

## 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.

19         (3) 'Class' or 'class of positions' means a group of

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

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

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

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

15          (7) 'Foreign service premium' means a premium as set  
16          forth under subsection 163(2) of this title.

17          (8) 'Government of the Federated States of Micronesia'  
18          includes the Legislative, the Executive, and the  
19          Judicial Branches and the agencies of the Government of  
20          the Federated States of Micronesia.

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

24          (10) 'Market place premium' means a premium as set

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1 forth under subsection 163(1) of this title.

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

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

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

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

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

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

1 service.

2 (17) 'Professional premium' means a premium as set  
3 forth under subsection 163(3) of this title.

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

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

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

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

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

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1           Section 2. Section 163 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 163. Premiums. To recognize circumstances of  
5 employment which make it appropriate that consideration  
6 be given to labor market conditions outside the  
7 Federated States of Micronesia, and to recognize and  
8 reward the attainment of certain advanced professional  
9 status, the following premiums are provided to public  
10 service employees:

11           (1) Market place premium. An employee who is  
12 recruited in a location outside the Federated States of  
13 Micronesia, who is a noncitizen of the Federated States  
14 of Micronesia, and at the time of original hire, a  
15 nonresident thereof, may be paid a premium based on  
16 labor market conditions in the country of recruitment  
17 and on the level of the base salary. A market-place  
18 premium may be paid if prevailing rates of pay for  
19 equivalent positions are substantially higher in the  
20 country of recruitment than in the Federated States of  
21 Micronesia. Upon request from the allottee of the funds  
22 from which the employee's compensation is to be paid,  
23 the Secretary of the Department of Finance and  
24 Administration shall report to the allottee on the

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1           difference, insofar as it can best be estimated, between  
2           the prevailing rates in the Federated States of  
3           Micronesia and in the country of recruitment. The  
4           allottee may then determine what portion, if any, of the  
5           difference will be paid as a market-place premium. The  
6           amount of the premium determined by the allottee shall  
7           not be greater than 90% of the value of the employee's  
8           base salary.

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

14          (3) Professional premium. An employee who has  
15          achieved advanced professional status in one of the  
16          following manners and who is employed in a position  
17          which requires or, directly utilizes such professional  
18          status may receive, in addition to the base salary of  
19          his position, a professional premium. The amount of  
20          professional premium to be paid, if any, shall be  
21          determined by the allottee of the funds from which the  
22          employee's salary is to be paid based upon the  
23          employee's education, experience and expertise. The  
24          amount of the premium determined by the allottee shall

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1           not be greater than 90% of the value of the employee's  
2           base salary. To be eligible for such a professional  
3           premium, the employee must meet one or more of the  
4           following requirements:

5                 (a) attainment of an earned degree in law from a  
6                 law school accredited by the competent authority in the  
7                 jurisdiction in which it operates, and admission either  
8                 to the FSM Supreme Court Bar or to practice law in  
9                 another jurisdiction;

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

12                 (c) full membership of one or more of the  
13                 professional accountancy associations listed in the  
14                 Public Service Regulations, as amended from time to  
15                 time, or certification by the Public Auditor that the  
16                 employee's qualifications and experience are equivalent  
17                 to those which would be required to obtain full  
18                 membership of such an association;

19                 (d) attainment of an earned degree in engineering  
20                 upon completion of a four-year course of study from a  
21                 college, university or educational institution which is  
22                 accredited by the competent authority in the  
23                 jurisdiction in which the college, university or  
24                 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."

7           Section 3. Section 207 of title 52 of the Code of the  
8 Federated States of Micronesia, as amended by Public Law No. 11-  
9 81, is hereby further amended to read as follows:

"Section 207. Compensation of employees who are not  
citizens of the Federated States of Micronesia.

(1) Employees who are not citizens of the 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 Federated States of Micronesia and who are not covered by the provisions of subsection (1) of this section shall

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1 receive the same base salary and shall be eligible for  
2 the same premiums, differentials, and allowances as  
3 employees who are citizens of the Federated States of  
4 Micronesia in like positions."

5 Section 4. Section 208 of title 52 of the Code of the  
6 Federated States of Micronesia is hereby repealed in its entirety.

7 Section 5. This act shall become law upon approval by the  
8 President of the Federated States of Micronesia or upon its  
9 becoming law without such approval.

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December 22, 2004

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/s/ Joseph J. Urusemal

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Joseph J. Urusemal

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President

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Federated States of Micronesia

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