A BILL FOR AN ACT

To further amend section 509 of title 52 of the Code of the Federated States of Micronesia, as amended by Public Laws No. 10-62, 10-118, 10-151, 11-41, 11-52, 13-43, and 14-73, to grant overtime differential to attorneys and staff members of the Department of Justice for overtime work performed in connection with urgent work assignments including a Congressional and a court session, 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, 13-43, and 14-73, 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 along 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.

(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. 9-115.

(5) Notwithstanding the provisions of this section, the following employees shall be entitled to receive overtime differential as authorized under the National Public Service System Act, except that overtime compensation shall be at the rate of straight time instead of time and one-half:

(a) food inspectors as designated pursuant to title 41 of the Code of the Federated States of Micronesia;

(b) officers of the Division of National
Police of the Department of Justice.

(6) Notwithstanding the provisions of this section, attorneys and staff members assisting the attorneys in the Department of Justice shall be entitled to overtime differential with the approval of the Secretary of the Department of Justice, for overtime work performed pursuant to urgent work assignments, including in connection with Congressional and Court sessions, or as may be directed by the President. The overtime differential may be retroactive in application as provided by law."

Section 2. Repealer. Any provision of law, regulation, or contract, or any written procedure or policy that is inconsistent with this act is deemed amended or superseded or repealed to the extent of inconsistency.

Section 3. Effective date. 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: 11/17/10 Introduced by: Joe N. Suka
Joe N. Suka
(by request)