A BILL FOR AN ACT

To amend and revise sections 3, 7, 17, and 26 of Public Law No. 1-47, the National Public Service System Act, as amended by Public Law No. 1-71, to create an independent Public Service Commission which will have primary responsibility for the maintenance of the Public Service System, and for other purposes.

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

1. Section 1. Section 3 of Public Law No. 1-47 is hereby amended to read as follows:

"Section 3. Definitions. In this act, unless the context requires otherwise, the following definitions shall apply:

1) "Public Service" means all offices and other positions in the central government of the Federated States of Micronesia not exempted by Section 8 of this act.

2) "Public Service Commission" means the five member body which has primary responsibility for the maintenance of the National Public Service System.

3) (3) "Personnel Officer" means the head of the Office of Personnel of the central government of the Federated States of Micronesia who serves as an employee of the Public Service Commission.

4) (4) "Employee" means a person holding a position in the Public Service, whether permanently or otherwise.

5) (5) "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.

6) (6) "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.

7) (7) "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.

(7)(8) "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.

(8)(9) "Promotional examination" means an examination for
positions in a particular class, admission to which is limited to
regular employees in the Public Service.

(9)(10) "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.

(10)(11) "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 qualifica-
tion requirements.

(11)(12) "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.

(12)(13) "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)(14) "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.

1117(15) "Eligible person" or "eligible" means a person whose name is on an active eligible list.

1117(16) "Management official" or "management" means a person authorized to make appointments or changes in status of employees in the Public Service.

1117(17) "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.

1117(18) "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 differentials or allowances for night work, transfer, overtime, holiday work, travel per diem, or other similar ones.

1117(19) "Adjusted base salary" means the total of base salary plus market place differential and foreign service differential. If an employee is not entitled to either of these differentials, his adjusted base salary means his base salary."

Section 2. Section 6 of Public Law No. 1-47 is hereby amended to read as follows:
Section 7. Public Service Commission.

(1) The Public Service Commission shall consist of five members, each of whom shall hold office for a term of four years and until his successor is appointed and qualified. The President shall nominate Commission members, whose nomination will be subject to the advice and consent of the Congress. Vacancies occurring in the Commission shall be filled by Presidential appointment for the remainder of the unexpired term only.

(2) The terms of office of two members of the first Public Service Commission shall be one year. The terms of office of the other members of the first Commission shall be two, three, and four years respectively. The members shall determine by lot the relative order
of the expiration of their terms, and by vote who the chairman
will be. The chairman shall serve in this capacity for a one-year
period.

(3) Persons nominated to the Commission may not be officers
or employees of the central government of the Federated States of
Micronesia. Persons nominated shall be of sound mind and mature
judgment.

(4) The Commission shall meet at least once every two months
at such times and places as its chairman specifies. Three members of
the Commission shall constitute a quorum for the transaction of
business. Decisions will be decided by a majority vote.

(5) All members of the Commission shall be entitled to necessary
travel expenses and to per diem at standard Federated States of
Micronesia central government rates while on the business of the
Commission. Commission members who are neither employees nor
officials of the Trust Territory Government or the governments of the
States of Kosrae, Pohnpei, Truk, or Yap shall, in addition, be paid
$30 per day while on the business of the Commission.

(6) The Commission shall:

(a) Be responsible for the administration of the system
of personnel administration for the central government of the
Federated States of Micronesia;

(b) Assign a qualified employee to prepare proposed
policies and regulations to carry out the provisions of this act;

(c) Assign a qualified employee to attend all meetings
of the ad hoc committees organized under Section 25(3) and provide
the committee with such technical advice as it may require;

(d) Appoint employees of the Office of Personnel in
accordance with all other applicable provisions of law;

(e) Assign a qualified employee to establish and main-
tain a current roster of all officers and employees in the Public
Service, indicating for each the class of position held, the salary,
and any other appropriate data;

(f) Assign a qualified employee to develop and maintain
a system of performance evaluation for the purpose of appraising the
productivity of employees in the Public Service;

(g) Assign a qualified employee to develop and maintain a
position classification plan and a pay plan in accordance with this
act and other applicable laws;

(h) Assign a qualified employee to develop and utilize
recruitment and selection procedures and methods;

(i) Assign a qualified employee to develop training
programs for the improvement of employee skills and for the develop-
ment of a systematic career program for employees who are citizens
of the Federated States of Micronesia; and

(j) Be responsible for carrying out the provisions and
purposes of this act."

Section 3. Section 17 of Public Law No. 1-47, as amended by Public Law
No. 1-71, is further amended to read as follows:

"Section 17. Compensation Plan.
(1) Salary Schedule. There shall be a single salary schedule for all employees and positions in the Public Service. The Personnel Officer shall assign each class of positions to an appropriate salary level of such schedule.

(2) Statutory Enactment. No salary schedule or change in any salary schedule for employees of the National Public Service System, except those excluded by the provisions of this act, shall be effective unless it shall have been enacted into law by the Congress of the Federated States of Micronesia.

(3) Periodic Review. The Personnel Officer shall periodically conduct necessary and appropriate studies of rates of compensation and pay-related practices in all geographic areas from which employees for the Public Service are normally recruited, and shall adopt such amendments to the existing compensation plan as he deems appropriate; PROVIDED that when the amendment includes changes in the salary schedule, the rates or nature of differentials or allowances, or other subjects covered in this act or in other laws, the Personnel Officer shall submit the recommendations to the Public Service Commission for review, approval, and further transmittal to the Congress for its consideration, and that such amendment shall become effective only after it has been enacted into law. In developing amendments, the Personnel Officer shall give consideration to:

(a) The minimum standard of living which is compatible with decency and health;

(b) The general economic conditions of the Federated
States of Micronesia:

(c) Compensation practices and conditions of appropriate labor markets;

(d) Conditions of employment in the National Public Service System;

(e) The financial resources estimated to be available to the central government of the Federated States of Micronesia; and

(f) Such other matters as the Personnel Officer may deem appropriate.

(4) Premiums. To recognize circumstances of employment which make it appropriate that recognition be given to labor market conditions outside the Trust Territory, the following premiums are provided to Public Service employees. When an employee is receiving a premium in addition to his base salary, the sum of his base salary plus premium shall constitute his adjusted base salary for the purpose of computing differentials.

(a) Market place premium. An employee who is recruited in a location outside the Trust Territory, who is a non-citizen of the Trust Territory and, at the time of original hire, a non-resident thereof, may be paid a premium based on labor market conditions in the place of recruitment and on the level of the base salary.

(b) Foreign service premium. An employee who is a citizen of the Trust Territory and who is assigned to a permanent duty station outside the Trust Territory may be paid a premium
based on labor market conditions in the place of assignment and on
the level of the base salary.

(5) **Differentials.** To compensate for unusual circumstances
of employment which create hardships for Public Service employees,
the following differentials are provided for them; PROVIDED that in
no case may an employee receive differentials under both paragraphs
(a) and (b) of this Subsection.

(a) **Night work differential.** An employee whose tour of
duty includes regularly scheduled hours falling between 7:00 p.m.
and 6:00 a.m. shall be paid a differential of fifteen percent of the
adjusted base salary for all hours falling within that period.

(b) **Hazardous work differential.** An employee whose position
entails unusual and extreme hazards to his health or safety shall be
paid a differential of twenty-five percent of the adjusted base salary
for all hours in which hazardous work is performed.

(c) **Overtime differential.** An employee shall be paid overtime
compensation at the rate of time and one-half of his adjusted
base salary for all time when he is directed to work and does work in
excess of eight hours in one day; or when he is directed to work and
does work on the sixth or seventh day of the workweek; PROVIDED that
he has first worked forty hours at straight time in the same workweek;
and PROVIDED FURTHER that over-time work performed on a holiday shall
be subject to Paragraph (d) of this Subsection.

(d) **Holiday differential.** An employee who is required to
work on a legal holiday shall be compensated at double his adjusted
base salary for all such hours worked.

(e) Typhoon emergency differential. Employees who are required to work in a location and a period in which a typhoon or other natural catastrophe has been declared by competent authority, and in which other government employees are released from work because of such conditions, shall be compensated for the hours worked while such emergency remains in force at the rate of two and one-half times the adjusted base salary. The differential provided in this Paragraph shall not limit the employee's right to any other differential or allowance to which he may otherwise be entitled by law or regulation.

(6) Transfer Allowance. To compensate employees for unusual expenses resulting from changes of work location, the following allowance is provided to Public Service employees: When an employee is recruited or transferred beyond normal commuting distance from his place of permanent residence for work elsewhere, he shall be entitled to all justifiable expenses connected with travel of himself and his immediate family to the new work location and transportation of a reasonable quantity of household effects. He shall be entitled to an allowance equal to per diem at the established rate for the new duty station for a period not exceeding fifteen calendar days from the date of entry into the new position.

(7) Performance Increase. When an employee's performance, as determined through an objective evaluation, has met accepted standards of productivity during a specified period, his base salary may be increased by one step in the appropriate level of the base
salary schedule. For an increase to step 2, 3, or 4, the required
period shall be 52 calendar weeks; for an increase to 5, 6, or 7,
the required period shall be 104 calendar weeks. No employee shall
have a base salary above the maximum step prescribed for his pay
level unless he was receiving such compensation on the effective
date of this Section."

Section 4. Section 26 of Public Law No. 1-47 is hereby amended to read
as follows:

"Section 26. Regulations. The Personnel Officer shall draft regula-
tions for personnel administration in the central government of the
Federated States of Micronesia, and shall submit such proposed
regulations, together with his comments and recommendations thereon,
to the Public Service Commission. The Public Service Commission, after considering the recommendations of the
Personnel Officer, shall promulgate personnel regulations in the
manner provided by law. When promulgated, such regulations shall
have the force and effect of law. They may relate to any matter not
inconsistent with law concerning the establishment and maintenance
of a system of personnel management based on merit principles, including
but not limited to matters set forth in this act, and may be amended
or repealed through the same procedure by which they were adopted or
by statute."

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.
C. B. No. 2-132

Date: 10/14/31

Introduced by:

[Signature]

Luke M. Tman