



*The President*  
*Palikir, Pohnpei*  
*Federated States of Micronesia*

July 8, 2021

The Honorable Wesley W. Simina  
Speaker  
Twenty-Second Congress  
Federated States of Micronesia  
Palikir, Pohnpei FM 96941

PRESIDENTIAL COMM. NO. 2257  
FSM CONGRESS

Dear Speaker Simina:

I am transmitting the enclosed congressional act, which I have vetoed for the reasons stated below:

Congressional Act No. 22-17, entitled: "AN ACT TO AMEND TITLE 2 OF THE CODE OF THE FEDERATED STATES OF MICRONESIA (ANNOTATED), AS AMENDED, BY INSERTING A NEW SECTION 106 THEREOF, TO CLARIFY THE PROCEDURES FOR SUCCESSION IN THE EVENT THAT THE VICE PRESIDENT IS UNABLE TO DISCHARGE THE DUTIES OF THE OFFICE, AND FOR OTHER PURPOSES."

I appreciate the effort of the 22<sup>nd</sup> FSM Congress in setting up the procedures for succession in the event of vacancy of the office of the Vice President. I am also conscious that in doing so, always the provisions of the constitution must be observed. Any conflict with the constitution will render the procedures invalid.

This act states that the Court shall decide the Vice President's incapacity or otherwise "...by a majority or tie vote." Textual interpretation of the Constitution shows that this provision in the act is contrary to our Constitution, in particular, section 2 of article XI, which states that a court decision "...is by majority of those sitting." Allowing the Supreme Court to vote on this important issue on the capacity of the Vice President different from a majority vote is, in my view, unconstitutional. I would therefore recommend that the Congress reconsider this act and take action to rectify this apparent conflict next session.

Moreover, I wish to note that whereas the procedure set out in the act is similar to the procedure already in place for the succession to the presidency, the difference is that, in the procedure for the succession to the vice presidency, the President, instead of the members of Congress, will be making the written declaration to the Speaker of Congress that the Vice President is unable to discharge his/her duties. I also wish to point out that the Supreme Court is called upon to decide the issue in the event that the President submits a second written declaration on the incapacity of the Vice President.





The Honorable Wesley W. Simina  
July 8, 2021  
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PRESIDENTIAL COMM. NO. 22-56  
FSM CONGRESS

There appears to be an ambiguity here given that it is unclear as to who should initiate a case to the Supreme Court. The rules of court provide that "a civil case is commenced by filing a complaint with the Court." Rule 3, FSM Rules of Civil Procedure. Given that the act does not oblige anyone to initiate a complaint, no one is under obligation to do so; and in the absence of a complaint filed, there will be no case that the Supreme Court could take action upon. Once again, I would invite the FSM Congress to reconsider this matter and rectify the ambiguity.

For the reasons stated above, I have decided to veto this Act. I also recommend that the honorable Members of Congress review the act and readjust its provisions to address the issues raised. Thank you.

Sincerely,

A handwritten signature in blue ink, which appears to be "David W. Panuelo", is written over a series of horizontal blue lines that serve as a background for the signature.

David W. Panuelo  
FSM President



Office of the Chief Clerk

CONGRESS OF THE FEDERATED STATES OF MICRONESIA

P.O. Box PS 3

Palikir, Sokehs Pohnpei State, FM 96941

Tel: (691) 320-2324 / 2338 Fax: (691) 320-5122

PRESIDENTIAL COMM. NO. 22-56  
FCM CONGRESS

June 09, 2021

His Excellency David W. Panuelo  
President  
Federated States of Micronesia  
Palikir, Pohnpei FM 96941

Dear President Panuelo:

I have the honor to transmit herewith Congressional Act No. 22-17, "AN ACT TO AMEND TITLE 2 OF THE CODE OF THE FEDERATED STATES OF MICRONESIA (ANNOTATED), AS AMENDED, BY INSERTING A NEW SECTION 106 THEREOF, TO CLARIFY THE PROCEDURES FOR SUCCESSION IN THE EVENT THAT THE VICE PRESIDENT IS UNABLE TO DISCHARGE THE DUTIES OF THE OFFICE, AND FOR OTHER PURPOSES", which was passed by the Twenty-Second Congress of the Federated States of Micronesia, First Regular Session, 2021, by a two-thirds vote of all the State delegations as required and as duly certified.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Jessicalynn Reyes", with a long horizontal line extending to the right.

Jessicalynn Reyes  
Chief Clerk, Congress of the  
Federated States of Micronesia

Enclosures

RECEIVED  
JUN 9 2021  
Office of the  
President FSM





PRESIDENTIAL COMM. NO. 22-56  
FSM CONGRESS

TWENTY-SECOND CONGRESS OF THE  
FEDERATED STATES OF MICRONESIA  
FIRST REGULAR SESSION  
MAY 11 – [30] JUNE 4, 2021  
(EXTENDED BY C.R. NO. 22-18, ADOPTED 5/27/21)

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## An Act

TO AMEND TITLE 2 OF THE CODE OF THE FEDERATED STATES OF MICRONESIA (ANNOTATED), AS AMENDED, BY INSERTING A NEW SECTION 106 THEREOF, TO CLARIFY THE PROCEDURES FOR SUCCESSION IN THE EVENT THAT THE VICE PRESIDENT IS UNABLE TO DISCHARGE THE DUTIES OF THE OFFICE, AND FOR OTHER PURPOSES.

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INTRODUCED BY SENATOR: WESLEY W. SIMINA

DATE: MAY 21, 2021

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REFERRED TO: COMMITTEE ON WAYS AND MEANS

WITHDRAWN – JUNE 03, 2021

FIRST READING: – JUNE 03, 2021

SECOND READING: – JUNE 04, 2021

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A handwritten signature in black ink, appearing to read "Jessicalynn Reyes", is written over a horizontal line.

Jessicalynn Reyes  
Chief Clerk, FSM Congress







Office of the Speaker

**CONGRESS OF THE FEDERATED STATES OF MICRONESIA**

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**PRESIDENTIAL COMM. NO. 22-J6**  
**FSM CONGRESS**

ACT NO. 22-17

(CONGRESSIONAL BILL NO. 22-23)

We hereby certify that on June 4 the foregoing act passed Second and Final Reading of the Twenty-Second Congress of the Federated States of Micronesia, First Regular Session, 2021, by a two-thirds vote of all the State delegations as required under article IX, section 20, of the Constitution of the Federated States of Micronesia.

A handwritten signature in black ink, appearing to be "Wesley W. Simina".

Wesley W. Simina  
Speaker  
Congress of the  
Federated States of Micronesia

A handwritten signature in black ink, appearing to be "Jessicalynn Reyes".

Jessicalynn Reyes  
Chief Clerk  
Congress of the  
Federated States of Micronesia

TWENTY-SECOND CONGRESS OF THE FEDERATED STATES OF MICRONESIA

FIRST REGULAR SESSION, 2021

CONGRESSIONAL BILL NO. 22-23

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AN ACT

To amend title 2 of the Code of the Federated States of Micronesia (Annotated), as amended, by inserting a new section 106 thereof, to clarify the procedures for succession in the event that the Vice President is unable to discharge the duties of the office, and for other purposes.

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

1       Section 1. Purpose. Pursuant to article X, section 6, of  
2 the Constitution of the Federated States of Micronesia, Congress  
3 shall provide by statute for succession if the President or Vice  
4 President is unable to discharge the duties of the office.

5 Section 104 of title 2 of the Code of the Federated States of  
6 Micronesia (Annotated), as amended, currently provides for the  
7 succession procedure if the President is unable to discharge the  
8 duties of the presidency; however, there is no current statute  
9 that provides for the succession procedure if the Vice President  
10 is unable to discharge the duties of the vice presidency. This  
11 act amends title 2 of the Code of the Federated States of  
12 Micronesia (Annotated), as amended, by inserting a new section  
13 106 thereof to clarify that procedure.

14       Section 2. Title 2 of the Code of the Federated States of  
15 Micronesia (Annotated), as amended, is hereby further amended by  
16 inserting a new section 106 thereof to read as follows:

17       "§106. Declaration of the Vice President's inability  
18       to serve. (1) The President, by transmitting a written

1 declaration to the Speaker of the Congress, may declare  
2 that the Vice President is unable to discharge the  
3 powers and duties of the office. The written  
4 declaration must set forth the basis for the  
5 President's declaration and declare the Vice Presidency  
6 vacant.

7 (2) Congress shall, within 30 days of receipt of the  
8 declaration, elect a Vice President in accordance with  
9 the provisions of article X, section 5, of the  
10 Constitution of the Federated States of Micronesia,  
11 convening for that purpose if not in session, and  
12 declare a vacancy in Congress.

13 (3) If, prior to Congress acting under paragraph (2) of  
14 this section, the Vice President transmits to the Speaker  
15 of the Congress a written declaration that no inability  
16 exists, the Vice President shall, four days thereafter,  
17 resume the powers and duties of the office, unless the  
18 President shall sooner transmit to the Speaker of the  
19 Congress a second written declaration that the Vice  
20 President is unable to discharge the powers and duties of  
21 the office.

22 (4) If the President submits a second declaration to  
23 the Speaker pursuant to paragraph (3) of this section,  
24 the Supreme Court shall convene within three days to  
25 decide the issue, shall hear evidence for a period not



1 to exceed seven days, and shall issue its decision  
2 within three days after the close of evidence. If the  
3 Supreme Court determines by majority or tie vote that  
4 the Vice President is unable to discharge the powers  
5 and duties of the office, the office shall be deemed  
6 vacant and Congress shall elect a Vice President  
7 pursuant to paragraph (2) of this section. Otherwise,  
8 the Vice President shall resume the powers and duties  
9 of the office."

10 Section 3. This act shall become law upon approval by the  
11 President of the Federated States of Micronesia or upon its  
12 becoming law without such approval.

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16 \_\_\_\_\_, 2021

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20 *Disapproved*  
21 *7/8/21*  
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23 David W. Panuelo  
24 President  
25 Federated States of Micronesia