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
   (42) Overtime differential. If an
25   employee is eligible to receive overtime
compensation under section 509 of title 52, he shall be paid overtime compensation at the rate of time and one-half of his adjusted base salary for all time when he is directed to work and does work in excess of eight hours in one day, or when he is directed to work and does work on the sixth or seventh day of the work week, provided that he has first worked forty hours at straight time in the same work week, and provided further, that overtime work performed on a holiday shall be subject to subsection (4) of this section.]

{[4],[3] Holiday differential. An employee who is required to work on a legal holiday shall be compensated at double his adjusted base salary for all such hours worked.

{[5],[4] Typhoon emergency differential. Employees who are required to work in a location and a period in which a typhoon or other natural catastrophe has been declared by competent authority, and in which other Government employees are released from work because of such conditions, shall be compensated for the hours worked while such emergency remains in force at the rate of two and one-half times the adjusted base salary. The differential provided in this
subsection shall not limit the employee's right to
any other differential or allowance to which he
may otherwise be entitled by law or regulations.

employee of the Maritime Wing of the National
Police shall be paid his adjusted base salary plus
a differential of ten percent of his adjusted base
salary for all hours actually worked, up to but
not in excess of eight hours per day, in any day
or fraction thereof, including the sixth and
seventh day of the work week, that he is on duty
at sea. No compensation, regular or overtime, no
differential of any sort, and no compensatory time
shall be due for any additional hours worked in
any such day, regardless of how many hours the
employee was actually required to work in that
day. Hours actually worked while at sea, up to
but not in excess of eight hours per day, shall
count as straight time hours for the purpose of
determining compensatory time, if any, in a work
week spent partially at sea and partially not at
sea. The holiday differential shall apply in lieu
of the sea duty differential while at sea on a
holiday. The hazardous work differential shall
apply in addition to the sea duty differential
while at sea, provided that being at sea does not
in and of itself constitute hazardous work. The
typhoon emergency differential shall not apply
while at sea."
Section 2. Section 509 of title 52, as amended by
Public Laws Nos. 10-62 and 10-118, 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) Compensation at straight time for hours
worked in excess of eight hours a day or forty
hours a week, except as provided by section 167 of
this title or subsection (3) herein.
(Compensatory time, with which employees in the
public service shall be credited in lieu of
receiving overtime compensation as otherwise
authorized under the National Public Service 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 and performs work 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)(e) of
section 506 of this chapter, except that any
accumulation of time in excess of 200 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 200 hours, accrued
compensatory time and annual leave shall be
included in computing the 200-hour ceiling.)

(3) [Notwithstanding the provisions of this
section, an employee shall be entitled to
receive overtime differential at the rate of time
and one-half of his adjusted base salary, pursuant
to regulation for hours authorized to work and
actually worked in excess of eight in one day or
forty in one week, retroactive to the effective
date of Public Law No. 9-155 [with respect to
paragraphs (a), (b) and (c), 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; or

(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.

[(d) time worked as follows:}
(i) by personnel within the Division of Budget in preparation of the annual budget submission in the thirty-day period prior to April

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

(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, during the fifteen-day periods leading up to May 1 and November 1 of each year.

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.

Provided, however, that an employee performing such overtime work on a holiday shall be entitled to holiday differential in lieu of overtime differential.
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: 11-11-98

Introduced by: Nishiye E. Reizah