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5-147

A BILL FOR AN ACT

To further amend title 4 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 3-3, 3-40 and 5-12, by amending section 104 by repealing subsections (1), (2) and (3) and by adding new subsections (1) through (7) to provide for the nomination and congressional advice and consent of temporary Justices to the FSM Supreme Court, and for other purposes.

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

1 Section 1. Section 104 of title 4 of the Code of the Federated
2 States of Micronesia is hereby amended to read as follows:

3 "Section 104. Special assignments. The Chief Justice may
4 give special assignments pursuant to article XI, section
5 9(b) of the Constitution. In the case of temporary
6 Justices appointed pursuant to this authority:

7 (1) The Chief Justice may assign temporary Justices,
8 selected from a panel established pursuant to this section,
9 to fill vacancies and otherwise sit in the Appellate
10 Division of the Supreme Court or to hold sessions of the
11 Trial Division of the Supreme Court.

12 (2) The President of the Federated States of
13 Micronesia shall submit to the Speaker of the Congress of
14 the Federated States of Micronesia for congressional advice
15 and consent the names of at least five and not more than
16 seven persons qualified to serve as temporary Justices,
17 together with such information relating to their
18 qualifications as he deems advisable. All persons
19 nominated by the President shall meet the qualifications of
20 section 107 of this chapter.

21 (3) Approval of a nomination shall require a two-
22 thirds vote of all Members of Congress.

23 (4) A nominee who has been approved shall be a member
24 of the panel of temporary Justices for a period of 2 years
25 from the date of his approval. Every effort shall be made

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1 to maintain at least three Justices on the panel of
2 temporary Justices at all times. From time to time, the
3 President may submit additional nominations in the manner
4 provided for in this section whenever necessary to maintain
5 an adequate number of temporary Justices on the panel.

6 (5) The President shall not resubmit the nomination
7 of any person to the Congress for its action if the same
8 Congress shall have previously rejected such nomination,
9 unless the Congress shall by resolution authorize such
10 resubmission.

11 (6) The Chief Justice shall give notice to the
12 President and the Congress upon the appointment of any
13 temporary Justice.

14 (7) Upon the effective date of this act, no temporary
15 Justice may be assigned to sit in the Appellate Division of
16 the Supreme Court, or to hold sessions of the Trial
17 Division of the Supreme Court, unless said Justice has been
18 nominated, approved, and assigned pursuant to this
19 section. Except as provided by section 3 of this act, no
20 judgment or other order shall be valid if a temporary
21 Justice who has not been nominated, approved, and assigned
22 pursuant to this provision either issues or participates in
23 the issuance of any such judgment or other order."

24 Section 2. Subsections (1), (2) and (3) of section 104 of title
25 4 of the Code of the Federated States of Micronesia are hereby

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1 repealed in their entirety.

2 Section 3. This act shall not apply to any temporary Justice
3 already assigned as of the effective date of this act to sit in the
4 Appellate Division of the Supreme Court, or to hold sessions of the
5 Trial Division of the Supreme Court, for the duration of that
6 assignment only. All assignments of temporary Justices occurring
7 after the effective date of this act shall conform to the provisions
8 of this act.

9 Section 4. This act shall take effect 6 months after its
10 approval by the President of the Federated States of Micronesia, or 6
11 months after its becoming law without such approval.

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13 Date: 10/15/87

Introduced by:

Claude H. Phillip
Claude H. Phillip
(by request)

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