

**TITLE 3
LEGISLATIVE**

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CHAPTER 1
Congressional Organization

SECTIONS

- § 101. Membership.**
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§ 101. Membership.

(1) The Congress of the Federated States of Micronesia shall be a unicameral National legislature. Unless the Congress is reapportioned, it shall consist of 14 Members to be known as Senators as follows:

(a) four at-large Members, one from each of the States of Kosrae, Pohnpei, Chuuk, and Yap, who are elected on the basis of State equality to serve for a four-year term.

(b) ten Members serving for a term of two years and elected on the basis of population as follows:

(i) one Member elected from Kosrae as a single-member congressional district;

(ii) one Member elected from Yap as a single-member congressional district;

(iii) three Members elected from Pohnpei, one of whom representing each single-member congressional district; and

(iv) five Members elected from Chuuk, one of whom representing each single-member congressional district.

(2) Single-member congressional districts shall be reapportioned at least every ten years. The first such reapportionment shall be made in 1988.

Source: PL IC-1 § 7; PL IC-24 § 1; PL 5-53 § 1; PL 5-98 § 1; PL 7-89 § 1.

Cross-reference: FSM Const., art. IX, § 8 states as follows:

Section 8. The Congress consists of one member elected at large from each state on the basis of state equality, and additional members elected from congressional districts in each state apportioned by population. Members elected on the basis of state equality serve for a 4-year term, and all other members for 2 years. Each member has one vote, except on the final reading of bills. Congressional elections are held biennially as provided by statute.

FSM Const., art. IX, § 10 states as follows:

Section 10. At least every 10 years Congress shall reapportion itself. A state is entitled to at least one member of Congress on the basis of population in addition to the member elected at large. A state shall apportion itself by law into single member congressional districts. Each district shall be approximately equal in population after giving due regard to language, cultural, and geographic differences.

The provisions of the Constitution are found in Part I of this code.

The official website of the Congress of the Federated States of Micronesia is found at <http://www.fsmcongress.fm/>.

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Case annotation: Congress may constitutionally authorize by statute administrative agencies to perform many different investigatory functions, among them the auditing of books and records, the issuance of subpoenas requiring the disclosure of information relevant to the agency's functions, and requiring the sworn testimony of witnesses. *FSM Social Sec. Admin. v. Weilbacher*, 7 FSM R. 137, 141-42 (Pon. 1995).

§ 102. Presiding Officer.

The Presiding Officer of the Congress of the Federated States of Micronesia is responsible for the operation of the Congress.

Source: PL 1-14 § 1.

§ 103. Immediate offices.

There shall be the following offices which shall be under the direct supervision of the Presiding Officer:

- (1) Office of the Chief Clerk and assistant Chief Clerk; and
- (2) Public Information Office.

Source: PL 1-14 § 2; PL 17-55 § 1.

§ 104. Offices.

There shall be the following offices which shall be responsible to the Presiding Officer:

- (1) Administrative and Budget Office; and within that the following functional activities:
 - (a) finance,
 - (b) administration and personnel,
 - (c) State delegation administrative support,
 - (d) secretaries, and
 - (e) sergeant at Arms; and
- (2) Office of the Legislative Counsel, and within that the Library and research.

Source: PL 1-14 § 3; PL 13-79 § 1.

§ 105. Duties, responsibilities, and functions of offices.

The respective duties, responsibilities, and functions of each office within the organization of the Congress of the Federated States of Micronesia shall be established by and in accordance with administrative directives of the Presiding Officer until amended or superseded by law.

Source: PL 1-14 § 4.

§ 106. Holding other offices.

A Member of the Congress of the Federated States of Micronesia may not hold another public office or employment. During the term for which he is elected and three years thereafter, a Member may not be elected or appointed to public office or employment created by a National statute enacted during his term. A Member may not engage in any activity which conflicts with the proper discharge of his duties.

Source: PL IC-1 § 14; PL IC-24 § 3.

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Cross-reference: FSM Const., art. IX, § 13 states as follows:

Section 13. A member of Congress may not hold another public office or employment. During the term for which he is elected and three years thereafter, a member may not be elected or appointed to a public office or employment created by national statute during his term. A member may not engage in any activity which conflicts with the proper discharge of his duties. The Congress may prescribe further restrictions.

The provisions of the Constitution are found in Part I of this code.

Case annotation: Where plaintiffs seek to challenge issuance to a third party of a permit which plaintiffs reasonably allege will cause them harm, and where they allege that the actions of a nat'l senator were crucial to issuance of the permit, those plaintiffs have standing to be heard on the question of whether the senator's membership on the board is violative of the "incompatibility clause," art. IX, § 13 of the FSM Constitution. *Aisek v. FSM Foreign Investment Board*, 2 FSM Intrm. 95, 101 (Pon. 1985).

§ 107. Terms of office.

Each Senator elected at large shall hold office for a term of four years. Senators elected on the basis of population shall each hold office for a term of two years. The terms of office of all Members of the Congress of the Federated States of Micronesia shall commence at noon of the eleventh day of May following their election and upon taking the oath of office, except as otherwise provided by law. Any Member elected or appointed to fill a vacancy may assume office upon acceptance of his credentials by the Congress and taking of the oath of office, and shall serve only for the unexpired term of the person he succeeds.

Source: PL 5-98 § 2.

Cross-reference: FSM Const., art. IX, § 8. The provisions of the Constitution are found in Part I of this code.

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CHAPTER 2
Congressional Sessions

SECTIONS

§ 201. Sessions in 2005 and thereafter.

§ 202. Length of sessions.

§ 201. Sessions in 2005 and thereafter.

During the calendar year 2005 and thereafter, the Congress shall meet in three regular sessions commencing on the tenth day of January, the eleventh day of May and the twelfth day of September each year, unless the Presiding Officer shall set a different date or dates.

Source: PL IC-30 § 2(1); PL 1-5 § 1; PL 1-49 § 1; PL 5-47 § 1; PL 5-98 § 3; PL 13-59 § 1.

Cross-reference: The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the FSM Supreme Court and the Judiciary are found in title 4 of this code.

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The official website of the Congress of the Federated States of Micronesia contains the public laws enacted by the Congress, sessions, committee hearings, and other congressional information at <http://www.fsmcongress.fm/>.

§ 202. Length of sessions.

The sessions required by section 201 of this chapter shall last for 20 calendar days, unless shortened or extended by a resolution adopted by a majority vote of all Members of the Congress.

Source: PL IC-30 § 2(2); PL 1-5 § 1; PL 1-49 § 1; PL 13-59 § 2.

Cross-reference: FSM Const., art. IX, § 16. The provisions of the Constitution are found in Part I of this code.

The official website of the Congress of the Federated States of Micronesia is found at <http://www.fsmcongress.fm/>.

CHAPTER 3
Congressional Salaries

SECTIONS

- § 301. Compensation levels.**
§ 302. Budgeting of funds.
§ 303. Sums owing to deceased Congress Member.
§ 304. Sums owing to Congress member who resigns due to physical incapacity, disability or illness.

§ 301. Compensation levels.

Upon the presentation of credentials and qualification thereof, a Member of the Congress of the Federated States of Micronesia shall be entitled to receive compensation at the rate of \$27,000 per annum as of the date his term of office begins and shall remain eligible therefor until the Member's term expires or until a vacancy has been declared in his or her office. The Speaker, upon his election as the Speaker, shall be entitled to receive compensation at the rate of \$30,000 per annum and shall remain eligible therefor until a new Speaker assumes the office or until a vacancy in the Office of the Speaker has been declared. A Member appointed or elected to fill a vacancy in the Congress shall be entitled to receive compensation upon taking the oath of office as a Member of the Congress. The official expense allowance shall not exceed \$3,000.

Source: TT Code 1980, 2 TTC 111(1); PL IC-10 § 1; PL 1-29 § 1; PL 1-41 § 1; PL 4-4 § 1.

Editor's note: PL 4-84, § 1 increased the salaries of the Members of Congress from \$15,000 per annum to \$27,000 per annum and increased the salary of the Speaker from \$18,000 per annum to \$30,000 per annum. The official expense allowance was capped at \$3,000. PL 4-84 § 2 made the effective date of the salary increases the beginning of the term of office of the next Congress, which occurred on May 11, 1987. See FSM Const., art. IX, § 14.

Cross-reference: FSM Const., art. IX, § 14. The provisions of the Constitution are found in Part I of this code.

§ 302. Budgeting of funds.

Compensation and expense allowances for Members of the Congress of the Federated States of Micronesia shall be from funds available to and appropriated by the Congress as prescribed by law. Compensation and expense allowances shall not be allowed in excess of such amounts as may be budgeted therefor. An increase in the annual compensation for Members of Congress shall not apply to the Congress enacting it.

Source: TT Code 1980, 2 TTC 111(2); PL IC-10 § 1; PL 1-29 § 1; PL 1-41 § 1.

§ 303. Sums owing to deceased Congress Member.

The surviving spouse of a Member of the Congress who dies in office shall be entitled to receive the balance of any sums owing to such Member. If no surviving spouse exists, the deceased member's heirs or next of kin shall receive this amount.

Source: TT Code 1980, 2 TTC 111(3); PL IC-10 § 1; PL 1-29 § 1; PL 1-41 § 1.

§ 304. Sums owing to Congress Member who resigns due to physical incapacity, disability or illness.

Any Member of the Congress who resigns from office due to physical incapacity, disability or illness shall be entitled to receive the balance of any sums owing to such Member for the remainder of his term of office. In order to qualify for payment under this section, a Member who resigns due to physical incapacity, disability or illness must submit to the Speaker of the Congress two separate written statements each signed by a physician licensed to practice medicine in the Federated States of Micronesia stating that the Member is unable to effectively perform the duties of his office due to physical incapacity, disability or illness and that the Member's condition is not likely to improve significantly over the remainder of his term of office.

Source: PL 6-90 § 1.

CHAPTER 4
Congressional Investigations

SECTIONS

- § 401. **Purpose.**
- § 402. **Definitions.**
- § 403. **Establishment of investigating committees by Congress.**
- § 404. **Adoption of rules.**
- § 405. **Staff.**
- § 406. **Membership, quorum, and voting.**
- § 407. **Hearings.**
- § 408. **Issuance of subpoenas.**
- § 409. **Subpoena – Notice to witnesses.**
- § 410. **Conduct of hearings.**
- § 411. **Right to counsel; Submission of questions.**
- § 412. **Testimony.**
- § 413. **Interested persons.**
- § 414. **Contempt.**
- § 415. **Penalties.**
- § 416. **Government officers and employees to cooperate.**
- § 417. **Acquisition of evidence or information by other lawful means.**

§ 401. Purpose.

The purpose of this chapter is to establish procedures governing legislative investigating committees to provide for the creation and operation of such committees in a manner which will enable them to perform properly the powers and duties vested in them, including the conduct of hearings, in a fair and impartial manner, consistent with the protection of the rights of persons called to testify at such hearings and the preservation of the public good.

Source: COM PL 5-36 § 1; TT Code 1980, 2 TTC 261.

§ 402. Definitions.

As used in this chapter:

- (1) "Hearing" means any meeting in the course of an investigatory proceeding, other than a preliminary conference or interview at which no testimony is taken under oath, conducted by an investigating committee for the purpose of taking testimony or receiving other evidence. A hearing may be open to the public or closed to the public.
- (2) "Investigating committee" means any of the following bodies which are authorized to compel the attendance and testimony of witnesses or the production of books, records, papers, and documents for the purpose of securing information on a specific subject for the use of the Congress of the Federated States of Micronesia:
 - (a) a standing or special committee or Committee of the Whole of the Congress;
 - (b) an authorized subcommittee of a legislative committee; and
 - (c) any body created by law, the members of which may include nonlegislators.
- (3) "Public hearing" means any hearing open to the public, or the proceedings of which are made available to the public.

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Source: COM PL 5-36 § 2; TT Code 1980, 2 TTC 262; PL 1-63 § 1(1).

Editor's note: Subsections rearranged in alphabetical order in the 1982 edition of this code.

§ 403. Establishment of investigating committees by Congress.

The resolution, statute, or rule of procedure establishing an investigating committee shall state the committee's purposes, powers, duties, and duration, the subject matter and scope of its investigatory authority, and the number of its members.

Source: COM PL 5-36 § 3; TT Code 1980, 2 TTC 263, PL 1-63 § 1(2).

§ 404. Adoption of rules.

Each investigating committee shall adopt rules, not inconsistent with any law or any applicable rules of the Congress, governing its procedures, including the conduct of hearings.

Source: COM PL 5-36 § 4; TT Code 1980, 2 TTC 264.

§ 405. Staff.

Each investigating committee may employ such professional, technical, clerical, or other personnel as may be necessary for the proper performance of its duties, to the extent of funds made available to it for such purpose and subject to such restrictions and procedures relating thereto as may be provided by law or any applicable rules of the Congress.

Source: COM PL 5-36 § 5; TT Code 1980, 2 TTC 265.

§ 406. Membership, quorum, and voting.

- (1) An investigating committee shall consist of not less than three members.
- (2) A quorum shall consist of a majority of the total authorized number of members of the committee.
- (3) No action shall be taken by a committee at any meeting unless a quorum is present. The committee may act by a majority vote of the members present and voting at a meeting at which there is a quorum unless the provisions of this chapter or any other statute require a greater number or proportion.

Source: COM PL 5-36 § 6; TT Code 1980, 2 TTC 266.

§ 407. Hearings.

An investigating committee may hold hearings appropriate for the performance of its duties at such times and places as the committee determines.

Source: COM PL 5-36 § 7; TT Code 1980, 2 TTC 267.

§ 408. Issuance of subpoenas.

- (1) The Speaker or other Presiding Officer of the Congress may issue subpoenas requiring the attendance of witnesses and subpoenas *duces tecum* requiring the production of books, documents, or other evidence in any matter pending before a committee.

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(2) Every investigating committee may issue, by majority vote of all its members, subpoenas requiring the attendance of witnesses and subpoenas *duces tecum* requiring the production of books, documents, or other evidence in any matter pending before the committee.

(3) Any subpoena, warrant of arrest, or other process issued under the authority of the Congress shall run in the name of Federated States of Micronesia and shall be addressed to the Sergeant at Arms of the Congress or any National police officer of the Federated States of Micronesia. The subpoena, warrant, or other process shall be signed by the officer authorized to issue it, shall set forth his official title, shall contain a reference to the rule or resolution, or other means, by which the taking of testimony or other evidence, or the issuance of such warrant or other process, was authorized, and shall, in the case of a summons or subpoena, set forth in general terms the matter or question with reference to which the testimony or other evidence is to be taken.

(4) Any officer to whom such process is directed shall forthwith serve or execute the same upon delivery thereof to him.

Source: COM PL 5-36 § 8; TT Code 1980, 2 TTC 268; PL 1-63 § 1(3).

§ 409. Subpoena – Notice to witnesses.

(1) Service of a subpoena requiring the attendance of a person at a hearing of an investigating committee shall be made at least five days prior to the date of the hearing unless a shorter period of time is authorized by majority vote of all the members of the committee in a particular instance when, in their opinion, the giving of five days' notice is not practicable; but if a shorter period of time is authorized, the person subpoenaed shall be given reasonable notice of the hearing, consistent with the particular circumstances involved.

(2) Any person who is served with a subpoena to attend a hearing of an investigating committee also shall be served with a general statement informing him of the subject matter of the committee's investigation or inquiry and with a notice that he may be accompanied at the hearing by counsel of his own choosing.

Source: COM PL 5-36 § 9; TT Code 1980, 2 TTC 269.

§ 410. Conduct of hearings.

(1) All hearings of an investigating committee shall be public unless the committee, by two-thirds vote of all of its members, determines that a hearing should not be open to the public in a particular instance.

(2) The chairman of an investigating committee, if present and able to act, shall preside at all hearings of the committee and shall conduct the examination of witness himself or supervise examination by other members of the committee, the committee's counsel, or members of the committee's staff who are so authorized. In the chairman's absence or disability, the vice chairman shall serve as presiding officer.

(3) No hearing, or part thereof, shall be televised, filmed, or broadcast except upon approval of the committee, by majority vote of all of its members.

Source: COM PL 5-36 § 10; TT Code 1980, 2 TTC 270.

§ 411. Right to counsel; Submission of questions.

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(1) Every witness at a hearing of an investigating committee may be accompanied by counsel of his own choosing, who may advise the witness as to his rights, subject to reasonable limitations which the committee may prescribe to prevent obstruction of or interference with the orderly conduct of the hearing.

(2) Any witness at a hearing, or his counsel, may submit to the committee proposed questions to be asked of the witness or any other witness relevant to the matters upon which there has been any questioning or submission of evidence, and the committee shall ask such of the questions as are appropriate to the subject matter of the hearing.

Source: COM PL 5-36 § 11; TT Code 1980, 2 TTC 271.

§ 412. Testimony.

(1) An investigating committee may cause a record to be made of all proceedings in which testimony or other evidence is demanded or adduced, which record shall include rulings of the chair, questions of the committee and its staff, the testimony or responses of witnesses, sworn written statements submitted to the committee, and such other matters as the committee or its chairman may direct.

(2) Any testimony given or adduced at a hearing may be under oath or affirmation if the committee so requires.

(3) The presiding officer of an investigating committee may administer an oath or affirmation to a witness at a hearing of such committee.

(4) The presiding officer at a hearing may direct a witness to answer any relevant question or furnish any relevant book, paper, or other document, the production of which has been required by subpoena *duces tecum*. Unless the direction is overruled by majority vote of the committee members present, disobedience shall constitute a contempt.

(5) A witness at a hearing or his counsel, with the consent of a majority of the committee members present at the hearing, may file with the committee for incorporation into the record of the hearing any sworn written statements relevant to the purpose, subject matter, and scope of the committee's investigation or inquiry.

(6) A witness at a hearing, upon his request and at his own expense, shall be furnished a transcript of his testimony at the hearing, if a record of the same is kept.

(7) Testimony and other evidence given or adduced at a hearing closed to the public shall not be made public unless authorized by majority vote of all of the members of the committee, which authorization shall also specify the form and manner in which the testimony or other evidence may be released.

(8) All information of a defamatory or highly prejudicial nature received by or for the committee other than in an open or closed hearing shall be deemed to be confidential. No such information shall be made public unless authorized by a majority vote of all the members of the committee for legislative purposes, or unless its use is required for judicial purposes.

Source: COM PL 5-36 § 12; TT Code 1980, 2 TTC 272.

§ 413. Interested persons.

(1) Any person whose name is mentioned or who is otherwise identified during a hearing of an investigating committee and who in the opinion of the committee may be adversely affected thereby may, upon his own request or upon the request of any member of the committee, appear personally

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before the committee and testify in his own behalf, or, with the committee's consent, file a sworn written statement of facts or other documentary evidence for incorporation into the record of the hearing.

(2) Upon the consent of a majority of its members, an investigating committee may permit any other person to appear and testify at a hearing or submit a sworn written statement of facts or other documentary evidence for incorporation into the record thereof. No request to appear, appearance, or submission of evidence shall limit in any way the investigating committee's power of subpoena.

(3) Any person who appears before an investigating committee pursuant to this section shall have all the rights, privileges, and responsibilities of a witness provided by this chapter.

Source: COM PL 5-36 § 13; TT Code 1980, 2 TTC 273.

§ 414. Contempt.

(1) A person shall be in contempt if he:

(a) fails or refuses to appear in compliance with a subpoena or, having appeared, fails or refuses to testify under oath or affirmation;

(b) fails or refuses to answer any relevant question or fails or refuses to furnish any relevant book, paper, or other document subpoenaed by or on behalf of an investigating committee; or

(c) exhibits disrespect of an investigating committee by unlawfully, knowingly, and willfully interfering directly with the operation and function of such committee by open defiance of an order in or near the meeting place of such committee, by disturbing the peace in or near such meeting place, by interfering with an officer of such committee in the lawful performance of his official duties, or by unlawfully detaining or threatening any witness of such committee because of that person's duty as a witness.

(2) An investigating committee may, by majority vote of all its members, report to the Congress any instance of alleged contempt. The Speaker shall certify a statement of such contempt under his signature as Speaker to the Attorney General who shall prosecute the offender in a court of competent jurisdiction in the Federated States of Micronesia. If the Congress is not in session, a statement of the alleged contempt shall be certified by the chairman or acting chairman of the committee concerned, under his signature, to the Attorney General who shall prosecute the offender as aforesaid. An instance of alleged contempt shall be considered as though committed in or against the Congress itself.

Source: COM PL 5-36 § 14; TT Code 1980, 2 TTC 274; PL 1-63 § 1(4).

§ 415. Penalties.

(1) A person guilty of contempt under this chapter shall upon conviction be fined not more than \$1,000, or imprisoned not more than one year, or both.

(2) If any investigating committee fails in any material respect to comply with the requirements of this chapter, any person subject to a subpoena or a subpoena *duces tecum* who is injured by such failure shall be relieved of any requirement to attend the hearing for which the subpoena was issued or, if present to testify or produce evidence therein; and such failure shall be a complete defense in any proceeding against the person for contempt or other punishment.

(3) Any witness shall have only those privileges against testifying or producing other evidence under subpoena *duces tecum* which are:

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(a) authorized by the Supreme Court of the Federated States of Micronesia Rules of Evidence; or

(b) required by the Declaration of Rights of the Federated States of Micronesia, or other law applicable to the Federated States of Micronesia.

(4) Any person other than the witness concerned or his counsel who violates the provisions of subsections (7) or (8) of section 412 of this chapter shall upon conviction be fined not more than \$500, or imprisoned not more than six months, or both. The Attorney General, on his own motion or on the application of any person claiming to have been injured or prejudiced by an unauthorized disclosure, may institute proceedings for trial of the issue and imposition of the penalties provided herein. Nothing in this subsection shall limit any power which the Congress may have to discipline a member or employee or to impose a penalty in the absence of action by a prosecuting officer or court.

Source: COM PL 5-36 § 15; TT Code 1980, 2 TTC 275; PL 1-63 § 1(5); PL 7-89 § 2.

Cross-reference: The statutory provisions on the FSM Supreme Court and the Judiciary are found in title 4 of this code. The statutory provisions on Judicial Procedures are found in title 6 of this code.

The constitutional provisions making up the Declaration of Rights are found in FSM Const., art. IV. The provisions of the Constitution are found in Part I of this code.

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The FSM Supreme Court Rules of Evidence and other court information can be found on the FSM Supreme Court website at <http://www.fsmcourts.org/>.

§ 416. Government officers and employees to cooperate.

The officers and employees of the Federated States of Micronesia, and of each political subdivision thereof shall cooperate with any investigating committee or committees or with their representatives and furnish to them or to their representatives such information as may be called for in connection with the research activities of the committees.

Source: COM PL 5-36 § 16; TT Code 1980, 2 TTC 276; PL 1-63 § 1(6); PL 7-89 § 3.

§ 417. Acquisition of evidence or information by other lawful means.

Nothing contained in this chapter shall be construed to limit or prohibit the acquisition of evidence or information by an investigating committee by any lawful means not provided for herein.

Source: COM PL 5-36 § 17; TT Code 1980, 2 TTC 277.

CHAPTER 5
Advice and Consent

SECTIONS

§ 501. Advice and consent appointments.

§ 502. Confirmation required before performance of duties.

§ 501. Advice and consent appointments.

Appointments to all positions in the National Government which require the advice and consent of the Congress shall be made in the following manner:

(1) If the nomination is made during a session of Congress, the President shall submit the nomination to the Speaker of the Congress, and advice and consent to the nomination shall be provided by a resolution of the Congress. Approval of the nomination requires a two-thirds vote of Congress. If the Congress fails to take action to either approve or to reject a nomination prior to the close of the session, the nomination may not be deemed either approved or rejected by the Congress.

(2) If the nomination is made while Congress is not in session, Congress shall consider the nomination at the next session following the nomination. A non-session nomination is subject to the same procedure as set out in subsection (1) of this section.

Source: PL 1-8 § 1 (part); PL 1-98 § 1; PL 2-36 § 1.

Editor's note: 3 F.S.M.C. 501 through 504 were repealed by PL 2-36, and a new § 501 enacted in lieu thereof. PL 7-89 § 4 renumbered § 505 as § 502.

Cross-reference: FSM Const., art. X, § 2(d). The provisions of the Constitution are found in Part I of this code.

The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the FSM Supreme Court and the Judiciary are found in title 4 of this code.

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§ 502. Confirmation required before performance of duties.

No nominee for an appointive position in the National Government may enter upon or in any manner undertake to perform the duties and responsibilities of such position prior to confirmation in the form of advice and consent by the Congress.

Source: PL 1-120 § 2; renumbered by PL 7-89 § 4.

CHAPTER 6
Legislative Counsel

SECTIONS

§ 601. Representation in litigation - Powers and standing.

§ 602. Representation in litigation - Authorization procedure.

§ 601. Representation in litigation - Powers and standing.

The Office of the Legislative Counsel of the Congress of the Federated States of Micronesia shall have the authority to represent the interests of the Congress in matters involving litigation.

Source: PL 2-72 § 1.

§ 602. Representation in litigation - Authorization procedure.

(1) When the Congress is in session, it may pass a resolution by a simple majority, directing the Office of the Legislative Counsel to represent the Congress in any litigation in which the Congress has an interest.

(2) When the Congress is not in session, the Speaker may direct the Office of the Legislative Counsel to represent the Congress in any litigation in which the Congress has an interest.

Source: PL 2-72 § 2.

Cross-reference: For statutory provisions on the Library of the Congress of Micronesia, see chapter 5 of title 40 (Education) of this code.

CHAPTER 7
Impeachment and Removal

SECTIONS

- § 701. Definitions.**
- § 702. Resolution; Probability; Notification.**
- § 703. Impeached official's status.**
- § 704. Prosecutor.**
- § 705. Impeached official's counsel.**
- § 706. Trial.**
- § 707. Vote.**
- § 708. Review.**

§ 701. Definitions.

For the purposes of this chapter, unless otherwise required by the context:

- (1) "Bribery" means any act prohibited by section 531 of title 11 of this code.
- (2) "Conduct involving corruption in office" means any act prohibited by either chapter 5 or chapter 13 of title 11 of this code; PROVIDED, however, that any action prohibited by section 531 of title 11 of this code shall be considered bribery rather than conduct involving corruption in office.
- (3) "Official" means the President of the Federated States of Micronesia, the Vice-President of the Federated States of Micronesia, or a Justice of the Supreme Court of the Federated States of Micronesia.
- (4) "Treason" means any act prohibited by section 401 of title 11 of this code.

Source: PL 5-19 § 2, modified.

Cross-reference: FSM Const., art. IX, § 7 states as follows:

Section 7. The President, Vice-President, or a justice of the Supreme Court may be removed from office for treason, bribery, or conduct involving corruption in office by a 2/3 vote of the members of Congress. When the President or Vice-President is removed, the Supreme Court shall review the decision. When a justice of the Supreme Court is removed, the decision shall be reviewed by a special tribunal composed of one state court judge from each state appointed by the state chief executive. The special tribunal shall meet at the call of the President.

The provisions of the Constitution are found in Part I of this code.

The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the FSM Supreme Court and the Judiciary are found in title 4 of this code.

Chapter 5 of title 11 (Crimes) of this code is on offenses against public administration. Chapter 13 of title 11 (Crimes) of this code is on conflict of interest. Section 531 of title 11 (Crimes) of this code is on bribery in official and political matters.

§ 702. Resolution; Probability; Notification.

- (1) Impeachment proceedings must be initiated by a resolution of Congress. An impeachment resolution:
 - (a) Shall state that the Congress has found that it is probable that the accused official committed an act of treason, bribery, or conduct involving corruption in office;

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(b) Shall plainly describe each alleged instance of treason, bribery, or conduct involving corruption in office for which the Congress has made a finding of probability; and

(c) Shall provide or state the location of documentary evidence of each alleged instance of treason, bribery, or conduct involving corruption in office for which Congress has made a finding of probability.

(2) For purposes of this section, it is probable that an act occurred if it is more likely than not that the act occurred.

(3) A finding of probability in an impeachment resolution shall not be subject to judicial review.

(4) An affirmative vote of two-thirds of the Members of Congress is required to pass an impeachment resolution.

(5) If Congress passes an impeachment resolution, the Speaker shall notify the accused official and present him with a copy of the resolution.

Source: PL 5-19 § 3.

Cross-reference: The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the FSM Supreme Court and the Judiciary are found in title 4 of this code.

The website of the FSM National Government contains announcements, press releases, news, forms, and other information on the National Government at <http://fsmgov.org>.

The official website of the Congress of the Federated States of Micronesia contains the public laws enacted by the Congress, sessions, committee hearings, and other Congressional information at <http://www.fsmcongress.fm/>.

The FSM Supreme Court website contains court decisions, rules, calendar, and other information of the court, the code of the Federated States of Micronesia, and other legal resource information at <http://www.fsmcourtsupremecourt.org/>.

§ 703. Impeached official's status.

Upon receipt of an impeachment resolution pursuant to section 702 of this chapter, an official shall not exercise the powers and duties of office, shall not receive Government compensation or benefits, and shall not use Government property.

Source: PL 5-19 § 4.

Cross-reference: FSM Const., art. IX, § 7 states as follows:

Section 7. The President, Vice-President, or a justice of the Supreme Court may be removed from office for treason, bribery, or conduct involving corruption in office by a 2/3 vote of the members of Congress. When the President or Vice-President is removed, the Supreme Court shall review the decision.

When a justice of the Supreme Court is removed, the decision shall be reviewed by a special tribunal composed of one state court judge from each state appointed by the state chief executive. The special tribunal shall meet at the call of the President.

The provisions of the Constitution are found in Part I of this code.

§ 704. Prosecutor.

The Speaker shall appoint and employ an impartial, competent person who is not holding a National Government public office or National Government employment to prosecute a resolution of

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impeachment before the Congress. The Legislative Counsel of the Congress of the Federated States of Micronesia and his staff shall advise the Speaker and the Congress during proceedings pursuant to this chapter.

Source: PL 5-19 § 5.

§ 705. Impeached official's counsel.

Persons holding public office may not serve as an impeached official's counsel or assist the official in impeachment proceedings. For purposes of this section, testifying as a witness on the official's behalf shall not be considered to be assisting the official.

Source: PL 5-19 § 6.

§ 706. Trial.

(1) An impeached official has the right to counsel, to be confronted with the witnesses against him, and to compel a witness to testify.

(2) The Speaker or a Member of Congress designated by the Speaker shall conduct the trial of an impeached official.

(3) To the extent consistent with law, trial on the impeachment resolution is pursuant to the Supreme Court of the Federated States of Micronesia's rules of criminal procedure and evidence, except that the Congress may, by rule, provide for other or different rules.

Source: PL 5-19 § 7.

Cross-reference: The statutory provisions on the FSM Supreme Court and the Judiciary are found in title 4 of this code.

The official website of the Congress of the Federated States of Micronesia is found at <http://www.fsmcongress.fm/>.

The FSM Supreme Court website can be found at <http://www.fsmsupremecourt.org/>.

§ 707. Vote.

(1) The Congress shall listen to the evidence presented by the prosecutor and the impeached official, and at the conclusion of proceedings meet to consider the evidence and reach a judgment.

(2) Whether the deliberations of Congress are public shall be determined by a majority vote of the Members present.

(3) The vote on the judgment shall be public and by call of the roll.

(4) Proof beyond a reasonable doubt is necessary to establish a judgment of guilty.

(5) The Congress shall express its vote by a written judgment, certified by the Speaker and the Clerk, which shall plainly state a judgment of guilty or not guilty. A two-thirds vote of the Members of Congress is required for a judgment of guilty. If the Congress reaches a judgment of guilty, the judgment shall express the consequences of the judgment for the impeached official which shall be removal from office. An impeached official who by virtue of Congress' judgment of not guilty resumes his Government duties shall be entitled to receive compensation deferred pursuant to section 703 of this chapter.

(6) The Speaker shall promptly inform the President, the Vice President, the Chief Justice of the Supreme Court, the Attorney General, the Governors of each State, and the public of the Congress'

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judgment and its consequences. If one of these persons is the impeached official and another person is lawfully acting in his place, the Speaker shall inform the person who is so acting of the Congress' judgment and its consequences.

Source: PL 5-19 § 8.

Cross-reference: FSM Const., art. IX, § 7 states as follows:

Section 7. The President, Vice-President, or a justice of the Supreme Court may be removed from office for treason, bribery, or conduct involving corruption in office by a 2/3 vote of the members of Congress. When the President or Vice-President is removed, the Supreme Court shall review the decision.

When a justice of the Supreme Court is removed, the decision shall be reviewed by a special tribunal composed of one state court judge from each state appointed by the state chief executive. The special tribunal shall meet at the call of the President.

The provisions of the Constitution are found in Part I of this code.

§ 708. Review.

When the President or Vice-President is removed from office, the Supreme Court shall review the decision. When a Justice of the Supreme Court is removed, the decision shall be reviewed by a special tribunal composed of one State court judge from each State appointed by the State chief executive. The special tribunal shall meet at the call of the President.

Source: PL 5-19 § 9.

Cross-reference: FSM Const., art. IX, § 7 states as follows:

Section 7. The President, Vice-President, or a justice of the Supreme Court may be removed from office for treason, bribery, or conduct involving corruption in office by a 2/3 vote of the members of Congress. When the President or Vice-President is removed, the Supreme Court shall review the decision.

When a justice of the Supreme Court is removed, the decision shall be reviewed by a special tribunal composed of one state court judge from each state appointed by the state chief executive. The special tribunal shall meet at the call of the President.

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