

A BILL FOR AN ACT

To further amend Title 52 of the Code of the Federated States of Micronesia, as amended, by amending section 117 and 509, to exempt National Weather Services employees from the Public Service System Act, to permit compensation for hours worked beyond regular hours to food inspectors and National Police officer, 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. 5-  
3 21, 11-81, 13-8 and 13-78, is hereby 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 central Government of  
7 the Federated States of Micronesia now existing or  
8 hereafter established and to all personnel services  
9 performed for that Government except the following,  
10 unless this chapter or provisions thereof are  
11 specifically made applicable to 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, budget officer, and the Clerk of the Congress;

19           (5) the Public Auditor;

- 1           (6) the administrative officer of the National Courts;
- 2           (7) the special assistants and secretaries to the
- 3 President and Vice President;
- 4           (8) persons appointed by the President to fill the
- 5 following positions: Secretary of External Affairs,
- 6 Secretary of Finance, Secretary of Resources and
- 7 Development, Secretary of Transportation, Secretary of
- 8 Human Resources, Budget Officer, National Planner,
- 9 Director of Administrative Services, Attorney General,
- 10 and Public Defender, and their deputies, if any;
- 11          (9) persons appointed to any other positions by the
- 12 President with the advice and consent of the Congress;
- 13          (10) the Representative in Washington and all
- 14 ambassadors;
- 15          (11) persons or organizations retained by contract when
- 16 the Personnel Officer has certified that the service to
- 17 be performed is special or unique and nonpermanent and
- 18 is essential to the public interest, and that, because
- 19 of the degree of expertise or special knowledge required
- 20 and the nature of the services to be performed, it would
- 21 not be practical to obtain personnel to perform such
- 22 services through normal public service recruitment
- 23 procedures;
- 24          (12) persons presently under contract of employment not
- 25 included in subsection (11) of this section, during the

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1 life of such contract. No contract of employment shall  
2 be entered into, renewed, or amended after the effective  
3 date of this chapter, except in accordance with the  
4 provisions of this chapter;

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

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

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

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

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

16 (18) positions specifically exempted by any other law  
17 of the Federated States of Micronesia[-] .

18 (19) all personnel of the National Weather Service,  
19 provided that the National Weather Service shall be  
20 administered by the Office of the President."

21 Section 2. Section 509 of title 52 of the Code of the  
22 Federated States of Micronesia, as amended, by Public Laws Nos.  
23 10-62, 10-118, 10-151, 11-41, and 11-52, is hereby amended to  
24 read as follows:

25 "Section 509. Freeze on salary increases; compensatory time

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1           and overtime compensation. Notwithstanding any other  
2           applicable law, there is hereby enacted:

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

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

1 shall be included in computing the 280-hour ceiling.

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

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

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

20 (c) time worked in the event that the National  
21 Government would be entitled to compensation for payment  
22 of such differential through a written agreement with  
23 the Water Users Corporation, as long as the time worked  
24 is directly related to management and maintenance of the  
25 Capital Water System; or

1 (d) time worked as follows:

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

6 (ii) by accounting personnel within the  
7 Division of Treasury in preparing the annual financial  
8 statements for the FSM National Government, at the  
9 discretion of the Secretary of the Department of Finance  
10 and Administration;

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

21 (4) Notwithstanding the provisions of this section,  
22 the following employees shall be entitled to receive  
23 overtime differential as authorized under the National  
24 Public Service System Act, except that overtime  
25 compensation shall be at the rate of straight time

1           instead of time and one-half:

2                   (a) food inspectors as designated pursuant to  
3           Title 41 of the Code of the Federated States of  
4           Micronesia;

5                   (b) officers of the Division of the National  
6           Police of the Department of Justice on occasions  
7           approved by the President.

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

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12          Date: 1/25/06

Introduced by: /s/ Simiram Sipenuk  
Simiram Sipenuk  
(by request)

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