

AN ACT

To further amend title 9 of the Code of the Federated States of Micronesia, as amended, by amending section 805; and section 302, as enacted by Public Law No. 8-97; by further amending section 202, as amended by Public Law No. 5-70 and renumbered by Public Law No. 5-103; section 301, as amended by Public Laws Nos. 7-122 and 8-97; sections 303, 603, 604 and 704, as amended by Public Laws Nos. 5-70 and 8-97; section 402 and 810, as amended by Public Law No. 8-97; sections 605 and 703, as amended by Public Law No. 5-70; for the purpose of amending the law relating to the appointment and responsibilities of national election officials; to amend certain election time frames; to amend certain provisions relating to absentee voting; and for other purposes.

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

1           Section 1. Section 202 of title 9 of the Code of the Federated  
2 States of Micronesia, as amended by Public Law No. 5-70 and renumbered  
3 by Public Law No. 5-103, is hereby further amended to read as follows:  
4           "Section 202. Nomination by petition.  
5           Nomination of candidates shall be made by petition initiated  
6 by a candidate; provided, that said nomination petition shall  
7 specify whether the candidate is seeking a four-year or a  
8 two-year term of membership of the Congress. The name of any  
9 candidate for election shall be printed on an official ballot  
10 to be used for choosing candidates only if, at least 90 days  
11 prior to such election, a nomination paper shall have been  
12 filed in the office of the national election commissioner of  
13 the State concerned and signed by at least 25 qualified  
14 voters of the State or single-member congressional district  
15 wherein he seeks election, as the case may be. There shall  
16 be deposited with the nomination paper a filing fee of  
17 \$100.00, which shall be paid over to the General Fund of the  
18 Federated States of Micronesia as a local revenue available  
19 for appropriation by the Congress. Any person who is elected  
20 as a write-in candidate shall, after certification of the  
21 election results, pay a \$100.00 filing fee. The national  
22 election commissioner of the State concerned shall, upon  
23 receipt of the nomination paper, endorse thereon the day,  
24 hour, and minute that such nomination paper is received."

1 Section 2. Section 301 of title 9 of the Code of the Federated  
2 States of Micronesia, as amended by Public Laws Nos. 7-122 and 8-97, is  
3 hereby further amended to read as follows:

4 "Section 301. Appointment of National Election Officials.

5 (1) The President shall appoint one National Election  
6 Director with the advice and consent of the Congress. The  
7 National Election Director shall be a citizen of the  
8 Federated States of Micronesia. The National Election  
9 Director shall serve until resignation, or until removed from  
10 office upon a determination by the President that such  
11 removal is deemed necessary. An appointment of a successor  
12 shall then be made by the President with the advice and  
13 consent of the Congress.

14 (2) The National Election Director shall, after  
15 consultation with the Governor of the State concerned,  
16 appoint a national election commissioner for each of the four  
17 States. National election commissioners serve for a term of  
18 4 years, which term shall commence upon appointment, subject  
19 to removal by the National Election Director for good cause;  
20 provided, that they shall be employed full-time and  
21 compensated pursuant to employment contracts during their  
22 four-year terms only for such period(s) of time as deemed  
23 necessary by the President of the FSM for the purpose of  
24 preparing for and administering an upcoming election.  
25 National election commissioners shall not concurrently serve  
26 as State election commissioners; provided, however, that if  
27 any current national election commissioner is nominated to  
28 serve as a State election commissioner, he or she may  
29 continue to serve as national election commissioner until

1           such time as a new appointment by the National Election  
2           Director becomes effective. Each national election  
3           commissioner shall be a legal resident of the State for which  
4           he is appointed to serve as national election commissioner."

5           Section 3. Section 302 of title 9 of the Code of the Federated  
6 States of Micronesia, as enacted by Public Law No. 8-97, is hereby  
7 amended to read as follows:

8           "Section 302. Powers and duties of the National Election  
9           Director. The National Election Director shall have the  
10          responsibility for the overall supervision and administration  
11          of all National elections, and shall perform such duties as  
12          are prescribed by law, which include, but are not limited to  
13          the following:

14               (1) to supervise and direct the four national election  
15               commissioners in their administration of all national and  
16               special elections and in the performance of their duties  
17               pursuant to section 303 of chapter 3 of this title;

18               (2) to approve the appointment by the four national  
19               election commissioners of all election board members and  
20               other election personnel or short term staff pursuant to  
21               section 303 of chapter 3 of this title;

22               (3) to request such reports from election board or national  
23               election commissioners as may be required by law or  
24               regulation or as the National Election Director may deem  
25               necessary;

26               (4) to review all nomination petitions received by the four  
27               national election commissioners pursuant to section 303 of  
28               chapter 3 of this title;

29               (5) to maintain a national election register;

1 (6) to review and investigate all voting and registration  
2 irregularities, and any other alleged violations of this  
3 title;

4 (7) to implement rules and regulations for the conduct of  
5 regular and absentee balloting in all national elections;

6 (8) to issue regulations not inconsistent with law to  
7 implement this title, in accordance with chapter 1 of title  
8 17;

9 (9) to certify and declare the results of all national  
10 elections;

11 (10) to rule on petitions for recount and petitions alleging  
12 other election irregularities pursuant to chapter 9 of this  
13 title;

14 (11) to determine and prescribe forms for all ballots,  
15 blanks, cards of instruction, pollbooks, tally sheets, and  
16 other materials required by the provisions of this title for  
17 use by candidates, boards, committees, and voters, and to  
18 supply the same to the national election commissioners and  
19 boards of election;

20 (12) to list all candidates for election on the ballot for  
21 each election district in alphabetical order by last name;  
22 and

23 (13) to be the allottee of election funds unless otherwise  
24 provided for in the act appropriating such funds."

25 Section 4. Section 303 of title 9 of the Code of the Federated  
26 States of Micronesia, as amended by Public Laws Nos. 5-70 and 8-97, is  
27 hereby further amended to read as follows:

28 "Section 303. Powers and duties of national election  
29 commissioners. Each national election commissioner shall

1           have responsibility for the overall supervision and  
2           administration of the election within his State and shall  
3           perform such duties as are prescribed by law, which include,  
4           but are not limited to the following:

5           (1) to appoint all members of the several boards of  
6           election in his or her State as provided for in this title;

7           (2) to require such reports from the several boards as may  
8           be required by law or regulation or as the national election  
9           commissioner may deem necessary;

10          (3) to establish voting precincts within each election  
11          district and designate appropriate polling places within each  
12          voting precinct, upon recommendations of the members of the  
13          board of election of the particular election district;

14          (4) to receive nomination petitions;

15          (5) to register or cause to be registered all the voters in  
16          his State and to maintain the General State Register as  
17          provided in this title;

18          (6) to prepare from the General State Register a registered  
19          voters list for each voting precinct prior to any election;

20          (7) to promulgate in accordance with chapter 1 of title 17  
21          of the Code of the Federated States of Micronesia local rules  
22          and regulations which are consistent with rules and  
23          regulations promulgated by the National Election Director  
24          pursuant to section 302 of chapter 3 of this title;

25          (8) to assist the National Election Director in maintaining  
26          the national election register;

27          (9) to report directly to the National Election Director;  
28          and

29          (10) to execute his responsibilities and perform his duties

1 as lawfully directed and authorized by the National Election  
2 Director in accordance with the provisions of this title."

3 Section 5. Section 402 of title 9 of the Code of the Federated  
4 States of Micronesia, as amended by Public Law No. 8-97, is hereby  
5 further amended to read as follows:

6 "Section 402. Powers and duties of election board. Each  
7 board of election member shall have the following powers and  
8 duties:

9 (1) to perform all duties prescribed by law;

10 (2) to supervise and manage each polling place in the  
11 capacity of a pollworker;

12 (3) to receive, preserve, and maintain ballot boxes, locks,  
13 maps, cards of instructions, and other supplies and equipment  
14 necessary to conduct elections;

15 (4) to give such instruction deemed necessary for the  
16 orderly conduct of elections;

17 (5) to provide for the issuance of all notices and  
18 publications concerning elections;

19 (6) to review and examine the sufficiency and validity of  
20 nominating petitions and other documents where the national  
21 election commissioner or the National Election Director  
22 designates the board to act in his stead;

23 (7) to receive and transmit all ballot boxes, locked and  
24 sealed, to the national election commissioner;

25 (8) to receive, investigate, and decide on complaints  
26 concerning election irregularities and determine the  
27 residence qualifications of voters, subject to review  
28 according to chapter 9 of this title;

29 (9) to recommend to the national election commissioner

1 designation of appropriate polling places within each voting  
2 precinct or election district, as may be deemed suitable and  
3 convenient to the public;

4 (10) to perform such other duties as are prescribed by law  
5 or rules issued by the national election commissioner or  
6 National Election Director; and

7 (11) to register electors."

8 Section 6. Section 603 of title 9 of the Code of the Federated  
9 States of Micronesia, as amended by Public Laws Nos. 5-70 and 8-97, is  
10 hereby further amended to read as follows:

11 "Section 603. Printing and distributing.

12 (1) The ballots should be printed by order of the National  
13 Election Director at Government expense; provided,  
14 that the National Election Director shall complete the  
15 printing of official ballots no later than 50 days  
16 before the election. Under the direction of the  
17 National Election Director, the national election  
18 commissioner shall deliver an adequate number of  
19 ballots to each election precinct.

20 (2) At least 55 days before the election the National  
21 Election Director shall print a sample ballot and shall  
22 forthwith submit copies of the same to the national election  
23 commissioner for distribution to the members of the several  
24 boards of election and to the several candidates at their  
25 addresses as given on their nomination papers, and the  
26 members of the boards shall post a copy of the same in a  
27 conspicuous place in their office or a public place."

28 Section 7. Section 604 of title 9 of the Code of the Federated  
29 States of Micronesia, as amended by Public Laws Nos. 5-70 and 8-97, is

1 hereby further amended to read as follows:

2 "Section 604. Withdrawal of candidates.

3 (1) Any candidate may withdraw before an election by giving  
4 notice in writing to the member or members of the board of  
5 election, to the national election commissioner or to the  
6 National Election Director, whichever is more practical, in  
7 the election district or State in which such candidate was  
8 seeking nomination or election. If a candidate withdraws or  
9 dies after the printing of the ballots, the national election  
10 commissioner shall cause the name of the candidate so  
11 withdrawing, or the name of any candidate who has died, to be  
12 stricken from the ballots and in that regard, may require the  
13 services of the board of election of the district or precinct  
14 in which any person was a candidate and shall notify in  
15 writing such board of election of the withdrawal or death,  
16 whereupon notice thereof shall, before the opening of the  
17 polls on election day, be posted at the polling place.

18 (2) If a candidate withdraws his name later than 65 days  
19 before an election and the ballots are in the process of or  
20 have been printed, and it becomes necessary in the opinion of  
21 the National Election Director or national election  
22 commissioner or the board of election for a reprinting of  
23 ballots or a striking out of the candidate's name by a  
24 reprint blockout, all expenses thereof, except in case of a  
25 withdrawal necessitated for medical cause and so certified by  
26 a physician, shall be a charge against the withdrawing  
27 candidate and shall be paid by him within sixty days after  
28 such withdrawal to the national election commissioner.  
29 Monies so received shall be deposited in the General Fund of

1 the Federated States of Micronesia, as a local revenue  
2 general realization, available for appropriation by the  
3 Congress of the Federated States of Micronesia.

4 (3) Any person who, directly or indirectly, physically  
5 threatens or intimidates any candidate so as to cause or  
6 attempt to cause the candidate to withdraw from an election  
7 is guilty of a national offense and upon conviction shall be  
8 fined not more than \$2,000, or imprisoned for not more than  
9 five years, or both."

10 Section 8. Section 605 of title 9 of the Code of the Federated  
11 States of Micronesia, as amended by Public Law No. 5-70, is hereby  
12 further amended to read as follows:

13 "Section 605. Substitute candidates. In the case of the  
14 death, withdrawal, or disqualification of candidates after  
15 the deadline for filing nominations, substitute candidates  
16 may be nominated prior to 60 days before the date of an  
17 election. A person nominated as a substitute for a candidate  
18 nominated by petition must be nominated by petition in the  
19 same manner as the candidate who has died, withdrawn, or been  
20 disqualified. The national election commissioner of the  
21 State concerned in the case of a substitute candidate filling  
22 a vacancy caused by death, withdrawal, or disqualification of  
23 a candidate shall cause the name of any substitute candidate  
24 to be placed upon the proper ballots by reprinting, over-  
25 printing, or through the use of stamps or such other means as  
26 the national election commissioner may deem satisfactory for  
27 the purpose and may require the services of members of the  
28 board of election who may be in the election district or  
29 precinct in which such a person is a candidate. The board of

1 election shall post a notice at the polling place of the name  
2 and office sought by any such substitute candidate."

3 Section 9. Section 703 of title 9 of the Code of the Federated  
4 States of Micronesia, as amended by Public Law No. 5-70, is hereby  
5 further amended to read as follows:

6 "Section 703. Request for ballot.

7 (1) Any registered voter qualified to vote in any election  
8 may request and cast an absentee ballot with the national  
9 election commissioner, provided he meets the requirements as  
10 set forth in section 701 of this title.

11 (2) Any registered voter qualified to vote by absentee  
12 ballot may, not more than 120 days before the close of the  
13 polling place on the day of the election, request the  
14 national election commissioner in writing for an absentee  
15 ballot to be voted at the election; provided, that an  
16 otherwise qualified voter who requested to cast an absentee  
17 ballot outside of the State in which he intends to vote is  
18 solely responsible for ensuring that his request for an  
19 absentee ballot shall be received by the national election  
20 commissioner of the State concerned no later than 60 days  
21 before the election, and any such request for an absentee  
22 ballot received by the national election commissioner  
23 concerned later than 60 days before the election shall be  
24 rejected by the national election commissioner concerned,  
25 unless the request is postmarked and mailed before the 60  
26 days and is received by the national election commissioner of  
27 the State concerned no later than 51 days before the  
28 election. Delayed and lost mails for absentee ballot  
29 requests shall not create any obligation of the National

1 Election Director and the national election commissioners of  
2 the States to provide absentee ballots at any time after the  
3 time periods set forth in this chapter have expired. The  
4 request must be personally signed by the voter seeking to  
5 vote by absentee ballot, and it shall include information  
6 stating the voter's voting precinct, election district,  
7 reasons for being absent, the address to which the voter  
8 wishes his ballot forwarded and establishing the voter's  
9 right to a ballot. Only the person seeking to vote by  
10 absentee ballot may submit an absentee ballot request;  
11 absentee\_ballots may not be obtained by individuals on behalf  
12 of others."

13 Section 10. Section 704 of title 9 of the Code of the Federated  
14 States of Micronesia, as amended by Public Laws Nos. 5-70 and 8-97,  
15 is hereby further amended to read as follows:

16 "Section 704. Marking and return of ballot - voting at  
17 polls.

18 (1) The national election commissioner of each State or the  
19 board of election, as the case may be, shall, at least 50  
20 days prior to an election, provide to any person who may be  
21 entitled to vote by absentee ballot outside of the State  
22 concerned, and who requests the same in accordance with  
23 section 703(2) of this chapter, an official ballot, a ballot  
24 envelope, an affidavit prescribed by the national election  
25 commissioner, and a covering reply envelope. The absentee  
26 voter shall mark the ballot in the usual manner provided by  
27 law and in such manner that no person can see or know how the  
28 ballot is marked except as provided in section 702 of this  
29 title. The absentee voter shall then deposit the ballot in

1 the envelope and securely seal the same. The absentee voter  
2 shall then complete and execute the affidavit. The ballot  
3 envelope and the affidavit shall then be enclosed and sealed  
4 in the covering reply envelope and shall be mailed to reach  
5 the national election commissioner of the State issuing the  
6 absentee ballot not later than the established closing hour  
7 of the polls on the day of the election except as provided in  
8 section 702 of this title.

9 (2) It is unlawful for any person who has voted an absentee  
10 ballot to cast a ballot at the polls on election day."

11 Section 11. Section 805 of title 9 of the Code of the Federated  
12 States of Micronesia is hereby amended to read as follows:

13 "Section 805. Campaigning and alcoholic beverages at polling  
14 places. No campaigning shall be conducted within 100 feet of  
15 a ballot box on election day and no alcoholic beverages shall  
16 be sold, consumed in public or otherwise provided to any  
17 person during election day while the polls are open. No  
18 candidate shall be allowed within 100 feet of any ballot box  
19 except for the purpose of casting his ballot. There shall be  
20 no campaigning over any State broadcast station on election  
21 day."

22 Section 12. Section 810 of title 9 of the Code of the Federated  
23 States of Micronesia, as amended by Public Law No. 8-97, is hereby  
24 further amended to read as follows:

25 "Section 810. Certification and declaration of election  
26 results. Upon completion of the counting and tabulation of  
27 election results as certified by the national election  
28 commissioners, and no later than three days after the  
29 certification of election results from all four states have

1           been received by the National Election Director, the National  
2           Election Director shall certify the election results and  
3           shall declare as the winning candidates for the Congress of  
4           the Federated States of Micronesia from each election  
5           district the candidates receiving the plurality of votes cast  
6           in each election. Upon certification and declaration of the  
7           results, the National Election Director shall immediately  
8           provide to all election candidates notice of such  
9           certification in the most practical and expeditious manner  
10          available."

11          Section 13. Upon this act becoming law, the President shall  
12          submit a nominee for National Election Director, subject to the advice  
13          and consent of the Congress. In the event the Congress is not in  
14          session when the nomination is made, or the Congress fails to take any  
15          action on the nomination when it adjourned, the current National  
16          Election Director shall continue to serve until the nomination is acted  
17          upon by the Congress or his current employment contract expires  
18          accordingly, whichever occurs first. The current national election  
19          commissioners of the States shall continue to serve in their capacities  
20          until their respective employment contracts expire by their own terms,  
21          or are terminated, whichever occurs first.

22          Section 14. This act shall become law upon approval by the  
23          President of the Federated States of Micronesia or upon its becoming  
24          law without such approval.

25

26

27

28

Nov. 15<sup>th</sup>, 2000

29

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18

\_\_\_\_\_/s/\_\_\_\_\_  
Leo A. Falcam  
President  
Federated States of Micronesia