

A BILL FOR AN ACT

To further amend title 9 of the Code of the Federated States of Micronesia, as amended, by further amending section 105, as amended by Public Law No. 8-97, to clarify and modify the procedures for filling vacancies in Congress, and for other purposes.

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

1 Section 1. Section 105 of title 9 of the Code of the Federated
2 States of Micronesia, as amended by Public Law No. 8-97, is hereby
3 further amended to read as follows:

4 "Section 105. Vacancies, - declaration, filling, Special
5 election, timeframes.

6 ~~[(1) After the election of the President and Vice~~
7 ~~President, vacancies shall be declared by the Speaker of~~
8 ~~Congress for the seats to which the President and Vice~~
9 ~~President were originally elected as Members at large of the~~
10 ~~Congress of the Federated States of Micronesia. Upon~~
11 ~~notification by the Speaker, the national election~~
12 ~~commissioner of the affected State shall schedule a special~~
13 ~~election to occur fifty days after receipt of notification.~~
14 ~~A candidate for the special election must submit a petition~~
15 ~~for candidacy within twenty days after the national election~~
16 ~~commissioner schedules the special election. After all~~
17 ~~candidates are registered, the National Election Director~~
18 ~~shall cause the ballots to be produced. Absentee ballots are~~

1 ~~to be available from the National Election Director up to~~
2 ~~five days before the election date.]~~

3 (1) Occurrence, declaration and notification.

4 (a) A vacancy occurs under the following
5 circumstances:

6 (i) a member has been elected to the office of
7 President or Vice President of the Federated States of
8 Micronesia, has died, has come under judgment of mental
9 incompetency or insanity, or has resigned or been expelled
10 from Congress;

11 (ii) a member-elect elected in a special election
12 has died, has come under judgment of mental incompetency or
13 insanity, or has withdrawn by giving notice to the Speaker;

14 (iii) Congress, in judging the election or
15 qualifications of a member-elect, declines to seat anyone; or

16 (iv) Congress, in judging the qualifications of an
17 appointee, declines to seat him or her.

18 (b) The Speaker shall declare a vacancy upon
19 ascertaining that the vacancy has occurred and shall give
20 prompt notice thereof to the national election commissioner
21 or the chief executive of the affected
22 State, as appropriate.

23 (2) Filling vacancies. A~~ny other~~ vacancy in the
24 Congress shall be filled for the unexpired term by special
25 election, except that an unexpired term of one year or less,
26 as of the date the vacancy occurred, shall be filled by

1 appointment by the chief executive of the [~~State-affected~~]
2 affected State. [~~The~~] An appointee shall possess the
3 qualifications required by section 201 of this title and
4 shall serve only for the unexpired term.

5 (3) Scheduling a special election. The national election
6 commissioner of the affected State shall schedule a special
7 election only after declaration by the Speaker of a vacancy
8 to be filled by special election, PROVIDED, however, that the
9 national election commissioner shall schedule a special
10 election in advance of such declaration when all of the
11 following circumstances exist:

12 (a) a member-elect to a new Congress, not yet
13 organized, has died, has come under judgment of mental
14 incompetency or insanity, or has withdrawn by giving notice
15 to the national election commissioner of the affected State;

16 (b) there is no pending challenge to the member-
17 elect's election under chapter 9 of this title and the
18 time for filing a challenge has passed.

19 (4) Timeframes. Notwithstanding any other provision of
20 this title, the applicable timeframes for special elections
21 shall be as follows:

22 (a) The national election commissioner of the affected
23 State, after consulting with the National Election Director,
24 shall schedule the election to occur not less than thirty
25 days, nor more than ninety days, after receipt of

1 notification of a vacancy or after determining that the
2 circumstances under subsection (3)(a)-(3)(c) exist.

3 (b) To have his or her name placed on the ballot for
4 the special election, a candidate must submit a nomination
5 petition by the deadline set by the national election
6 commissioner, which deadline shall be not less than ten days
7 nor more than twenty days after the national election
8 commissioner first gives public notice of the election.

9 (c) Absentee ballot envelopes must be received by the
10 national election commissioner no later than the established
11 closing hour of the polls on the day of the election except
12 as provided in section 702 of this title.

13 (d) All other timeframes shall be as specified in or
14 as established pursuant to regulations.

15 (5) Regulations. The President shall issue regulations
16 implementing the provisions of this chapter.

17 (6) Public notice of election. The national election

1 commissioner shall publish written notice of the special
2 election and the timeframes therefor in convenient public
3 places, including at the office of governor, the legislature,
4 the courthouses, municipal offices and post offices of the
5 affected State. The national election commissioner shall
6 also cause the notice to be broadcast, on at least two
7 separate days, over radio and television, where available.
8 Written notices and broadcasts shall be published in English
9 and the local languages of the State."

10 Section 2. Regulations implementing provisions of this act shall
11 be issued no later than one-hundred twenty (120) days of this act
12 becoming law.

13 Section 3. This act shall become law upon approval by the
14 President of the Federated States of Micronesia or upon its becoming
15 law without such approval.

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18 Date: _____ Introduced by: _____
19 Jack Fritz