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A BILL FOR AN ACT

To further amend title 52 of the Code of the Federated States of Micronesia, as amended, by further amending section 164 thereof, as amended by Public Laws Nos. 10-62 and 10-96, and by further amending section 509, as amended by Public Laws Nos. 10-62 and 10-118, for the purpose of replacing compensatory time with straight time as compensation for excess hours, and for other purposes.

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

1           Section 1. Section 164 of title 52 of the Code of the  
2 Federated States of Micronesia, as amended by Public Laws  
3 Nos. 9-155, 10-62 and 10-96, is hereby further amended to  
4 read as follows:

5                   "Section 164. Differentials.

6                   To compensate for unusual circumstances of  
7 employment which create hardships for public  
8 service employees, the following differentials are  
9 provided for them; provided that in no case may an  
10 employee receive differentials under both  
11 subsections (1) and (2) of this section:

12                           (1) Night work differential. An  
13 employee whose tour of duty includes regularly  
14 scheduled hours falling between 7 p.m. and 6 a.m.  
15 shall be paid a differential of fifteen percent of  
16 the adjusted base salary for all hours falling  
17 within that period.

18                           (2) Hazardous work differential. An  
19 employee whose position entails unusual and  
20 extreme hazards to his health or safety shall be  
21 paid a differential of twenty-five percent of the  
22 adjusted base salary for all hours in which  
23 hazardous work is performed.

24                           ~~[(3) Overtime differential. If an~~  
25 ~~employee is eligible to receive overtime~~

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1           ~~compensation under section 509 of title 52, he~~  
2           ~~shall be paid overtime compensation at the rate of~~  
3           ~~time and one half of his adjusted base salary for~~  
4           ~~all time when he is directed to work and does work~~  
5           ~~in excess of eight hours in one day, or when he is~~  
6           ~~directed to work and does work on the sixth or~~  
7           ~~seventh day of the work week, provided that he has~~  
8           ~~first worked forty hours at straight time in the~~  
9           ~~same work week; and provided further, that~~  
10          ~~overtime work performed on a holiday shall be~~  
11          ~~subject to subsection (4) of this section.]~~

12                    ~~(4)~~(3)   Holiday differential. An  
13           employee who is required to work on a legal  
14           holiday shall be compensated at double his  
15           adjusted base salary for all such hours worked.

16                    ~~(5)~~(4)   Typhoon emergency  
17           differential. Employees who are required to work  
18           in a location and a period in which a typhoon or  
19           other natural catastrophe has been declared by  
20           competent authority, and in which other Government  
21           employees are released from work because of such  
22           conditions, shall be compensated for the hours  
23           worked while such emergency remains in force at  
24           the rate of two and one-half times the adjusted  
25           base salary. The differential provided in this

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1 subsection shall not limit the employee's right to  
2 any other differential or allowance to which he  
3 may otherwise be entitled by law or regulations.

4 [~~6~~] (5) Sea duty differential. An  
5 employee of the Maritime Wing of the National  
6 Police shall be paid his adjusted base salary plus  
7 a differential of ten percent of his adjusted base  
8 salary for all hours actually worked, up to but  
9 not in excess of eight hours per day, in any day  
10 or fraction thereof, including the sixth and  
11 seventh day of the work week, that he is on duty  
12 at sea. No compensation, regular or overtime, no  
13 differential of any sort, and no compensatory time  
14 shall be due for any additional hours worked in  
15 any such day, regardless of how many hours the  
16 employee was actually required to work in that  
17 day. Hours actually worked while at sea, up to  
18 but not in excess of eight hours per day, shall  
19 count as straight time hours for the purpose of  
20 determining compensatory time, if any, in a work  
21 week spent partially at sea and partially not at  
22 sea. The holiday differential shall apply in lieu  
23 of the sea duty differential while at sea on a  
24 holiday. The hazardous work differential shall  
25 apply in addition to the sea duty differential

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1 while at sea, provided that being at sea does not  
2 in and of itself constitute hazardous work. The  
3 typhoon emergency differential shall not apply  
4 while at sea."

5 Section 2. Section 509 of title 52, as amended by  
6 Public Laws Nos. 10-62 and 10-118, is hereby further amended  
7 to read as follows:

8 "Section 509. Freeze on salary increases;  
9 [compensatory time and] overtime compensation.

10 Notwithstanding any other applicable law, there is  
11 hereby enacted:

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

14 (2) Compensation at straight time for hours  
15 worked in excess of eight hours a day or forty  
16 hours a week, except as provided by section 167 of  
17 this title or subsection (3) herein.

18 ~~[Compensatory time, with which employees in the~~  
19 ~~public service shall be credited in lieu of~~  
20 ~~receiving overtime compensation as otherwise~~  
21 ~~authorized under the National Public Service Act~~  
22 ~~and regulations promulgated thereunder.~~

23 ~~Compensatory time means those hours authorized in~~  
24 ~~advance and worked by an employee outside~~  
25 ~~established work hours and for which the employee~~

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1 ~~is credited with one hour in the form of leave~~  
2 ~~with pay for each hour of work an employee is~~  
3 ~~directed to and performs work in excess of the~~  
4 ~~regular 40-hour workweek as provided by law.~~  
5 ~~Compensatory time shall be accrued by National~~  
6 ~~Government public service employees and shall be~~  
7 ~~included in the compensation received by a program~~  
8 ~~participant pursuant to subsection (4)(c) of~~  
9 ~~section 506 of this chapter, except that any~~  
10 ~~accumulation of time in excess of 280 hours shall~~  
11 ~~be forfeited unless taken before the end of the~~  
12 ~~calendar year in which the excess was accumulated.~~  
13 ~~For purposes of computing whether a program~~  
14 ~~employee's accrued compensatory and/or annual~~  
15 ~~leave hours are in excess of 280 hours, accrued~~  
16 ~~compensatory time and annual leave shall be~~  
17 ~~included in computing the 280-hour ceiling.]~~

18 (3) ~~[Notwithstanding the provisions of this~~  
19 ~~section, a]~~An employee shall be entitled to  
20 receive overtime differential at the rate of time  
21 and one-half of his adjusted base salary, pursuant  
22 to regulation for hours authorized to work and  
23 actually worked in excess of eight in one day or  
24 forty in one week, retroactive to the effective  
25 date of Public Law No. 9-155 ~~[with respect to~~

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1           ~~paragraphs (a), (b) and (c), as authorized under~~  
2           ~~the National Public Service System Act], for:~~

3                       (a) time worked in the event that the  
4           National government would be entitled to  
5           compensation for payment of such differential  
6           under section 115 of title 50; or

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

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

25                      ~~[(d) time worked as follows:~~

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1                   ~~(i) by personnel within the Division of~~  
2                   ~~Budget in preparation of the annual budget~~  
3                   ~~submission in the thirty day period prior to April~~  
4                   ~~1;~~

5                   ~~(ii) by accounting personnel within the~~  
6                   ~~Division of Treasury in preparing the annual~~  
7                   ~~financial statements for the FSM National~~  
8                   ~~Government, during the period from November 1~~  
9                   ~~to December 31 of each year;~~

10                   ~~(iii) by accounting personnel within the~~  
11                   ~~Division of Treasury in preparing reports pursuant~~  
12                   ~~to section 226 of title 55 of the Code of the~~  
13                   ~~Federated States of Micronesia, or a successor~~  
14                   ~~provision, during the fifteen day periods leading~~  
15                   ~~up to May 1 and November 1 of each year.~~  
16                   ~~Notwithstanding section 164 of this title, persons~~  
17                   ~~working hours entitling them to overtime~~  
18                   ~~differential pursuant to paragraph (d) of~~  
19                   ~~subsection (3) of this section shall receive~~  
20                   ~~compensation at straight time for those hours.]~~

21                   Provided, however, that an employee performing  
22                   such overtime work on a holiday shall be entitled  
23                   to holiday differential in lieu of overtime  
24                   differential."

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