A BILL FOR AN ACT

To further amend title 52 of the Code of the Federated States of Micronesia, as amended, by amending section 509 thereof to authorize overtime compensation to employees of the National Police for work done during certain emergencies and special operations, and for other purposes.

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

1. Section 1. Section 509 of title 52 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 10-62, 10-118, 10-151, 11-41, 11-52 and 13-43, is hereby further amended to read as follows:

"Section 509. Freeze on salary increases; compensatory time and overtime compensation.

(1) Notwithstanding any other applicable law, there is hereby enacted:

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

(b) compensatory time, with which employees in the public service system shall be credited in lieu of receiving overtime compensation as otherwise authorized under the National Public Service System Act and regulations promulgated thereunder. Compensatory time means those hours authorized in advance and worked by an employee outside established work hours and for which the employee is credited with one hour in the form of
leave with pay for each hour of work an employee is
directed to work and performs in excess of the regular
40 hour workweek as provided by law. Compensatory time
shall be accrued by National Government public service
employees and shall be included in the compensation
received by a program participant pursuant to subsection
(4)(c) of section 506 of this chapter; except that any
accumulation of time in excess of 280 hours shall be
forfeited unless taken before the end of the calendar
year in which the excess was accumulated. For purposes
of computing whether a program employee's accrued
compensatory and /or annual leave hours are in excess of
280 hours, accrued compensatory time and annual leave
shall be included in computing the 280-hour ceiling.

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

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

(b) time worked in the event that the National
Government would be entitled to compensation for payment
of such differential through a written agreement with a
legal entity that seeks to provide relief from emergency
conditions, as long as the time worked is directly
related to efforts to provide emergency relief, in
accordance with an emergency declared by the President
under article X, section 9, of the Constitution of the
Federated States of Micronesia;
(c) time worked in the event that the National
Government would be entitled to compensation for payment
of such differential through a written agreement with
the Water Users Corporation, as long as the time worked
is directly related to management and maintenance of the
Capital Water System; or
(d) time worked as follows:
(i) by personnel within the Division of
Budget in preparation of the annual budget submission at
the discretion of the Secretary of the Department of
Finance and Administration;
(ii) by accounting personnel within the
Division of Treasury in preparing the annual financial
statements for the FSM National Government, at the
discretion of the Secretary of the Department of Finance
and Administration;
(iii) by accounting personnel within the
Division of Treasury in preparing reports pursuant to
section 226 of title 55 of the Code of the Federated States of Micronesia, or a successor provision, at the discretion of the Secretary of the Department of Finance and Administration. [Notwithstanding section 164 of this title, persons working hours entitling them to overtime differential pursuant to paragraph (d) of subsection (3) of this section shall receive compensation at straight time for those hours.]

(iv) by employees of the National Police in response to a call from the President of the Federated States of Micronesia for them to stand duty during an emergency, or a threat of an emergency, not subsequently declared as an imminent emergency under article X, section 9 of the Constitution of the Federated States of Micronesia, or during special operations approved by the President of the Federated States of Micronesia, provided that such Special Operations shall be limited to activities approved by the President in advance as necessary for the safety, health and welfare of citizens or visitors to the Federated States of Micronesia.

(3)[(4)] Notwithstanding other provisions of this section, the employees of the National Weather Services may receive annual increments retroactive to the effective date of Public Law No. 9-155

(4) Notwithstanding the provisions of section 164 of
this title, persons working hours entitling them to an
overtime differential pursuant to paragraph (d) of
subsection (2) of this section shall receive
compensation at straight time for those hours."

Section 2. 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: 12/13/04  Introduced by: /s/ Dohsis Halbert

Dohsis Halbert