronesia nor of the United States  
12           and who are not covered by the provisions of subsection  
13           (1) of this section shall receive the same base salary  
14           and shall be eligible for the same premiums,  
15           differentials, and allowances as employees who are  
16           citizens of the Federated States of Micronesia in like  
17           positions."

18           Section 9. Title 52 of the Code of the Federated States of  
19   Micronesia is hereby further amended by enacting a new section 211  
20   to read as follows:

21                   "Section 211. Contract renewal bonus. Any full-time  
22           employee entitled to a professional premium hired under  
23           a prime contract and entitled to repatriation shall,  
24           upon completion of two full years of continuous  
25           employment with the Government of the Federated States  
26           of Micronesia, be eligible for a contract renewal bonus  
27           upon renewal of his/her contract; provided said contract  
28           renewal is for a period not less than one full calendar  
29           year. The bonus shall be awarded in an amount and under

