

STANDING COMMITTEE REPORT NO. 22-38

RE: J&GO/C.B. NO. 22-147

SUBJECT: INCREASE IN THE BASE SALARY OF ALL
NATIONAL GOVERNMENT EMPLOYEES UNDER THE
PUBLIC SERVICE SYSTEM AT ALL PAY AND
STEP LEVELS

JULY 20, 2022

The Honorable Wesley W. Simina
Speaker, Twenty-Second Congress
Federated States of Micronesia
Fifth Special Session, 2022

Dear Mr. Speaker:

Your Committee on Judiciary and Governmental Operations to which
was referred C.B. No. 22-147, entitled:

"A BILL FOR AN ACT TO AMEND SECTION 205 OF TITLE 52
OF THE CODE OF THE FEDERATED STATES OF MICRONESIA
(ANNOTATED), AS AMENDED, FOR THE PURPOSE OF
INCREASING THE BASE SALARY SCHEDULE OF FSM NATIONAL
GOVERNMENT EMPLOYEES, AND FOR OTHER PURPOSES.",

begs leave to report as follows:

The intent and purpose of this bill are expressed in the title.

On June 10, 2022 the Committee on Judiciary and Governmental
Operations held a hearing on C.B. No. 22-147 and other Public
Service System bills, C.B. No. 22-78, C.B. No. 22-139, C.B. No.
22-145, and C.B. No. 22-162. The purpose of C.B. No. 22-147 is
to double the base salary (100% salary increase) of all National
Government employees under the Public Service System ("PSS")
employees.

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SUMMARY OF COMMITTEE ON JUDICIARY AND GOVERNMENTAL OPERATIONS
JUNE 10, 2022 HEARING TESTIMONY RELEVANT TO C.B. No. 22-147:

J&GO Committee Members present at the June 10, 2022 hearing:
Chairman Robson U. Romolow and Senator Isaac V. Figir.

Non-J&GO Committee Members present at the June 10, 2022 hearing:
Senator Joseph J. Urusemal, Senator Victor V. Gouland, and Vice
Speaker Esmond B. Moses.

The witnesses present at the June 10, 2022 J&GO Committee
hearing to testify were: Department of Justice Attorney General
Joses R. Gallen, Department of Finance & Administration
Assistant Secretary John Sohs, Office of Personnel Director
Samson Pretrick, FSM Supreme Court Director of Court
Administration Emeliana Musrasrik-Carl, Department of Education
Secretary Gardenia Aisek, Department of Resources and
Development Assistant Secretary of Energy Faustine Yarofausug
and staff, and Department of Environment, Climate Change and
Emergency Management Assistant Secretary for Environment Cynthia
H. Ehmes.

Committee Chairman welcomed the witnesses and public to the J&GO
Committee hearing. Committee Chairman opened the hearing with a
brief summary of the current Public Service System bills pending
before Congress. Committee Chairman expressed support for
increasing the salary of National Government employees under the
Public Service System ("PSS"). Committee Chairman explained
that increasing the PSS employee salaries under C.B. No. 22-147
would address the concerns driving the PSS exemption bills (C.B.
No. 22-78 and C.B. No. 22-139). The primary driving factor
behind the PSS exemption bills is the low salaries set at the
PSS base salary pay and step levels.

Committee Chairman opened the floor to opening statements from
Committee members and Congress.

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Committee members expressed support for PSS salary increases and PSS performance bonuses, but also raised issue on whether the National Government can afford doubling the base salary for all PSS employees. The Committee discussed the widening pay gap between National Government employees and state government employees. Congressional members raised concern that the National Government will be leaving their brothers and sisters in the four states behind.

Committee Chairman asked the Department of Finance and Administration if the PSS performance bonus (C.B. No. 22-145) and PSS salary increase (C.B. No. 22-147) are financially feasible and sustainable. Committee Chairman raised concerns on National Government operations, budgetary constraints, and fiscal responsibility.

Department of Finance and Administration Assistant Secretary for Budget testified that a 100% salary increase under C.B. No. 22-147, doubling PSS employee salaries, is not feasible nor sustainable at this time. Assistant Secretary explained that the Department supports PSS salary increases, but the Department does recognize that the National Government has to be prepared for rainy days. Assistant Secretary explained that the National Government has to prepare for the impact of sea rising, flooding and other climate change related disasters. Assistant Secretary stated the National Government must act to support PSS employees because the prices of goods are too high and basic living costs continue to rise without employee salaries reflecting these increase living costs.

Assistant Secretary testified that a 50% increase to PSS employee salaries is more fiscally manageable with the current resources to maintain government operations. Assistant Secretary explained that the Department will have to prioritize and re-adjust the current allocated National Government operations budget in order to balance PSS salary increases.

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Assistant Secretary of Budget testified that the current total PSS employee salary budget cost is approximately \$14 million. According to the Assistant Secretary of Budget, the increase of PSS employee salaries by 100% would cost the government an additional \$14 million, including employees receiving premium (not contract, elected or appointed positions).¹

Assistant Secretary for Budget explained that the current National Government total revenue received this fiscal year is approximately \$80 million. However, on average, the total projected revenue for the National Government is \$60 to \$70 million per year. Assistant Secretary further explained that this \$60 to \$70 million revenue average encompasses \$15 million in carryover on average for the last 10 years. However, the carryover is not budgeted in the proposed fiscal year budget prior to the beginning of the fiscal year. The National Government only realizes this carryover during or at the end of the fiscal year. There is no guarantee to know how much carryover the National Government will have each fiscal year in order to build into the overall National Government operation budget. The expected carryover is based on maximizing fishery fee revenues.

The Committee sought assurances from the Department of Finance and Administration that the National Government can afford PSS employee salary increases and performance bonuses due to Department reports that there is only a small portion of non-committed money in the FY2023 General Fund. The Committee raised concern on the National Government ability to adequately respond if there is a natural disaster or national emergency. The Committee sought clarification on the Department's proposal to increase PSS employee salaries by 50% through re-

¹ In follow-up with the Department of Finance and Administration, the Department written report to the Committee shows that the total PSS employee salary budget is \$12,136,453. Dep't. of Finance & Admin, *FY2023 Salary Increase Scenario*, Table 01 – Summary By Personnel Categories – ALL, received July 1, 2022.

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prioritization of government operations. The Committee questioned the Secretary of Finance on where the Department would make cuts and/or reduce the budget to cover the 50% increase to PSS employee salaries. The Committee also raised concern on how the PSS salary increase will be accommodated with the potential budgetary impact of the Constitutional Convention's pending proposal to reduce the National Government's fishing fee revenues to a 70%(state)/30%(national) split if adopted by referendum, when the National Government operations largely are funded by fishing fee revenues.²

Assistant Secretary of Budget testified that identifying the budget areas to cut is complex and difficult, because Congress provides significant contributions to the community; supporting public projects and personnel are major drivers of Congress'

² Post-Committee Hearing, the 4th FSM Constitutional Convention adopted the following proposal for a 50%(state)/50%(national) split of fishing fee revenues. Below is the FSM Constitutional Convention proposal that will be submitted for referendum to amend FSM Const. art. IX, § 2(m):

Section 2. The following powers are expressly delegated to Congress:

. . .

(m) to regulate the ownership, exploration, and exploitation of natural resources within the marine space of the Federated States of Micronesia beyond 12 miles from island baselines; provided that

(i)not less than fifty (50%) of all revenue collected from all forms of fishing fees are shared with the State governments;

(ii)seventy percent (70%) of the revenue shared with the State governments pursuant to subsection (i) shall be shared among the State governments based on population as determined by the most recent census, and thirty percent (30%) of the revenue shared with the State governments pursuant to subsection (i) shall be shared equally among the State governments; and

(iii)all funds shared pursuant to subsection (i) and (ii) shall be paid into State treasuries.

CC-PR-4-13.

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budget allocation. Assistant Secretary of Budget explained that the Department is unable to speak to the specific priority areas and/or areas for adjusting the budget at this time. The Secretary of Finance will need to review the numbers in more detail and consult with leadership for guidance. Assistant Secretary of Budget committed to submitting a written report to Congress on the proposed priority area and budget readjustments to accommodate the Department's proposed 50% increase to PSS employee salaries.

Committee Chairman reemphasized that low salaries is the driving force behind PSS employees leaving the National Government for higher paying jobs with private companies. Committee Chairman discussed that balancing budgetary concerns with PSS salary increases is not about making cuts to the budget, but a matter of shifting money from one area to another. The Committee identified that the approximately \$17 million budget for contractual services as an area of potential review for shifting the budget to cover PSS employee salary increases. The National Government FY2023 Recommended Budget for contractual services is \$16,898,887 and the second highest budget area after personnel (\$23,784,370).³ A significant portion of the National Government budget for contractual services is used to support National Government employees under contract (not part of the PSS). National Government employees under contract benefit from greater flexibility in negotiating higher salaries in comparison to PSS employees. The Committee requested the Assistant Secretary of Budget to consider and report back to Congress on the Department's ability to shift funding from contractual services to personnel in order to cover an increase to PSS employee salaries.

The Committee asked the Office of Personnel to address the impact of the implementation of P.L. 21-237 on PSS employee salaries.

³ FY2023 Recommended Budget Book at 14.

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The Office of Personnel testified the Office implemented P.L. 21-237 and all employees have received their adjusted pay increases in accordance with the law. The Office of Personnel explained that through implementation of P.L. 21-237, PSS employees in the PSS middle tier received the greatest wage increase overall in comparison to PSS employees in the PSS bottom tier and PSS top tier. P.L. 21-237 required the increase of PSS employee salaries accordingly:

- 5% salary increase to employees in the top tier of PSS (pay level 1 through pay level 14)
- 10% salary increase to employees in the middle tier of PSS (pay level 15 through pay level 28)
- 15% salary increase to employees in the bottom tier of PSS (pay level 29 and above)

Attorney General testified that both C.B. No. 22-145 (PSS performance bonus) and C.B. No. 22-147 (PSS salary increase) are necessary and can work together. Attorney General explained that the issuance of one-time performance bonuses under C.B. No. 22-145 may address concerns of incentivizing work performance, but the overall salary increase under C.B. No. 22-147 is a separate issue. According to the Attorney General, C.B. No. 22-147 addresses the primary concern of increasing PSS salaries to support increase living costs and retaining PSS employees. The Attorney General opined that C.B. No. 22-145 should include guidance on performance evaluation requirements that are credible and adhere to position qualifications. Attorney General raised a question on whether the increase to PSS employee salaries would lead the Office of Personnel to conduct a reduction in force.

Attorney General testified in support of C.B. No. 22-162 (lift freeze on annual salary step increases for PSS employees), and expressed his preference for passage of C.B. No. 22-162 over C.B. No. 22-145 (PSS performance bonuses). Attorney General

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testified that there is a merit salary increase system currently in the law that requires evaluation prior to PSS pay level and/or step level increase. Attorney General explained that PSS performance evaluations are tied to the merit salary increases and do not occur outside of the merit salary increase incentive system. According to the Attorney General, the merit salary increase system and evaluations ended when the freeze on PSS employee salary step increases was enacted into law under P.L. 9-155 §11; 52 FSMC §509(1). Attorney General discussed that C.B. No. 22-162 will lift the freeze on PSS employee salary step increases and effectively the merit salary increase system with the performance evaluations will resume. Attorney General clarified there are internal department performance evaluations conducted where the department directors and/or supervisors rate employee performance as excellent, good/satisfactory, or unsatisfactory. Attorney General also provided historical background on the development of the PSS system from the Trust Territory period, a system developed at a time when most National Government employees were non-professionals. The Attorney General explained that the PSS was not developed in consideration of a significant portion of PSS employees being lawyers, doctors, and holding PhD and technical professional degrees. Attorney General testified that the PSS no longer fits the current job market and has not evolved with the country's economic development.

Non-Committee Congressional Members raised concern on the internal department evaluations of work performance and awarding salary increases for satisfactory work. Congressional Members discussed how salary increases and promotions should be awarded for only excellent work, not doing the bare minimum. Although management may not recommend a step increase for unsatisfactory work, the concern is that it is easy for management to rate all employees as satisfactory due to lack of internal critical assessments on employee work performance. Committee Chairman added to the Committee's concern that Congress is aware of the work that needs to be done by departments, and at times the work

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is not being done by PSS employees and department leaders in a timely manner. Committee Chairman also discussed the need for increased efficiency and accountability, because there are instances where simple tasks take months to finish. Committee Chairman discussed the need for increased department management and prioritization of urgent tasks, because there are instances where work is not being done on an urgent matter when employees assigned the task are out of the office.

The Committee questioned whether PSS salary increases will impact the cost-of-living allowance (COLA). Office of Personnel Director testified that PSS salary increases do not impact COLA. COLA is set at \$40 per 80 hour pay period for each PSS employee except employees receiving a professional premium, contractors, and PSS exempt employees. COLA has been in place for 10 years. P.L. 18-114, 52 FSMC §208.

The Committee questioned the discrepancy between the Department of Finance testimony on the total PSS salary costs at approximately \$14 million and the Office of Personnel report to Congress via email on April 7, 2022 that the total PSS salary costs at \$9,890,882. Office of Personnel Director testified that he is unsure if he reviewed the data reported by his office, but supports the Department of Finance reported salary costs.⁴ Office of Personnel Director committed to confirm the total PSS salary costs numbers his Office reported to the Committee.

Secretary of Education noted the discrepancy in the total PSS salary costs between Department of Finance and Office of Personnel may stem from data differences in personnel salary approved by Congress (Department of Finance salary costs) and what is actually paid to PSS employees (Office of Personnel). Secretary of Education opined that the Department of Finance

⁴ Noteworthy, the Personnel Director and his staff sent the April 7, 2022 email to Congress reporting the total PSS salary costs at \$9,890,882

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allocates the salary budget approved by Congress, but the Office of Personnel implements P.L. 9-155 §11⁵ for issuance of the actual salary to PSS employees. Secretary of Education tied this issue to the reason why National Government PSS employees have not received Congressional approved salary increases to personnel budget.

The Committee asked the Office of Personnel to confirm the total number of PSS employees due to its importance in assessing the salary cost impact. Office of Personnel Director testified that there are approximately 1200 National Government employees. Noteworthy, on April 7, 2022, the Office of Personnel Director and his staff reported to the Committee via email that there are 717 PSS employees. On April 30, 2022, the Office of Personnel Director and his staff reported to the Committee via email that there are 351 National Government employees exempt from the PSS. The total number of National Government employees is 1168 (717 PSS employees + 351 PSS exempt employees).⁶

Department of Resources and Development Assistant Secretary testified in his personal capacity that he supports C.B. No. 22-145 and C.B. No. 22-147. Assistant Secretary commended Congress for introducing both bills, because the congressional bills demonstrate that the National Government values employees. Assistant Secretary recognized that the budget must be considered in these policy decisions, but emphasized that if there is political will to support PSS employee salary increases, then there is a way. Assistant Secretary reflected on the PSS employees petition organized 1-2 years ago requesting an increase to PSS employee salaries.

⁵ P.L. 9-155 §11 enacted "a freeze on annual salary step level increases of all employees in the public service system." P.L. 9-155 §11, 52 FSMC §509(1).

⁶ According to the Department of Finance & Administration report to the Committee on July 1, 2022, there are 779 PSS employees, 92 exempt employees and 92 ungraded employees, for a total of 963 National Government employees.

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FSM Supreme Court Director of Court Administration testified in her personal capacity that the people have spoken, C.B. No. 22-147 is needed, and the people are pushing for 100% PSS salary increase. Director of Court Administration further testified that the question of where the funds will come from to cover the PSS employee salary increases will have to be worked out by the financial experts, but Congress needs to move forward on C.B. No. 22-147 based on the Secretary of Finance testimony that budget can support 50% increase to PSS employee salaries. Director of Court Administration recommended Congress move forward with at least 50% increase to PSS employee salaries at this time, and perhaps another 50% at a later time. Director of Court Administration explained that an increase to PSS employee salaries are long over-due because the inflation is outrageous, and the PSS salary is insufficient to support a 5-person family. PSS employees are living paycheck to paycheck to cover basic costs of cash power and fuel, and many people are in debt to banks and local stores from buying food and basic necessities on credit.

Department of Resources and Development Assistant Secretary for Energy testified in his personal capacity that PSS employees need Congress leadership and support. Assistant Secretary explained how PSS employees are pushing for 100% increase in salary because PSS employees are under intense pressure and burden to work to support and help develop the country; but also need to be able to afford basic necessities to live. Assistant Secretary discussed how their cultural duties and obligations are substantially impacted by the increasing prices on goods due to inflation. Assistant Secretary expressed appreciation to Congress's consideration of PSS employee experiences. Assistant Secretary noted that while many PSS employees may not feel comfortable testifying, he appreciated Congress allowing PSS employees to share their experiences at the hearing and to be heard on this important policy decision. Assistant Secretary highlighted that departments will continue to lose their talented staff to international and regional organizations

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offering higher salary positions without an increase to PSS salaries.⁷

Assistant Secretary of Budget testified in his personal capacity on the impact of inflation on living costs. Assistant Secretary discussed how PSS employees struggle to pay for cash power and local food staples like corn beef.

Committee Chairman opened the floor to final statements from the hearing witnesses.

Office of Personnel Director testified that C.B. No. 22-147 will help retain the National Government's work force, and encourage FSM citizens abroad to apply for positions and return to the country. Office of Personnel discussed the brain drain the National Government is facing due to mass immigration out of the country for work, and migration of National Government employees from the government sector to the private sector. Office of Personnel Director explained that the National Government has also experienced lateral employee transfers between departments in an attempt to obtain higher paying position, and employees leaving the National Government for international organization jobs due to the salary freeze. Migration from state government to National Government does occur due to the salary gap between state and National Government employees, but there is still a concern of employee retainment. The Office of Personnel does not receive applicants for mid-level or technical positions under the PSS. Most applicants respond to National Government recruitment efforts for contractual position (outside the PSS), because the positions usually offer a higher salary and afford applicants with greater salary negotiating power. Office of Personnel Director further testified that C.B. No. 22-147 may

⁷ Important to note, that the Committee Hearing Room was full with people standing in the hearing room, nearly 50 people in attendance from National Government departments. Dep't. of Finance & Admin, *FY2023 Salary Increase Scenario*, Table 01 – Summary By Personnel Categories – ALL, received July 1, 2022.

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overcome the inflation rate and increase in living costs tied to the PSS salary freeze put in place in 1997, but not the huge gap between the PSS employee pay rate and contract employees.

Attorney General testified that the Department of Justice has lost national police officers to foreign law enforcement work opportunities. Attorney General explained that the Department of Justice sends the national police officers for training programs and workshops abroad, where they may be offered and/or find higher paying jobs in a foreign country.

Committee Chairman adjourned the hearing and expressed support for increasing the PSS employee salaries. Committee Chairman explained that Congress knows PSS employees deserve more salary than what they receive but Congress must consider the issue of affordability; and if the National Government can afford the proposed PSS salary increase, then Congress will work to make sure PSS employees receive the salary increase. Committee Chairman explained that the Committee will take all testimony provided at the hearing under consideration, and recommended Congress consider the salary increase (C.B. No. 22-147) and performance bonus (C.B. No. 22-145) bills prior to consideration of the PSS exemption bills (C.B. No. 22-78 and C.B. No. 22-139).

DEPARTMENT OF FINANCE & ADMINISTRATION POST-HEARING REPORT

On July 1, 2022, the Department of Finance and Administration reported to the Committee on the feasibility and sustainability of increasing the PSS employee salaries under a 100% increase scenario and 50% increase scenario in consideration of budgetary constraints.

Below is the applicable information reported by the Department of Finance and Administration:

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Summary By Personnel Categories – ALL

Categories	Number of FTEs	Total Amounts	C.B. 22-147 (100%)	C.B. 22-147 (100% Total)	Scenario 1 (50%)	Scenario 1 Total
ALL PSS	779	12,136,454	12,136,454	24,272,908	6,068,227	18,204,681
EXEMPT	92	4,599,857		4,599,857		4,599,857
UNGRADED	92	2,634,538		2,634,538		2,634,538
COLA		852,466		852,466		852,466
FRINGE BENEFIT		2,810,374	1,820,468	4,630,842	910,234	3,720,608
OVERTIME		607,976		607,976		607,976
ADJUSTMENTS		142,707		142,707		142,707
TOTAL	963	23,784,372	13,956,922	37,741,294	6,978,461	30,762,833

Summary By Pay Level – PSS

Categories	Number of FTEs	Current Total Amounts	C.B.22-147 (100%)	C.B. 22-147 (100% Total)	Scenario 1 (50%)	Scenario 1 Total
1 – 14	9	53,942	53,942	107,884	26,971	80,913
15 – 28	197	1,702,808	1,702,808	3,405,616	851,404	2,554,212

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29 - 42	573	10,379,704	10,379,704	20,759,408	5,189,852	15,569,556
TOTAL	779	12,136,454	12,136,454	24,272,908	6,068,227	18,204,681

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Potential Sustainment of C.B. 22-147 (100%)

Categories	Current	C.B. 22-147 (100%)	Scenario 1 (50%)	Scenario 1 Total
Possible realization from Income Taxes	849,552	1,699,103	424,776	1,274,328

5 YR AVERAGE Impact on Expenditure Allocations

IMPACT PERCENTAGE (%) Based on 5 Year Average Expenditure Allocations		9.93%	4.96%
	Average Expenditure Allocation	Adjustment Based on C.B. 22-147 (100%)	Adjustment Based on Scenario 1 (50%)
Operations	37,237,050	+12,136,454	+6,068,227
Grants, Subsidies & Contributions	17,138,006	-1,833,416	0
Capital Projects & Human Resource Dev. (CIP)	44,966,678	-6,880,661	-3,623,672
Public Projects & Social Projects	15,272,000	-1,466,733	-1,222,277
Priority Infrastructure Projects	6,600,000	-1,955,644	-1,222,277
Contributions to Emergency's & Natural Disaster's	414,000	0	0
Special & Other Appropriations	600,000	0	0
TOTAL	122,227,734		

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CONCLUSION

The Committee on Judiciary and Governmental Operations has reviewed C.B. No. 22-147, and considered all testimony from the June 10, 2022 Public Hearing and feedback received from the Executive Departments including but not limited to the Department of Justice, Office of Personnel, Department of Finance and Administration, and individual witness testimony.

Your Committee would like to offer the following amendments to C.B. No. 22-147 to read as follows:

- 1) Section 1, Page 1, line 1, insert new section "Section 1."
- 2) Section 1, Page 1, line 1, delete "Section 1." and insert new section "Section 2."
- 3) Section 1, Page 1, delete lines 2-12 and insert "The intent of this bill is to increase the base salary schedule under section 205 of title 52 of the Code. This bill does not repeal the provision on the freeze of annual salary step increases as found under section 509(1) of the Code. Section 509(1) of title 52 of the Code does not prevent Public Service System employees from receiving their salary in accordance with the new base salary schedule under this bill."

(provision clarifies that the freeze on salary increases under 52 FSMC § 509 does not prevent PSS employees from receiving their new PSS base and step level salaries in accordance with C.B. No. 22-147 C.D.1.)

- 4) Section 2, Page 3, lines 12-18, lines 1-18 (page 4), lines 1-12 (page 5), delete the increase of PSS base salary by 100% across all pay levels and step levels and insert an increase of the PSS base salary by 50% across all pay levels and step levels.

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5) Page 5, after line 6 insert "Section 3. This shall take effect on January 1, 2023.

6) Page 6, line 8, delete "Section 3" and insert "Section 4" in lieu thereof.

Your Committee on Judiciary and Governmental Operations is in accord with the intent and purpose of C.B. No. 22-147, and recommends passage on First Reading and that the bill is placed on the Calendar for Second and Final Reading in the form attached hereto, as C.B. No. 22-147, C.D.1.

Respectfully submitted,

/s/ Robson U. Romolow
Robson U. Romolow, chairman

Peter M. Christian, vice chairman

/s/ Tiwiter Aritos
Tiwiter Aritos, member

Ferny S. Perman, member

/s/ Wesley W. Simina
Wesley W. Simina, member

Isaac V. Figir, member

/s/ Paliknoa K. Welly
Paliknoa K. Welly, member