A BILL FOR AN ACT

To revise Title 77 of the Trust Territory Code, Taxation, by amending Section 251, as amended by Public Laws Nos. 1-83 and 2-23, and by adding a new Section 281 creating a surtax on the wages and salaries of public employees, and for other purposes.

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

Section 1. Section 251 of Title 77 of the Trust Territory Code, Taxation, as amended by Public Laws Nos. 1-83 and 2-23, is hereby further amended to read as follows:

"Section 251. Definitions. Wherever used in this Chapter, unless the subject matter, context, or sense otherwise requires:

(1) 'Employer' includes any individual, corporation, association, joint stock company, bank, insurance company, credit union, cooperative, or other entity or group employing any person, and also includes the Trust Territory President and States of Micronesia State and Local Governments and their agencies charged with the administration of United States Government and instrumentalities thereof any public employer.

(2) 'Public employer' includes the Trust Territory, Federated States of Micronesia, State and local governments and their agencies, charged with the disbursement of public monies as salaries or wages. 'Public employer' also includes the United States Government and instrumentalities thereof.

(27)(3) 'Employee' means any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee.

(4) 'Public employee' means any individual who is an employee of a public employer including any elected or
appointed official.

\{(33\{5\}\} 'Wages' or 'Salaries' means and includes commissions, fees, compensation, emoluments, bonuses, and every and all other kinds of compensation paid for, credited or attributable to personal services performed by an individual, which services have been performed by such person as an employee. Wages and salaries shall not include the following:

(a) Wages and salaries received from the United States by members of the Military or Naval Forces of the United States or the Armed Forces of the United States.

(b) Reasonable per diem and travel allowances to the extent that they do not exceed any comparable Trust Territory Government rates.

(c) Rental value of a home furnished to any employee or a reasonable rental allowance paid to any employee (to the extent such allowance is used by the employee to rent or provide a home).

(d) Any payment on account of sickness or accident disability, or any payment of medical or hospitalization expenses, made by an employer to or on behalf of an employee; PROVIDED, however, that normal wages or salaries paid to an employee for a period of time during which he is excused from work because of sickness shall not be excluded from wages and salaries under this Subsection.
(e) Any payment made to or on behalf of an employee or to his beneficiary from a trust or annuity.

(f) Remuneration paid in any medium other than cash to an employee for service not in the ordinary course of the employer's trade or business or for domestic service in a private home of an employer.

(g) Remuneration paid for casual or intermittent labor not performed in the ordinary course of the employer's trade or business and for not more than one week in each calendar month.

(h) Any payment in the form of a scholarship, fellowship, or stipend made to any employee while he is a full-time, bona fide student at an educational institution within the Trust Territory.

(i) Wages and salaries received by a minister of the gospel or clergyman from a religious group or organization.

(j) Wages and salaries received by an employee for services performed or rendered in the capacity of a domestic or household employee for a private individual or family.

(§6) 'Director' means the Director of the Department of Finance.

(§7) 'Month' means calendar month.

(§8) 'Year' means calendar year.

(§9) 'Gross Revenue' means the gross receipts, cash or accrued, of the taxpayer received as compensation for personal
services not in the form of salaries or wages as defined
in 77 TCG Section 251 (3), as amended, and the gross receipts
of the taxpayer derived from trade, business, commerce or
sales and the value proceeding or accruing from the sale of
tangible personal property, or service, or both,
and all receipts, actual or accrued by reason of the capital
of the business engaged in, including interest, rentals,
royalties, fees, or other emoluments however designated
and without any deductions on account of the cost of
property sold, the cost of materials used, labor cost, taxes
royalties, or interest paid or any other expenses whatsoever.
Gross revenue shall not include the following:
(a) refunds and rebates;
(b) monies held in a fiduciary capacity;
(c) income in the form of wages and salaries which
are taxed under other provisions of this Chapter;
(d) sale payments received for the sale of a
commercial aircraft, to the extent that such sale payments in
any quarter shall equal the rental payments made to the buyer
by the seller of such aircraft for its rental by the seller;
(e) rental payments received for the rental of a
commercial aircraft, to the extent that such rental payments
in any quarter shall equal the sale of payments made to the
lessor by lessee of such aircraft for its purchase by the
lessor; or
(f) cash discounts allowed and taken on sales, the proceeds of sale of goods, wares, or merchandise returned by customers when the sale price is refunded either in cash or by credit; or the sale price of any article accepted as part of payment of any new article sold, if the full sale price of a new article is included in 'gross revenue.'

§(10) 'Business' means any profession, trade, manufacture or other undertaking carried on for pecuniary profit and includes all activities whether personal, professional or incorporated, carried on within the Federated States of Micronesia for economic benefit either direct or indirect, and excludes casual sales, as determined by the Director, however, one who qualifies as an employee under this Section shall not be considered as a business. Copra production by unincorporated copra producers collectively or severally shall not be included as a business under this definition.

§(11) 'Military or Naval Forces of the United States' and 'Armed Forces of the United States' means all regular and reserve components of the uniformed services which are subject to the jurisdiction of the Secretary of the Army, Navy, or Air Force, and also includes Coast Guard.

§(12) 'Commercial aircraft' means any aircraft capable of any intended for use in commercial aviation.

§(13) 'Purchase payments' means payments on the actual selling price, including any interest, carrying charges or other
charges associated with a sale. As used herein, the word 'sale' implies a transfer of ownership of that which is sold in exchange for the purchase payments or promise thereof.

(I2)(16) 'Rental payments' means any payments made in exchange for use or rental, and includes interest, carrying charges or other charges associated with use or rental."

Section 2. Title 77 of the Trust Territory Code, Taxation, is hereby amended by adding a new Section 281 as follows:

"Section 281. National Surtax on wages and salaries of public employees.

(1) There shall be assessed, levied, collected, and paid a surtax on the tax imposed on wages and salaries in Section 252 of this Title. This surtax shall be levied only against the wages and salaries received by every public employee, as defined, from a public employer, as defined.

The surtax shall be 50 percent of the tax imposed upon the amount over the first $11,000 earned, 100 percent of the tax imposed upon the amount over the first $20,000 earned, and 150 percent of the tax imposed upon the amount over the first $30,000 earned.

(2) The surtax authorized by Subsection (1) of this Section shall be assessed, levied, and collected by the Director pursuant to the provisions of this Chapter."
Section 3. 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: October 26, 1981

Introduced by: John Haglelgam