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:

Section 1. Section 112 of title 52 of the Code of the Federated States of Micronesia, as amended by Public Law No. 11-81, is hereby further amended to read as follows:

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

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

(2) 'Base Salary' means the specific rate of pay for a given pay level and step as contained within the base salary schedule established by law. 'Base salary' does not include premiums under section 163 of this chapter, professional premiums, differentials under section 164 of this chapter, or transfer, travel per diem, or other similar allowances."
(3) 'Class' or 'class of positions' means a group of positions sufficiently similar so that all can reasonably be identified by the same title, be filled by applying the same qualification standards, and be equitably compensated by the same salary level. A class may consist of only one position or of any greater number of positions.

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

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

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

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

(8) 'Government of the Federated States of Micronesia' includes the Legislative, the Executive, and the Judicial Branches and the agencies of the Government of the Federated States of Micronesia.
(9) 'Management official' or 'management' means a person authorized to make appointments or changes in status of employees in the public services.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Market place premium. An employee who is recruited in a location outside the Federated States of Micronesia, who is a noncitizen of the Federated States of Micronesia, and at the time of original hire, a nonresident thereof, may be paid a premium based on labor market conditions in the [place] country of recruitment and on the level of the base salary. A
market-place premium may be paid if prevailing rates of pay for equivalent positions are substantially higher in the country of recruitment than in the Federated States of Micronesia. Upon request from the allottee of the funds from which the employee’s compensation is to be paid, the Secretary of the Department of Finance and Administration shall report to the allottee on the difference, insofar as it can best be estimated, between the prevailing rates in the Federated States of Micronesia and in the country of recruitment. The allottee may then determine what portion, if any, of the difference will be paid as a market-place premium. The amount of the premium determined by the allottee shall not be greater than 90% of the value of the employee’s base salary.

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

(3) Professional premium. An employee who has achieved advanced professional status in one of the following manners and who is employed in a position which requires or, [after a determination by the Director of Personnel], directly utilizes such
professional status may receive, in addition to the base salary of his position, a professional premium. [The professional statuses which qualify an employee for the premium are] The amount of professional premium to be paid, if any, shall be determined by the allottee of the funds from which the employee’s salary is to be paid based upon the employee’s education, experience and expertise. The amount of the premium determined by the allottee shall not be greater than 90% of the value of the employee’s base salary. To be eligible for such a professional premium, the employee must meet one or more of the following requirements:

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

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

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

[(d)(c) attainment of an earned professional certification or license authorizing the employee to]
practice public accountancy in any jurisdiction] full membership of one or more of the professional accountancy associations listed in the Public Service Regulations, as amended from time to time, or certification by the Public Auditor that the employee’s qualifications and experience are equivalent to those which would be required to obtain full membership of such an association. [from any authority recognized in the United States as a certified public accountant (CPA)];

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

[(e) attainment of an earned doctorate in any field.

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

Section 3. Section 207 of title 52 of the Code of the Federated States of Micronesia, as amended by Public Law No. 11-81, is hereby further amended to read as follows:
"Section 207. Compensation of employees who are not citizens of the [United States] Federated States of Micronesia.

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

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

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

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

Section 4. Section 208 of title 52 of the Code of the Federated States of Micronesia is hereby repealed in its entirety.
Section 5. 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: 10/13/04            Introduced by: /s/ Dohsis Halbert

Dohsis Halbert