A BILL FOR AN ACT

To further amend title 52 of the Code of the Federated States of Micronesia, as amended, by amending section 135 thereof, and for other purposes.

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

Section 1. Section 135 of title 52 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 135. Filling of vacancies.

All vacancies and new positions in the public service shall be filled in the following manner:

(1) Whenever there is a position to be filled, the management official shall ask the Personnel Officer to submit a list of persons eligible. The Personnel Officer shall thereupon certify a list of five, or such lesser number as may be available, taken from eligible lists in the following order: first, reemployment lists; second, promotional lists; and third, open competitive lists. The management official shall make the appointment from the list of eligibles submitted to him unless he finds no person available and acceptable to him on the list, in which case he will ask the Personnel Officer to certify a new list, stating in
writing his reason for rejecting each of the eligibles on the list previously submitted to him. If the Personnel Officer finds such reasons adequate, he shall then submit a new list of no more than five eligibles selected in like manner, from which the management official shall make an appointment. If the Personnel Officer does not find the reasons adequate, he shall resubmit the list and the appointment shall be made therefrom.) request the Personnel Officer to provide a list of all persons on the reemployment list, the promotional list, and the open-competitive list, and a list of all other persons who have submitted applications for the vacant position. The Personnel Officer shall provide that information to the management official within two days of receiving the request. After reviewing the names received and qualifications of the candidates, the management official shall provide to the Personnel Officer a list of three candidates from which the management official intends to make the appointment to fill the position. Within two days of receiving this list of three candidates, the Personnel Officer shall notify the management official if, for any reason, any person on the list is unqualified for the position. The notice shall include a specific identification of any job requirement that is not met by the candidate, or of
any other ground for disqualification. The Personnel Officer’s review of the list of three shall not involve any ranking of eligible persons or other comparison of the qualifications of candidates, but, rather, shall be limited to a determination of whether any of the persons on the management official’s list fails to meet job requirements established by law. The management official may appoint any person from the list of three candidates whom the Personnel Officer has not identified as unqualified within two days of receiving the list of three candidates.

(2) A management official may fill a vacant position in his department, office, or other agency by promoting any regular employee therein without examination, if the employee meets the minimum class qualifications of the position to which he is to be promoted, and if the position is in the same series as the position held by the employee or is clearly an upward progression in the same career-ladder of positions; provided that a qualified employee who is a citizen of the Federated States of Micronesia shall be given preference for promotion over a noncitizen employee; and provided further, that when there is no material difference between the qualifications of employees holding the same
citizenship status, the employee with the longest public service will receive first consideration for promotion."

Section 2. 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: 8/30/04

Introduced by: /s/ Dohsis Halbert

Dohsis Halbert