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

"Section 117. Application of chapter: Exemptions.
The National Public Service System shall apply to all employees of and positions in the Government of the Federated States of Micronesia now existing or hereafter established and to all personnel services for that Government except the following, unless this chapter or provisions thereof are specifically made applicable to them:

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

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

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

(4) the legislative counsel, deputy legislative counsel, director of administration and budget, budget officer, administrator and the clerk of the Congress;
(5) the Public Auditor;

(6) the administrative officer of the National Courts;

(7) the special assistants and secretaries to the President and Vice President and the secretaries to the Speaker, and Vice Speaker of the Congress of the Federated States of Micronesia;

(8) persons appointed by the President to fill the following positions: Secretary of the Department of Foreign Affairs, Secretary of the Department of Finance, Secretary of the Department of Economic Affairs, Secretary of the Department of Transportation, Communication and Infrastructure, Secretary of the Department of Health, Education and Social Affairs, Secretary of the Department of Justice, and the Chief Public Defender, and their deputies, if any;

(9) persons appointed to any other positions by the President with the advice and consent of the Congress;

(10) the Representative in Washington and all ambassadors;

(11) persons or organizations retained by contract when the Personnel Officer has certified that the service to be performed is special or unique and nonpermanent and is essential to the public interest, and that, because of the degree of expertise or special knowledge required and the nature of the services to be performed, it would...
not be practical to obtain personnel to perform such
services through normal public service recruitment
procedures;

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

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

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

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

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

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

(18) employees of the National Weather Service;

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

Section 2. Section 509 of title 52 of the Code of the
Federated States of Micronesia, as enacted by Public Law No. 9-155
and 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. Notwithstanding any other applicable law, there is hereby enacted:

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

(2) 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.

(3) 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 with 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.

[(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."

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: 9/13/05

Introduced by: /s/ Isaac V. Figir

Isaac V. Figir