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A BILL FOR AN ACT

To further amend title 52 of the Code of the Federated States of Micronesia, as amended, by amending sections 112, 163, and 207 thereof, and by repealing section 208 thereof, to modify and clarify the premiums payable to certain public service employees, 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, as amended by Public Law No. 11-  
3 81, is hereby further amended to read as 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.

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1           (3) 'Class' or 'class of positions' means a group of  
2           positions sufficiently similar so that all can  
3           reasonably be identified by the same title, be filled by  
4           applying the same qualification standards, and be  
5           equitably compensated by the same salary level. A class  
6           may consist of only one position or of any greater  
7           number of positions.

8           (4) 'Eligible list' means a list of persons who have  
9           been found qualified for appointment to a position in a  
10          particular class. Such a list may be either  
11          reemployment, promotional, or open-competitive.

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

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

16          (7) 'Foreign service premium' means a premium [~~to be~~  
17          ~~paid in addition to base salary to employees who are~~  
18          ~~citizens of the Federated States of Micronesia assigned~~  
19          ~~to permanent duty stations outside the Federated States~~  
20          ~~of Micronesia.] as set forth under subsection 163(2) of  
21          this title.~~

22          (8) 'Government of the Federated States of Micronesia'  
23          includes the Legislative, the Executive, and the  
24          Judicial Branches and the agencies of the Government of  
25          the Federated States of Micronesia.

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

4 (10) 'Market place premium' means a premium [~~based on~~  
5 ~~the difference between the base salary for a given~~  
6 ~~position and the prevailing pay rates for equivalent~~  
7 ~~positions in the relevant labor markets outside the~~  
8 ~~Federated States of Micronesia.] as set forth under  
9 subsection 163(1) of this title.~~

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

14 (12) 'Open-competitive list' means a list of persons  
15 who have been found qualified by open-competitive  
16 examination for appointment to a position in a  
17 particular class.

18 (13) 'Personnel officer' means the head of the Office  
19 of Personnel of the Government of the Federated States  
20 of Micronesia.

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

25 (15) 'Position classification plan' means the

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1            arrangement in a systematic order of the titles of all  
2            classes existing in the public service, with a  
3            description of each class.

4            (16) 'Probation period' means a period of probationary  
5            employment status of not less than six months nor more  
6            than one year from the beginning of an employee's  
7            service in a particular position or class in the public  
8            service.

9            (17) 'Professional premium' means a premium [~~to be paid~~  
10           ~~in addition to the base salary of any employee who has~~  
11           ~~achieved advanced professional status in a professional~~  
12           ~~field]~~ as set forth under subsection 163(3) of this  
13           title.

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

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

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

23           (21) 'Reemployment list' means a list of persons who  
24           have been regular employees in the public service and  
25           who are entitled to have their names certified for

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1 appointment to a position in the class in which they  
2 last held permanent status, or in a related class in the  
3 same or a lower salary range for which they meet the  
4 qualification requirements.

5 (22) 'Regular employee' or 'permanent employee' means  
6 an employee who has been appointed to a position in the  
7 public service who has successfully completed a  
8 probation period."

9 Section 2. Section 163 of title 52 of the Code of the  
10 Federated States of Micronesia, as amended by Public Law No. 11-  
11 81, is hereby further amended to read as follows:

12 "Section 163. Premiums. To recognize circumstances of  
13 employment which make it appropriate that consideration  
14 be given to labor market conditions outside the  
15 Federated States of Micronesia, and to recognize and  
16 reward the attainment of certain advanced professional  
17 status, the following premiums are provided to public  
18 service employees:

19 (1) Market place premium. An employee who is  
20 recruited in a location outside the Federated States of  
21 Micronesia, who is a noncitizen of the Federated States  
22 of Micronesia, and at the time of original hire, a  
23 nonresident thereof, may be paid a premium based on  
24 labor market conditions in the [~~place~~] country of  
25 recruitment and on the level of the base salary. A

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1           market-place premium may be paid if prevailing rates of  
2           pay for equivalent positions are substantially higher in  
3           the country of recruitment than in the Federated States  
4           of Micronesia. Upon request from the allottee of the  
5           funds from which the employee's compensation is to be  
6           paid, the Secretary of the Department of Finance and  
7           Administration shall report to the allottee on the  
8           difference, insofar as it can best be estimated, between  
9           the prevailing rates in the Federated States of  
10           Micronesia and in the country of recruitment. The  
11           allottee may then determine what portion, if any, of the  
12           difference will be paid as a market-place premium. The  
13           amount of the premium determined by the allottee shall  
14           not be greater than 90% of the value of the employee's  
15           base salary.

16           (2) Foreign service premium. An employee who is a  
17           citizen of the Federated States of Micronesia and who is  
18           assigned to a permanent duty station outside the  
19           Federated States of Micronesia may be paid a premium  
20           based on the cost of living in the place of assignment.

21           (3) Professional premium. An employee who has  
22           achieved advanced professional status in one of the  
23           following manners and who is employed in a position  
24           which requires or, [~~after a determination by the~~  
25           ~~Director of Personnel~~], directly utilizes such

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1 professional status may receive, in addition to the base  
2 salary of his position, a professional premium. [~~The~~  
3 ~~professional statuses which qualify an employee for the~~  
4 ~~premium are]~~ The amount of professional premium to be  
5 paid, if any, shall be determined by the allottee of the  
6 funds from which the employee's salary is to be paid  
7 based upon the employee's education, experience and  
8 expertise. The amount of the premium determined by the  
9 allottee shall not be greater than 90% of the value of  
10 the employee's base salary. To be eligible for such a  
11 professional premium, the employee must meet one or more  
12 of the following requirements:

13 [~~(a) attainment of an earned juris doctor in law~~  
14 ~~and admission to the State Bar of any United States~~  
15 ~~jurisdiction or to the FSM Supreme Court Bar;]~~

16 [~~(b)] (a) attainment of an earned degree in law from~~  
17 ~~[an accredited law school]~~ a law school accredited by  
18 the competent authority in the jurisdiction in which it  
19 operates, and admission either to the FSM Supreme Court  
20 Bar [~~and four (4) years of experience in the legal~~  
21 ~~field;]~~ or to practice law in another jurisdiction;

22 [e] (b) admission to the FSM Supreme Court Bar and  
23 eight (8) years of experience in the legal field;

24 [d] (c) [attainment of an earned professional  
25 certification or license authorizing the employee to

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1 ~~practice public accountancy in any jurisdiction]~~ full  
2 membership of one or more of the professional  
3 accountancy associations listed in the Public Service  
4 Regulations, as amended from time to time, or  
5 certification by the Public Auditor that the employee's  
6 qualifications and experience are equivalent to those  
7 which would be required to obtain full membership of  
8 such an association. ~~[from any authority recognized in~~  
9 ~~the United States as a certified public accountant~~  
10 ~~(CPA)];~~

11 [e](d) attainment of an earned degree in engineering  
12 upon completion of a four-year course of study from a  
13 college, university or educational institution which is  
14 accredited by the competent authority in the  
15 jurisdiction in which the college, university or  
16 educational institution is located; and

17 [f](e) attainment of an earned doctorate in any  
18 field.

19 (4) The Public Auditor will conduct an annual audit of  
20 all professional and market place premiums being paid to  
21 public service employees . The audit findings shall be  
22 transmitted to the President and Congress."

23 Section 3. Section 207 of title 52 of the Code of the  
24 Federated States of Micronesia, as amended by Public Law No. 11-  
25 81, is hereby further amended to read as follows:



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1           "Section 207. Compensation of employees who are not  
2           citizens of the [United States] Federated States of  
3           Micronesia.

4           (1) Employees who are not citizens of the [~~United~~  
5           ~~States~~] Federated States of Micronesia and who are  
6           recruited and hired under a prime contract shall receive  
7           the following compensation:

8                   (a) a base salary as provided in section 205 of  
9                   this chapter; and

10                   (b) if applicable, a market-place premium  
11                   pursuant to section 163(1) of this title, or, if  
12                   qualified, a professional premium pursuant to section  
13                   163(3) of this title.

14           (2) Employees who are not citizens of [~~the United~~  
15           ~~States~~] the Federated States of Micronesia and who are  
16           not covered by the provisions of subsection (1) of this  
17           section shall receive the same base salary and shall be  
18           eligible for the same premiums, differentials, and  
19           allowances as employees who are citizens of the  
20           Federated States of Micronesia in like positions."

21           Section 4. Section 208 of title 52 of the Code of the  
22           Federated States of Micronesia is hereby repealed in its  
23           entirety.

C.D.1

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1           Section 5. This act shall become law upon approval by the  
2 President of the Federated States of Micronesia or upon its  
3 becoming law without such approval.

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5 Date: 10/13/04

Introduced by: /s/ Dohsis Halbert  
Dohsis Halbert

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