

A BILL FOR AN ACT

To further amend title 52 of the Code of the Federated States of Micronesia, as amended, by amending sections 117 and 509 to exempt employees of the National Weather Service from the National Public Service System, to remove extraneous references to the National Weather Service in title 52, and for other purposes.

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

1           Section 1.   Section 117 of title 52 of the Code of the  
2 Federated States of Micronesia, as amended by Public Laws Nos. 11-  
3 81, 13-8 and 13-78, is hereby further amended to read as follows:

4           "Section 117.   Application of chapter: Exemptions.

5           The National Public Service System shall apply to all  
6 employees of and positions in the Government of the  
7 Federated States of Micronesia now existing or hereafter  
8 established and to all personnel services for that  
9 Government except the following, unless this chapter or  
10 provisions thereof are specifically made applicable to  
11 them:

12           (1) Members of the Congress of the Federated States of  
13 Micronesia;

14           (2) The President and Vice President of the Federated  
15 States of Micronesia;

16           (3) Justices and other Judges of the National Courts;

17           (4) the legislative counsel, deputy legislative  
18 counsel, director of administration and budget, budget  
19 officer, administrator and the clerk of the Congress;

- 1           (5) the Public Auditor;
- 2           (6) the administrative officer of the National Courts;
- 3           (7) the special assistants and secretaries to the
- 4 President and Vice President and the secretaries to the
- 5 Speaker, and Vice Speaker of the Congress of the
- 6 Federated States of Micronesia;
- 7           (8) persons appointed by the President to fill the
- 8 following positions: Secretary of the Department of
- 9 Foreign Affairs, Secretary of the Department of Finance,
- 10 Secretary of the Department of Economic Affairs,
- 11 Secretary of the Department of Transportation,
- 12 Communication and Infrastructure, Secretary of the
- 13 Department of Health, Education and Social Affairs,
- 14 Secretary of the Department of Justice, and the Chief
- 15 Public Defender, and their deputies, if any;
- 16           (9) persons appointed to any other positions by the
- 17 President with the advice and consent of the Congress;
- 18           (10) the Representative in Washington and all
- 19 ambassadors;
- 20           (11) persons or organizations retained by contract when
- 21 the Personnel Officer has certified that the service to
- 22 be performed is special or unique and nonpermanent and
- 23 is essential to the public interest, and that, because
- 24 of the degree of expertise or special knowledge required
- 25 and the nature of the services to be performed, it would

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1 not be practical to obtain personnel to perform such  
2 services through normal public service recruitment  
3 procedures;

4 (12) persons presently under contract of employment not  
5 included in subsection (11) of this section, during the  
6 life of such contract. No contract of employment shall  
7 be entered into, renewed, or amended after the effective  
8 date of this chapter, except in accordance with the  
9 provisions of this chapter;

10 (13) temporary positions, required in the public  
11 interest, for which the need does not exceed six months;

12 (14) positions requiring part-time or intermittent work  
13 which does not exceed sixty hours in any calendar month;

14 (15) positions filled by inmates, patients, and  
15 students of institutions of the Federated States of  
16 Micronesia;

17 (16) members of any board, public corporation,  
18 commission, or similar body, in their capacity as such;

19 (17) officers, faculty, and employees of the Board of  
20 Regents and the College of Micronesia;

21 (18) employees of the National Weather Service;

22 (19) positions specifically exempted by any other law  
23 of the Federated States of Micronesia."

24 Section 2. Section 509 of title 52 of the Code of the  
25 Federated States of Micronesia, as enacted by Public Law No. 9-155

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1 and amended by Public Laws Nos. 10-62, 10-118, 10-151, 11-41, 11-  
2 52 and 13-43, is hereby further amended to read as follows:

3 "Section 509. Freeze on salary increases; compensatory  
4 time and overtime compensation. Notwithstanding any  
5 other applicable law, there is hereby enacted:

6 (1) a freeze on annual salary step increases of all  
7 employees in the public service system; and

8 (2) compensatory time, with which employees in the  
9 public service system shall be credited in lieu of  
10 receiving overtime compensation as otherwise authorized  
11 under the National Public Service System Act and  
12 regulations promulgated thereunder. Compensatory time  
13 means those hours authorized in advance and worked by an  
14 employee outside established work hours and for which  
15 the employee is credited with one hour in the form of  
16 leave with pay for each hour of work an employee is  
17 directed to work and performs in excess of the regular  
18 40 hour workweek as provided by law. Compensatory time  
19 shall be accrued by National Government public service  
20 employees and shall be included in the compensation  
21 received by a program participant pursuant to subsection  
22 (4) (c) of section 506 of this chapter; except that any  
23 accumulation of time in excess of 280 hours shall be  
24 forfeited unless taken before the end of the calendar  
25 year in which the excess was accumulated. For purposes

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1 of computing whether a program employee's accrued  
2 compensatory and/or annual leave hours are in excess of  
3 280 hours, accrued compensatory time and annual leave  
4 shall be included in computing the 280-hour ceiling.

5 (3) Notwithstanding the provisions of this section, an  
6 employee shall be entitled to receive overtime  
7 differential, retroactive to the effective date of  
8 Public Law No. 9-155, as authorized under the National  
9 Public Service System Act, for:

10 (a) time worked in the event that the National  
11 Government would be entitled to compensation for payment  
12 of such differential under section 115 of title 50 and  
13 section 416 of title 22;

14 (b) time worked in the event that the National  
15 Government would be entitled to compensation for payment  
16 of such differential through a written agreement with a  
17 legal entity that seeks to provide relief from emergency  
18 conditions, as long as the time worked is directly  
19 related to efforts to provide emergency relief, in  
20 accordance with an emergency declared by the President  
21 under article X, section 9, of the Constitution of the  
22 Federated States of Micronesia;

23 (c) time worked in the event that the National  
24 Government would be entitled to compensation for payment  
25 of such differential through a written agreement with

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1 the Water Users Corporation, as long as the time worked  
2 is directly related to management and maintenance of the  
3 Capital Water System; or

4 (d) time worked as follows:

5 (i) by personnel within the Division of  
6 Budget in preparation of the annual budget submission at  
7 the discretion of the Secretary of the Department of  
8 Finance and Administration;

9 (ii) by accounting personnel with the  
10 Division of Treasury in preparing the annual financial  
11 statements for the FSM National Government, at the  
12 discretion of the Secretary of the Department of Finance  
13 and Administration;

14 (iii) by accounting personnel within the  
15 Division of Treasury in preparing reports pursuant to  
16 section 226 of title 55 of the Code of the Federated  
17 States of Micronesia, or a successor provision, at the  
18 discretion of the Secretary of the Department of Finance  
19 and Administration. Notwithstanding section 164 of this  
20 title, persons working hours entitling them to overtime  
21 differential pursuant to paragraph (d) of subsection (3)  
22 of this section shall receive compensation at straight  
23 time for those hours.

24 ~~[(4) Notwithstanding other provisions of this section,~~  
25 ~~the employees of the National Weather Services may~~

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1           ~~receive annual increments retroactive to the effective~~  
2           ~~date of Public Law No. 9-155.]"~~

3           Section 3. This act shall become law upon approval by the  
4 President of the Federated States of Micronesia or upon its  
5 becoming law without such approval.

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7 Date: 9/13/05

Introduced by: /s/ Isaac V. Figir  
Isaac V. Figir

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