

A BILL FOR AN ACT

To provide for the discipline and removal of members of the Legislature, to provide for recall of members of the Legislature, and to provide for special elections in the case of removal or recall actions, and for related purposes.

THE PEOPLE OF KOROR REPRESENTED IN THE LEGISLATURE OF THE STATE OF KOROR DO ENACT AS FOLLOWS:

1 **Section . Findings.**

2 The Ninth Koror State Legislature hereby finds that Article VIII, section 10 of the Koror
3 State constitution provides for the discipline of members of the Legislature for wrongdoing or
4 misconduct, and also provides for expulsion of members for treason, bribery, or other serious
5 crime. There are no established procedures for discipline, and terms such as “wrongdoing”,
6 “misconduct”, and “serious crime” are not defined.

7 The Legislature further finds that under Article VIII, section 11 of the Koror State
8 constitution, members of the Legislature may be recalled by the electorate pursuant to law, and
9 there is no law that provides for such recall.

10 It is in the best interests of the people of the State of Koror to provide for the discipline,
11 removal, and recall of members of the Legislature, and to provide for a special election to fill any
12 vacancy created as a result of such removal or recall.

13 **Section 2. Definitions.**

14 A. As used in this Act:

15 (1) “bribery” means the unlawful promising, offering, giving, or receiving or agreeing to
16 receive, anything of value in wrongful or corrupt payment for an official act done or not done or
17 for an official act to be done or not to be done, and also includes the receiving of anything of
18 value for the purpose of influencing or attempting to influence, or persuading or attempting to
19 persuade, any official action, and includes an agreement to receive anything of value for the

20 purpose of influencing or attempting to influence, or persuading or attempting to persuade, any

1 official action.

2 (2) “serious crime” means any felony under the laws of the Republic of Palau, as
3 “felony” is defined under 17 PNC 101. This definition shall include “aiding and abetting” as
4 defined by 17 PNC 102, for the aiding or abetting of any crime that is a felony under 17 PNC
5 101. This definition shall include acting as an accessory as defined by 17 PNC 103, for any
6 accessory to any crime that is a felony under 17 PNC 101.

7 (3) “treason” means a violation of allegiance toward the Republic of Palau or the State of
8 Koror, or toward the government of the Republic of Palau or the government of the State of
9 Koror, especially the betrayal of Palau or of Koror by waging war against Palau or Koror, or by
10 consciously and purposefully acting to aid any enemies of Palau or of Koror.

11 (4) “unethical” means immoral, wrong, improper, illegal, unfair, dishonest,
12 unscrupulous, unprofessional, disreputable, underhanded, unprincipled, dishonorable, or
13 otherwise not conforming to the highest ethical behavioral standards applicable to fiduciaries, or
14 acting contrary to conscience, morality, or law.

15 (5) “wrongdoing or misconduct” means any action taken by a member of the Legislature
16 which is illegal, or which is unethical, or which violates the Rules of Procedure of the
17 Legislature.

18 B. The Legislature shall be the sole judge of the application of the foregoing definitions
19 to any member of the Legislature, and to any proceedings to discipline, suspend, or to expel a
20 member of the Legislature. A person does not have to be charged with, or convicted of, any
21 criminal offense for the Legislature to initiate and conclude proceedings under this Act or under
22 the constitution of the State of Koror, and the Legislature may impose the sanctions authorized
23 by the Koror State constitution or by this Act even in cases of dismissed or settled charges, or in
24 the case of any acquittal.

25 **Section 3. Discipline, suspension, and expulsion of members; procedures.**

26 A. Pursuant to Article VIII, section 10 of the constitution of the State of Koror, the

1 Legislature may discipline or suspend any member who commits any act or wrongdoing or
2 misconduct, or both, as determined by the Legislature.

3 B. Pursuant to Article VIII, section 10 of the constitution of the State of Koror, the
4 Legislature may expel any member for treason, bribery, or other serious crime, or for any
5 combination of the foregoing, all as determined by the Legislature.

6 C. For any proceedings to discipline, suspend, or expel any member of the Legislature,
7 such proceeding shall be initiated by the introduction of a Resolution identifying the member
8 subject to the proceedings, the type of discipline or action to be taken, and including a statement
9 of the grounds or reasons for the proposed action. After adoption on first reading, the Resolution
10 shall be referred to a Committee designated by the Speaker, or if the Speaker is the subject of the
11 Resolution, the Vice Speaker shall designate the members of the Committee. The Committee
12 may hold such hearings as may be necessary to establish the factual basis for the proposed
13 action, and may receive any other evidence or conduct any proceedings relating to the allegations
14 of the Resolution. The member who is the subject of the Resolution shall have an opportunity to
15 address all allegations, statements, and evidence presented to the Committee. The Committee
16 shall then issue a Standing Committee Report containing a summary of the allegations and the
17 evidence considered, and shall make a formal recommendation as to the nature of the proposed
18 action to be taken, or shall recommend that no action be taken. The Legislature may approve of
19 the Standing Committee Report, or may reject the Standing Committee Report, and the
20 Legislature may take any action relating to the Resolution as may be deemed appropriate. A
21 member shall be disciplined, suspended, or expelled, upon an affirmative vote of at least two-
22 thirds (2/3) of the membership of the Legislature.

23 D. A member of the Legislature may apply for relief from the Trial Division of the
24 Supreme Court by filing an appropriate action within sixty (60) days of the vote of the
25 Legislature. If no action is filed within such sixty (60) day period, then such action shall be

26 deemed waived and the court shall not have jurisdiction to entertain any action relating to the

1 procedures or actions of the Legislature, and the action taken by the Legislature shall be deemed
2 final and unreviewable.

3 **Section 4. Recall procedures.**

4 A. The electorate may initiate recall of any member of the Legislature who has served at
5 least one (1) full year as a member of the Legislature, pursuant to Article VIII, section 11 of the
6 Koror State constitution.

7 B. A member may be recalled after the submission of a petition to the Election
8 Commission, as follows. The recall petition shall identify the member of the Legislature to be
9 recalled. The petition shall be signed by at least twenty-five per cent (25%) of the lawfully
10 registered voters of the State of Koror. The Election Commission shall certify the validity of the
11 signatories to the petition to insure that at least 25% of the lawfully registered voters have signed
12 the petition. Upon certification that 25% of the lawfully registered voters have signed the
13 petition, the Election Commission shall proceed to hold a recall election within thirty (30) days
14 of such certification. The ballot for the recall election shall state the following question:

15 “Shall [name of Legislator] be recalled from office?”

16 The ballot shall have a space for a “yes” (“choi”) vote, and shall have a space for a “no”
17 (“ngdiak”) vote. The Election Commission may adopt and apply rules and regulations to the
18 recall election and procedures as may be necessary, including the registration of voters which
19 must be completed at least fourteen (14) days before the recall election. A member shall be
20 recalled as a member of the Legislature upon certification by the Election Commission that a
21 majority of the votes cast (at least 50% plus 1) in the recall election were cast in favor of the
22 recall.

23 **Section 5. Special election to fill vacancy.**

24 A. If a member of the Legislature is expelled pursuant to Article VIII, section 10 of the

1 State constitution and this Act, then a special election shall be held to fill such vacancy within
2 forty-five (45) days pursuant to and under the conditions stated in Article VIII, section 12 of the
3 Koror State constitution and this Act.

4 B. The Election Commission may adopt and apply rules and regulations to the special
5 election and procedures as may be necessary, including the registration of voters which must be
6 completed at least fourteen (14) days before the special election.

7 **Section 6. Severability.**

8 In the event that a court of competent jurisdiction determines that any part or portion of
9 this Act are invalid or otherwise unenforceable, then the offending part or portions may be
10 stricken, and the remaining portions shall continue in full force and effect.

11 **Section 7. Effective Date.**

12 This Act shall become effective upon its becoming law by operation of the Koror State
13 Constitution.

Date: January 10, 2011

Introduced by:

Speaker Eyos Rudimch