

Proposal No.: CC-PR-4-44

Assigned to: Committee on Government  
Structure & Function

## PROPOSAL TO AMEND CONSTITUTION

To amend Article XII, Section 4 of the Constitution of the Federated States of Micronesia to create the office of Independent Prosecutor.

### Section 4.

- (a) The Independent Prosecutor is appointed by the President with the advice and consent of Congress for a term of six years. The Independent Prosecutor may not be reappointed to a consecutive term in office.
- (b) The Independent Prosecutor may investigate any person, office, or agency of the national, state, or local government that receives, spends, or otherwise administers public funds from the national government and may, when appropriate, prosecute any such person, office, or agency found to have violated any applicable national law. Other applicable duties of the Independent Prosecutor may be prescribed by Congress.
- (c) The Independent Prosecutor is a separate and independent agency. However, at least once a year, he shall report to Congress and the President the activities of the office.
- (d) The salary of the Independent Prosecutor shall not be reduced during his term of office.
- (e) The Independent Prosecutor may be removed from office for good cause by a vote of 2/3 of the members of Congress. In the event of a removal, the Chief Justice of the FSM Supreme Court shall appoint an acting Independent Prosecutor until a successor is confirmed.

### PURPOSE AND INTENT OF AMENDMENT:

The proposed amendment adds Section 4 to Article XII of the Constitution. It is based on the increasing realization of the critical importance of the economic development dimension of nation-building. At its core is the increasing desirability, if not necessity, for accountability and administration of justice in the management or expenditure of public funds. The amendment does not envision "competing" with the Constitutional responsibility to make appropriation of public funds. Nor is it intended as an intrusion on the turf of the Executive Branch in the implementation of such projects or activities for which such funds are intended.


The Independent Prosecutor springs into action when there are reasonable grounds to believe there are violations of law as established by Congress for the use or expenditures of public funds. Furthermore, the Independent Prosecutor Office gives "teeth" to the findings of the Public Auditor's Office, especially in cases where further action is warranted. It is envisioned that the Independent Prosecutor's Office will serve the dual purpose of enforcement/compliance and deterrence in the area of public funds administration or expenditures. In the end, the achievement

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of "sound administration" of public funds for the purpose of nation-building and capacity-building is likely to be enhanced, a benefit to all.

Introducer:

  
James Naich

Date:

1/18/20