

SECOND CONGRESS OF THE FEDERATED STATES OF MICRONESIA

FOURTH REGULAR SESSION, 1982

C.B. No.

2286

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A BILL FOR AN ACT

To provide for the National elections of the Federated States of Micronesia; to repeal title 9 of the Code of the Federated States of Micronesia relating to National elections; and for other purposes.

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

1 CHAPTER 1

2 GENERAL PROVISIONS

3 Section 101. Title 9 of the Code of the Federated States
4 of Micronesia is repealed insofar as it may apply to National elec-
5 tions of the Federated States of Micronesia and there is hereby
6 adopted a National Election Code.

7 Section 102. Eligible voters. Every citizen of the Federated
8 States of Micronesia is eligible to vote for Members of the Congress
9 of the Federated States of Micronesia, if he has fulfilled the
10 following requirements:

11 (1) Be 18 years of age or older on the day of the election;

12 (2) Be a bona fide resident or domiciliary of the State
13 of Kosrae, Ponape, Truk, or Yap and a registered voter therein for
14 at least 30 days immediately preceding the election;

15 (3) Is not currently under a judgment of mental incompetency
16 or insanity; and

17 (4) Is not currently under parole, probation, or sentence
18 for any felony for which he has been convicted by any court of the
19 Federated States of Micronesia, the Trust Territory, or any court
20 within the jurisdiction of the United States.

21 Section 103. Election to be by secret ballot. All congressional
22 elections for Members of the Congress of the Federated States of
23 Micronesia shall be by secret ballot.

24 Section 104. General elections--when held. All general elections
25 for Members of the Congress of the Federated States of Micronesia shall

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1 be held biennially in each odd-numbered year on the first Tuesday
2 following the first Monday in March; PROVIDED that in the event of a
3 natural disaster or other act of God, the effect of which precludes
4 holding the election on the foregoing date, the President of the
5 Federated States of Micronesia may proclaim a later election in the
6 affected State or congressional district or districts.

7 Section 105. Vacancies--special election.

8 (1) After the election of the President and Vice President,
9 vacancies shall be declared by the Speaker of Congress for the seats to
10 which the President and Vice President were originally elected as
11 Members-at-large of the Congress of the Federated States of Micronesia.
12 Upon notification by the Speaker, the National election commissioner
13 of the affected State shall schedule a special election to occur 50
14 days after receipt of notification. A candidate for the special
15 election must submit a petition for candidacy within 20 days after
16 the election commissioner schedules the special election. After all
17 candidates are registered, the election commissioner shall cause the
18 ballots to be produced. Absentee ballots are to be available up to
19 five days before the election date.

20 (2) Any other vacancy in the Congress shall be filled for
21 the unexpired term by special election, except that an unexpired term
22 of one year or less shall be filled by appointment by the chief
23 executive of the State affected. The appointee shall possess the
24 qualifications required by section 201 of this act and shall serve only
25 for the unexpired term.

1 Section 106. Appropriations. Within one year prior to a general
2 election, Congress shall appropriate a sum adequate to defray the
3 administrative and contingent expenses of conducting congressional
4 elections as provided by this act.

5 Section 107. Use of Government broadcast facilities.

6 (1) Government broadcast facilities may be made available
7 to candidates within any State, except on the day of election, pursuant
8 to the discretion of the National election commissioner of the State
9 concerned after that commissioner has obtained approval from appropriate
10 State authorities. The National election commissioner shall afford
11 each candidate equal opportunity in the use of Government broadcast
12 facilities. If the National election commissioner cannot provide equal
13 opportunities to the candidates in the use of Government broadcast
14 facilities, then no candidate shall be allowed their use whatsoever.
15 Each candidate shall advise the National election commissioner not
16 later than 24 hours prior to his intended use of Government broadcast
17 facilities. Failure to notify the National election commissioner of
18 the proposed use of the above described facilities within the prescribed
19 time limit may disqualify the candidate from the use of these Govern-
20 ment facilities.

21 (2) No Government vehicles or vessels may be made available
22 to candidates.

23 Section 108. Affidavit to be sworn. The affidavits required
24 pursuant to this act shall be sworn to before any officer or person
25 authorized by law to administer oaths.

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1 Section 109. Violations. Any person who violates any of the
2 provisions of this act or any rules or regulations promulgated pursuant
3 thereto, for which a penalty is not otherwise provided, who votes
4 or attempts to vote more than one time, or interferes with the
5 orderly process of the elections, shall be punished by a fine not
6 to exceed \$500, or imprisonment for not more than one year, or both.

CHAPTER 2

CANDIDATES

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9 Section 201. Qualifications of Senators. To be eligible for
10 election as a Member of the Congress of the Federated States of
11 Micronesia, a person shall:

12 (1) Have attained the age of 30 years on the day of the
13 election;

14 (2) Be a resident for at least five years of the State
15 from which he is elected;

16 (3) Be a citizen of the Federated States of Micronesia for
17 at least 15 years. For the purpose of this subsection, and as provided
18 by article III, section 1, of the Constitution of the Federated
19 States of Micronesia, a citizen of the Federated States of Micronesia
20 is a person who has been a citizen of the Trust Territory of the
21 Pacific Islands immediately prior to the effective date of the
22 Constitution and a domiciliary of a State or district ratifying the
23 Constitution of the Federated States of Micronesia;

24 (4) Not be under a judgment of mental incompetency or
25 insanity; and

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1 (5) Not have been convicted of a felony by a State or
2 National Court of the Federated States of Micronesia or its predecessor
3 Government of the Trust Territory of the Pacific Islands.

4 Section 202. Membership and terms of office. The Congress of the
5 Federated States of Micronesia shall be a unicameral National legis-
6 lature consisting of 14 Members to be known as Senators as follows:

7 (1) Four Members-at-large, one each from the States of
8 Kosrae, Ponape, Truk, and Yap, who are elected on the basis of State
9 equality to serve for a four-year term;

10 (2) Ten Members serving for a term of two years and elected
11 on the basis of population as follows:

12 (a) One Member elected from Kosrae as a single-member
13 congressional district;

14 (b) One Member elected from Yap as a single-member
15 congressional district;

16 (c) Three Members elected from Ponape, each of whom
17 represents a single-member congressional district; and

18 (d) Five Members elected from Truk, each of whom
19 represents a single-member congressional district.

20 (3) Single-member congressional districts shall be re-
21 apportioned at least every 10 years.

22 (4) Each Senator elected at-large shall hold office for a
23 term of four years. Each Senator elected on the basis of population
24 shall hold office for a term of two years. The term of office of
25 all Members of the Congress of the Federated States of Micronesia

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1 shall commence upon taking the oath of office following their election.

2 Section 203. Nomination by petition. Nomination of candidates
3 shall be made by petition initiated by a candidate; PROVIDED that said
4 nomination petition shall specify whether the candidate is seeking a
5 four-year or a two-year term of membership of the Congress. The name
6 of any candidate for election shall be printed on an official ballot
7 to be used for choosing candidates only if, at least 30 days prior to
8 such election, a nomination paper shall have been filed in the office
9 of the National election commissioner of the State concerned and signed
10 by at least 25 qualified voters of the State or single-member con-
11 gressional district wherein he seeks election, as the case may be.

12 There shall be deposited with the nomination paper a filing fee of
13 \$25, which shall be paid over to the General Fund of the Federated
14 States of Micronesia as a local revenue available for appropriation
15 by the Congress. The National election commissioner of the State
16 concerned shall, upon receipt of the nomination paper, endorse thereon
17 the day, hour, and minute that such nomination paper is received.

18 Section 204. Congress as sole judge of its Members. The Congress
19 of the Federated States of Micronesia shall be the sole judge of the
20 elections, returns, and qualifications of its Members; PROVIDED HOWEVER,
21 that in case of a tie vote at the election, the winner shall be deter-
22 mined in a runoff election between the candidates so tied. Runoff
23 elections shall occur no later than 30 days after the results of the
24 general election have been announced.

25 Section 205. Convening, organization, elections of President and

1 Vice President. The Congress shall convene on the second Monday in
2 May and be organized no later than the Friday immediately following
3 the convening day. The President and Vice President may be elected
4 only after the Congress is fully organized. To be eligible for the
5 office of the President and Vice President, a Member must hold office
6 for a four-year term and shall also have been a resident for at least
7 15 years and a citizen of the Federated States of Micronesia by birth.
8 For the purpose of this section, and as provided by article III, section
9 2, of the Constitution of the Federated States of Micronesia, a citizen
10 of the Federated States of Micronesia by birth is a person one or both
11 of whose parents have been citizens of the Trust Territory of the Paci-
12 fic Islands immediately preceding the effective date of the Constitution
13 of the Federated States of Micronesia and domiciliaries of one of the
14 States or districts that ratified the Constitution of the Federated
15 States of Micronesia.

16 Section 206. Other public offices. A Member of the Congress of
17 the Federated States of Micronesia may not hold another public office
18 or employment. During the term for which he is elected and three years
19 thereafter, a Member may not be elected or appointed to public office
20 or employment created by a National statute enacted during his term.
21 A Member may not engage in any activity which conflicts with the
22 proper discharge of his duties.

23 CHAPTER 3

24 ELECTION COMMISSIONERS

25 Section 301. Appointment. The President shall appoint a

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1 National election commissioner for each of the four States with the
2 advice and consent of the Congress. Each National election commissioner
3 shall be a citizen of the State for which he is appointed to serve as
4 National election commissioner.

5 Section 302. Powers and duties of National election commissioner.

6 A National election commissioner shall have the overall supervision and
7 administration of the election within his State and shall perform such
8 duties as are prescribed by law, which include, but are not limited to,
9 the following:

10 (1) To appoint all members of the several boards of election
11 in his State as provided for in this act;

12 (2) To require such reports from the several boards as may
13 be required by law or regulation or as he may deem necessary;

14 (3) To review and examine voting irregularities or violations
15 of any election laws in accordance with the provisions of chapter 6 of
16 this act;

17 (4) To establish voting precincts within each election district
18 and designate appropriate polling places within each voting precinct,
19 upon recommendations of the members of the board of election of the
20 particular election district;

21 (5) To receive nomination petitions and list all candidates
22 for election in alphabetical order on the ballots for each election
23 district;

24 (6) To register or cause to be registered all the voters
25 in his State and to maintain the General State Register as provided

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1 in this act;

2 (7) To prepare from the General State Register a registered
3 voters list for each voting precinct prior to any election;

4 (8) To implement rules, regulations, and instructions for
5 absentee ballots for the conduct of the election; and

6 (9) To determine and prescribe forms of ballots and the forms
7 of all blanks, cards of instructions, pollbooks, tally sheets, and
8 all forms and blanks required by the provisions of this act for use
9 by candidates, boards, committees, and voters, and supply the same to
10 the boards of election.

11 Section 303. Official register, maintenance, form, and public
12 inspection. The National election commissioner of each State shall
13 register or cause to be registered all voters in his State in the
14 General State Register. The register shall consist of one or more
15 volumes for each State with a general alphabetical index of the voters.
16 The General State Register shall be divided into as many parts as
17 there are election precincts in the election districts in the State
18 and shall have an index of precincts. The General State Register shall
19 be maintained by the National election commissioner and shall, at all
20 times during business hours, be open to public inspection, and shall
21 be ruled and printed in such form as the National election commissioner
22 of each State may direct. The complete General State Register shall
23 be published and made available for public inspection at least 60
24 days prior to any election.

25 Section 304. Striking names of disqualified voters.

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- 1 (1) The National election commissioner of each State shall
2 ascertain, not less than six months before each election, from the
3 Department of Public Health or any informing department, information
4 of the death, adjudication of insanity or feeble-mindedness, loss of
5 citizenship, or any other disqualification to vote of any person
6 registered to vote in his State or who he has reason to believe may
7 be registered to vote therein. He shall thereupon make such investi-
8 gation as he may deem necessary to prove or disprove such information,
9 giving the person concerned, if available, notice and an opportunity
10 to be heard. If after such investigation he finds that such person
11 is dead, incompetent, has lost his citizenship, or is disqualified for
12 any reason to vote, he shall strike or direct that the name of such
13 person be stricken from the official registry.
- 14 (2) The National election commissioner of each State shall
15 make and keep an index of all information furnished to him under any
16 requirements of law concerning any of the matters mentioned in this
17 section and shall provide any person authorized to receive affidavits
18 on application for registration with any information the latter may need
19 to ascertain whether or not any applicant is in any manner disqualified
20 to vote.
- 21 (3) Any person whose name is stricken from the register of
22 voters under this act may appeal in the manner provided by chapter 9
23 of this act.

CHAPTER 4

BOARDS

1 Section 401. Creation, appointment, terms, and qualifications
2 of members. The National election commissioner of each State shall
3 appoint a board of election for each election district on or before
4 January 2 of each election year whose members shall serve until resig-
5 nation or until their successors are appointed. The members shall be
6 citizens of the Federated States of Micronesia registered to vote
7 under the provisions of this act and be of such numbers as are neces-
8 sary to have at least one board member present at each polling place.
9 No board member shall participate in an election campaign during his
10 appointment.

11 Section 402. Powers and duties. Each board of election member
12 shall have the following powers and duties:

- 13 (1) To perform all duties prescribed by law;
- 14 (2) To supervise and manage each polling place;
- 15 (3) To receive, preserve, and maintain ballot boxes, locks,
16 maps, cards of instructions, and other supplies and equipment
17 necessary to conduct the election;
- 18 (4) To give such instruction deemed necessary for the orderly
19 conduct of the election;
- 20 (5) To provide for the issuance of all notices and pub-
21 lications concerning the election;
- 22 (6) To review and examine the sufficiency and validity of
23 nominating petitions and other documents where the National election
24 commissioner designates the board to act in his stead;
- 25 (7) To receive and transmit all ballot boxes, locked and

1 sealed, to the National election commissioner;

2 (8) To receive, investigate, and decide complaints concern-
3 ing election irregularities and determine the residence qualifications
4 of voters, subject to review according to chapter 9 of this act;

5 (9) To recommend to the National election commissioner
6 designation of appropriate polling places within each voting precinct
7 or election district, as may be deemed suitable and convenient to
8 the public;

9 (10) To perform such other duties as are prescribed by law
10 or rules issued by the election commissioner; and

11 (11) To register electors.

12 CHAPTER 5

13 REGISTRATION

14 Section 501. New registration of voters for election of Members
15 of the Congress of the Federated States of Micronesia shall not be
16 required; PROVIDED that the following are complied with:

17 (1) That the General State Registers maintained heretofore
18 by the election commissioners of Kosrae, Ponape, Truk, and Yap shall
19 be used to determine registered voters for the purpose of election of
20 Members-at-large therefrom; PROVIDED that those voters from Kosrae
21 and Yap, whose names appear on their respective registers, shall be
22 entitled to also elect a member of the Congress for a two-year term;

23 (2) That for the purpose of election of Members for two-
24 year terms from Ponape and Truk, only those registered voters of a
25 municipality which has been apportioned as part of a single-member

1 congressional district shall be entitled to elect one Member there-
2 from;

3 (3) That new voter registration will be required every 10
4 years commencing in 1989;

5 (4) That unregistered persons eligible to vote, including
6 those attaining legal voting age between decennial registrations shall
7 be able to register between decennial registrations but shall not have
8 to register again until the following decennial registration; and

9 (5) Registration conducted under subsections (3) and (4)
10 of this section shall conform to sections 502 through 508 of this act.

11 Section 502. Eligibility to register, place of registering and
12 voting.

13 (1) Every person who has reached the age of 18 years, or
14 who will have reached the age of 18 years on or before the date of the
15 next election, and who has resided in the Federated States of Micro-
16 nesia for nine months and in the congressional election district of
17 registration three months preceding the date of registration, and
18 who, except for the requirement of registration, is otherwise entitled
19 to vote may register to vote in the State in which he resides.

20 (2) The National election commissioner of each State shall
21 designate such place or places within each election district wherein
22 registration of voters may be made.

23 (3) No person shall register to vote or vote as an elector
24 of any other precinct than that in which he resides; PROVIDED that
25 where there is a mistake in placing the name of the voter on the list

1 of voters of a precinct, in which he does not actually reside, such
2 voter shall nevertheless be allowed to vote therein, if otherwise
3 qualified; and the member of the board of election of the particular
4 election district and precinct where such voter has voted shall notify
5 the election commissioner of the error in order that the name of such
6 voter may be placed on the next succeeding list of voters of the
7 precinct where he actually resides.

8 (4) If any person resides in more than one precinct, he may
9 choose which precinct as an elector of which he will register, but he
10 shall register as an elector of one precinct only.

11 Section 503. Registration required. No person shall be entitled
12 to vote in any election for Members of the Congress of the Federated
13 States of Micronesia, or to be listed upon any general register, or
14 upon any precinct list, who fails to register with the formalities
15 and subject to the restrictions and qualifications required by this act.

16 Section 504. Application for registration, affidavit. Any person
17 qualified to and desiring to register as a voter in any election district
18 may present himself at any time during business hours to any of the
19 members of the board of election (herein empowered and authorized to
20 administer oaths and take acknowledgements) or persons authorized by
21 law to administer oaths, then and there to be examined under oath as
22 to his qualifications as an elector. Each applicant shall make and
23 subscribe to an application in substantially the following form:

24 AFFIDAVIT ON APPLICATION FOR REGISTRATION

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- 1 1. My full name is _____.
- 2 2. I was born at _____.
- 3 3. My age is _____.
- 4 4. I live at _____.
- 5 5. My occupation is _____.
- 6 6. I am a citizen of the Federated States of Micronesia.
- 7 7. I was naturalized as a citizen of the Federated States of Micronesia
- 8 at _____ State on the _____ day of _____
- 9 in the year _____.
- 10 8. I have resided in the Federated States of Micronesia not less than
- 11 nine months, and in Congressional Election District No. _____
- 12 not less than three months immediately preceding this date on
- 13 which I now offer to register, to wit, the _____
- 14 date of _____, 19 _____.
- 15 9. I am not currently under parole, probation, or sentence for any
- 16 felony for which I have been convicted by any court of the
- 17 Federated States of Micronesia or any court within the jurisdiction
- 18 of the United States.
- 19 10. I am not currently under a judgment of mental incompetence or
- 20 insanity.
- 21 11. I solemnly swear that the foregoing statements are true, so help
- 22 me God.....
- 23 Subscribed and sworn to before me this _____ day of _____
- 24 19 _____.
- 25 This applicant shall strike out allegations that are inapplicable

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1 and shall swear to the truth of the allegations in his application.

2 In any case where the person who administers the oath shall so desire
3 or believe the same to be expedient, he may demand that the applicant
4 produce a witness or witnesses to further substantiate the allegations
5 of his application.

6 Section 505. Submission of affidavit of qualifications to examiner.

7 Every affidavit on application for registration shall be submitted to
8 the persons authorized to examine the qualifications of electors as
9 set forth in section 504 of this act.

10 Section 506. Entry of a voter's name in the General State Register,
11 filing of affidavits.

12 (1) If the person authorized to receive an affidavit of
13 application for registration is satisfied that the applicant is
14 entitled to be registered as a voter, he shall number the affidavit
15 consecutively as approved by him and shall transmit the affidavit to
16 the National election commissioner. The National election commissioner
17 shall thereupon enter or cause to be entered in the General State
18 Register the following facts:

- 19 (a) The number of the affidavit;
20 (b) The date of registration;
21 (c) The name of the applicant in full;
22 (d) The occupation of the applicant;
23 (e) The age of the applicant;
24 (f) If naturalized, the date of such naturalization;
25 (g) The residence of the applicant; and

1 (h) Any other pertinent information which the National
2 election commissioner may deem necessary.

3 (2) The National election commissioner shall also forthwith
4 enter or cause to be entered the name so registered in its proper place
5 in the general alphabetical index, together with a reference to the
6 page on which the registration appears. A voter having once been
7 registered shall not be required to register again for any succeeding
8 election, except in case of change of name or residence as specified
9 in section 507 of this act or intervening disqualification as specified
10 in section 305 of this act; PROVIDED that in the event the voting
11 records are destroyed or lost, the National election commissioner
12 may require the reregistration of voters.

13 (3) The National election commissioner shall file the
14 accepted affidavits in consecutive numbers, and keep the same in some
15 convenient place so as to be open to public inspection and examination.

16 Section 507. Change of residence.

17 (1) Any voter who changes his residence from one voting
18 precinct to another, or who changes his name after registration in
19 any General State Register, may register again in such General State
20 Register under the proper voting precinct or the proper name, and the
21 National election commissioner or his authorized representative shall
22 cancel the former registration by drawing one or more lines through
23 the name of such voter as previously registered and enter or cause to
24 be entered his own signature and the date of such cancellation with
25 ink on the same line; PROVIDED that no such registration shall be

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1 allowed on account of any change of residence or name made within
2 90 days before an election.

3 Section 508. Exception to requirement. No registration in person
4 shall be required of a student at any institution of learning, but such
5 person shall make and subscribe to an affidavit substantially similar
6 to the form set forth in section 504 of this act and as the National
7 election commissioner may prescribe, to establish fully such person's
8 right to vote. Any duly qualified elector may challenge the acceptance
9 of the voted ballot at the time of casting of the ballot under the
10 provisions provided by law.

CHAPTER 6

PROCEDURE FOR BALLOTS

12 Section 601. Official ballots required, specimen ballots,
14 imitating.

15 (1) All elections held in accordance with the provisions
16 of this act shall be held by official ballot only. An official ballot
17 is a written or printed, or partly written and partly printed paper,
18 designated as an official ballot and containing the names of persons
19 to be voted for and the office to be filled, and issued by the National
20 election commissioner of each State. The National election commissioner
21 shall have printed two exact copies of each official ballot which
22 is to be used in the general election, for each voting place, such
23 copies to have printed thereon, in large bold letters, and with ink
24 of a color plainly contrasting to the color of the paper used, the
25 word "Specimen." Two copies of each such specimen ballot shall be

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1 forwarded to the members of the board of election at the same time
2 with the official ballots, and the member or members of the board of
3 election shall post one of each such specimen ballot on either side
4 of the entrance of the voting place or other places plainly in sight for
5 the general public.

6 (2) Any person who knowingly, willfully, and unlawfully
7 prints, copies, imitates, or distributes, or causes to be printed, copied,
8 imitated, or distributed any official ballot or any document that is
9 so substantially similar in style or content to the official ballot as
10 to cause the likelihood of confusion with the official ballot without
11 the authorization of the National election commissioner shall be guilty
12 of a National crime and punishable by a fine of not more than \$500.

13 Section 602. Contents. A ballot shall contain the names of the
14 persons and the offices to be voted for, the State, the election
15 district in which the election is being held, and the term or terms
16 of the respective officers being voted for.

17 Section 603. Printing and distributing.

18 (1) The ballots should be printed by order of the National
19 election commissioner at Government expense. The National election
20 commissioner shall deliver an adequate amount of ballots to each election
21 precinct.

22 (2) At least 10 days before the election the National
23 election commissioner shall print a specimen ballot and shall forthwith
24 submit copies of the same to the members of the several boards of
25 election and to the several candidates at their addresses as given on

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1 their nomination papers, and the members of the boards shall post a
2 copy of the same in a conspicuous place in their office or a public
3 place.

4 Section 604. Withdrawal of candidates.

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

18 (2) If a candidate withdraws his name later than 12 days
19 before an election and the ballots are in the process of or have been
20 printed, and it becomes necessary in the opinion of the National
21 election commissioner or the board of election for a reprinting of
22 ballots or a striking out of the candidate's name by a reprint block-
23 out, all expenses thereof, except in case of a withdrawal necessitated
24 for medical cause and so certified by a physician, shall be a charge
25 against the withdrawing candidate and shall be paid by him within 60

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1 days after such withdrawal to the National election commissioner.
2 Monies so received shall be deposited in the General Fund of the
3 Federated States of Micronesia, as a local revenue general realization,
4 available for appropriation by the Congress of the Federated States
5 of Micronesia.

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

11 Section 605. Substitute candidates. In the case of the death,
12 withdrawal, or disqualification of candidates after the deadline
13 for filing nominations, substitute candidates may be nominated prior
14 to 30 days before the date of an election. A person nominated as
15 a substitute for a candidate nominated by petition must be nominated
16 by petition in the same manner as the candidate who has died, withdrawn,
17 or been disqualified. The National election commissioner of the State
18 concerned in the case of a substitute candidate filling a vacancy
19 caused by death, withdrawal, or disqualification of a candidate shall
20 cause the name of any substitute candidate to be placed upon the proper
21 ballots by reprinting, over-printing, or through the use of stamps or
22 such other means as the National election commissioner may deem satis-
23 factory for the purpose and may require the services of members of the
24 board of election who may be in the election district or precinct in
25 which such a person is a candidate. The board of election shall post

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

3 Section 606. Packaging, sealing, record of distribution. When
4 printed, the ballots shall be fastened together in blocks of 100 each
5 in such manner that each ballot may be detached and removed separately.
6 They shall be forwarded by the National election commissioner of
7 each State to the member or members of the board of election in sealed
8 packages, which shall not be opened until the opening of the polls.
9 A record of the number of ballots sent to each board of election
10 member shall be kept by the National election commissioner.

11 CHAPTER 7

12 PROCEDURE FOR ABSENTEE VOTERS

13 Section 701. "Voter" and "ballot" defined.

14 (1) Any registered voter qualified to vote at any general
15 or special election shall be entitled and enabled to vote by absentee
16 ballot if:

17 (a) He is confined to his home or hospital by reason
18 of such illness or physical disability as will prevent him from attending
19 the polls; or

20 (b) He is prevented from voting by reason of being at
21 sea, absent from the State or municipality in which he is registered,
22 or obstructed by natural barrier making it highly impractical or
23 extremely difficult for him to arrive at his place of voting in time
24 to cast his ballot.

25 (2) An absentee ballot is an official ballot which is

1 authorized by this title to be voted outside of any designated polling
2 place or prior to the date of the election.

3 Section 702. Confined persons. Any registered voter qualified
4 to vote at any general or special election who is confined to his
5 home or hospital by reason of such illness or physical disability as
6 will prevent him from attending the polls shall be entitled to vote
7 in such manner as may be prescribed by rules and regulations which
8 shall be promulgated by the National election commissioner of the
9 State concerned. Such rules and regulations shall provide for voting
10 by such persons in such manner as to ensure secrecy of ballot and to
11 preclude tampering with the ballots of such voters and other election
12 frauds; PROVIDED that any voter who by reason of physical disability
13 is unable to mark his ballot shall be authorized to receive assistance
14 in the marking thereof. Such rules and regulations may require affidavits,
15 certificates, and other written statements under oath.

16 Section 703. Request for ballot.

17 (1) Any registered voter qualified to vote in any election
18 may request and cast an absentee ballot with the National election
19 commissioner; PROVIDED that he meets the requirements as set forth in
20 section 701 of this act.

21 (2) Any registered voter qualified to vote by absentee ballot
22 may, not more than 90 days nor less than 20 days before the election,
23 request the National election commissioner in writing for an absentee
24 ballot to be voted at the election. The request shall include information
25 stating the voter's voting precinct, election district, reasons for

1 being absent, address to which he wishes his ballot forwarded and the
2 establishment of his right to a ballot.

3 Section 704. Marking and return of ballot, voting at polls.

4 (1) The National election commissioner of each State or the
5 board of election, as the case may be, shall, at least 20 days prior to
6 an election, provide to any person who may be entitled to vote by
7 absentee ballot, and who requests the same, an official ballot, a
8 ballot envelope, an affidavit prescribed by the National election
9 commissioner, and a covering reply envelope. The absentee voter shall
10 mark the ballot in the usual manner provided by law and in such manner
11 that no person can see or know how the ballot is marked except as provided
12 in section 702 of this act. The absentee voter shall then deposit
13 the ballot envelope and securely seal the same. The absentee voter
14 shall then complete and execute the affidavit. The ballot envelope and
15 the affidavit shall then be enclosed and sealed in the covering reply
16 envelope and shall be mailed or delivered to reach the National election
17 commissioner of his State issuing the absentee ballot not later than
18 the established closing hour of business on the fourth day before the
19 election except as provided in section 702 of this act and subsection
20 (3) of this section.

21 (2) It shall be unlawful for persons having voted an absentee
22 ballot to cast a ballot at the polls on election day.

23 (3) If the National election commissioner or his designee
24 determines that a personal emergency exists making it highly impractical
25 for a voter to deliver the absentee ballot within the time prescribed

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1 in subsection (1) of this section, then the National election commissioner
2 or his designee may permit delivery of the absentee ballot by the closing
3 hour of business on the day before the election.

4 Section 705. Disposition of ballots.

5 (1) Upon the receipt of the envelope marked "Absentee ballot
6 enclosed" within the period prescribed in section 704 of this act from
7 any person voting under the provisions of this act, the National election
8 commissioner, or his appointee, shall open it, remove the ballot envelope,
9 and examine the statement as to its proper execution, the person's
10 qualifications to register as an elector, and to vote. If the National
11 election commissioner determines that the person is qualified to vote
12 by absentee ballot, the ballot envelope shall be deposited unopened in
13 a container retained for that purpose. The container shall be securely
14 sealed except for an opening sufficient to permit deposit of ballot
15 envelopes and shall be marked with the name and official title of the
16 State election commissioner or his appointee, and the words, "This
17 container holds absentee ballots and must be opened only pursuant to
18 law." The National election commissioner or his appointee shall safely
19 keep each container in his office until the day of election and at such
20 time he shall publicly open the container, extract and segregate the
21 ballot envelopes, and deliver such envelopes to the counting and tabulation
22 committee.

23 (2) In case the statement is found to be insufficient or
24 in case the signatures do not correspond, or in case the voter has
25 not complied with the requirements of section 704 of this act or is not

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1 a duly qualified elector or the ballot envelope is open or has been
2 opened and resealed, the ballot envelope shall not be opened and the
3 National election commissioner or his appointee shall mark across its
4 fact "Rejected," giving the reason therefor, and shall preserve the same
5 in the manner provided by law.

6 (3) If the ballot is received after the time fixed in
7 section 704 of this act, the ballot envelope shall be endorsed by the
8 National election commissioner or his appointee for the period of time
9 required for the preservation of ballots used at such election, and shall
10 then, without being opened, be destroyed in accordance with applicable
11 law.

12 (4) If upon receiving the ballot envelope from the National
13 election commissioner or his appointee it is found that the voter has
14 already voted, the election inspectors shall immediately cancel the
15 ballot envelope and write "Rejected" across its face, giving the reason
16 therefor, and shall preserve the same in the manner provided by law.

17 Section 706. Voting at another polling place.

18 (1) A voter shall have the right to vote on election day at
19 a polling place other than the polling place at which he is legally
20 registered to vote if the following conditions are met:

21 (a) The voter is present in his State on the day of
22 election;

23 (b) He is lawfully registered to vote in his representa-
24 tive or election district; and

25 (c) He notifies the National election commissioner in

1 writing at least seven days before the election that he will not be
2 voting in his proper voting place and that he requests to vote at
3 a specific voting place.

4 (2) Upon receipt of a voter's request for a change in
5 polling place, and no later than five days from such receipt if request
6 is made seven days before the election, the National election commis-
7 sioner shall immediately assign and notify the voter by any means of
8 communication, including the use of radio, as to the place where the
9 voter may vote. Upon such notification, the voter shall be permitted
10 to vote only at that polling place.

11 (3) The National election commissioner shall cause a mark
12 to be placed next to the name of the voter in that part of the General
13 State Register for the election precinct or the polling place where
14 the voter would normally cast his ballot. This mark shall indicate that
15 the voter will be casting his ballot at another polling place and that
16 he is prohibited from voting in that election at his usual polling
17 place. The National election commissioner shall provide the proper
18 ballot at the newly designated polling place for each voter who complies
19 with the provisions of this section.

20 CHAPTER 8

21 PROCEDURE FOR CONDUCT OF ELECTIONS

22 Section 801. Supervision of polling places. The National elec-
23 tion commissioner of each State shall ensure that polling places are
24 supervised by the board of election and such other officials as the
25 National election commissioner shall deem necessary, who must be

1 present at the designated polling places during the election. Public
2 schools and other public places shall be utilized insofar as practicable
3 as polling places. Rent shall not be charged or paid for the use thereof.

4 Section 802. Equipping and supplying polling places. Each polling
5 place shall be provided with necessary ballot boxes, locks, official
6 ballots, cards of instructions, pencils, registered voters lists,
7 papers, and all other necessary supplies.

8 Section 803. Opening and closing of polls. At exactly 7 a.m. of
9 the day of the election, a member of the board of election shall proclaim
10 aloud at each place of election that the polls are open and shall be
11 kept open until 7 p.m., of the same day, after which time the polls
12 shall be closed; PROVIDED that if at the hour of closing there are any
13 other voters in the polling place, or in line at the door, who are
14 qualified to vote and have not been able to do so since appearing, the
15 polls shall be kept open a sufficient time to enable them to vote;
16 PROVIDED FURTHER, that if all registered voters appearing on a
17 registered voters list for any polling place have voted, that polling
18 place may close irrespective of the time of day.

19 Section 804. Checking of register. Any person appearing in the
20 polling place shall report his name in full and his address to the
21 election officials. An election official shall then check the register
22 of voters as to whether or not the person appearing is a registered
23 voter and if so, shall announce the name and address appearing in the
24 register. At this point a challenge may be interposed on the grounds
25 that the ballot is subject to challenge under law or rules or regulations

1 issued by the State election commissioner. Voting shall then proceed in
2 accordance with procedures prescribed by the State election commissioner;
3 however, all voting shall be by secret ballot.

4 Section 805. Campaigning and alcoholic beverages at polling places.

5 No campaigning shall be conducted within 100 feet of a ballot box on
6 election day and no alcoholic beverages shall be sold or otherwise
7 provided to any person during election day while the polls are open.
8 No candidate shall be allowed within 100 feet of any ballot box except
9 for the purpose of casting his ballot. There shall be no campaigning
10 over any State broadcast station on election day.

11 Section 806. Poll watchers. Each candidate shall be entitled to
12 have not more than two poll watchers at each polling place.

13 Section 807. Election irregularities. Any person may file an oral
14 or written complaint of any election irregularity with a member of the
15 board of election present at the polling place. The board member shall
16 give any individual against whom the complaint is made time to present
17 witnesses and an explanation, if any, but in no event shall time be
18 granted so as to prevent the board of election from making a decision
19 prior to the time for the closing of the polls. The complainant, or the
20 individual against whom the complaint is made, may appeal the decision to
21 the National election commissioner of the State concerned or his
22 designated representative. The National election commissioner, or his
23 said representative, shall, as soon as possible, examine the findings
24 of the board of election and may hear witnesses, if he deems necessary.
25 The National election commissioner, or his representative, shall make his

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1 decision prior to the time of the closing of the polls, and the aggrieved
2 party may appeal the decision in accordance with section 903 of this
3 act. In the event the decision of the National election commissioner,
4 or his designated representative, cannot be obtained as heretofore
5 provided, the aggrieved party may appeal the decision of the election
6 board in accordance with section 903 of this act.

7 Section 808. Disposition of ballot boxes after completion of
8 voting. After all voting is completed, all ballot boxes shall be secured
9 and locked. The locked boxes and all other supplies provided to the
10 polling places by the National election commissioner shall be collected
11 by election officials and delivered to the National election commissioner
12 of the State concerned, or his duly authorized representative, by the
13 most expeditious means available and be certified to said National
14 election commissioner that the ballots so delivered were cast in
15 accordance with provisions of this act.

16 Section 809. Counting of ballots, announcement of unofficial results.
17 The National election commissioner of each State shall establish a
18 counting and tabulation committee composed of not less than five members.
19 The said committee shall publicly count and tally all votes cast and
20 determine the acceptability thereof. Such counting of ballots cast in
21 any election district shall begin after all the polls in such election
22 district are closed and shall continue until all votes cast shall have
23 been counted. Each candidate or his authorized representative shall
24 be entitled to be present at the tabulation of the votes. Upon the
25 completion of the counting and tabulation of all votes cast in the

1 election district, public announcement of the unofficial results shall
2 be made.

3 Section 810. Certification of election results. Upon completion
4 of the counting and tabulation of election results, the National
5 election commissioners shall certify the results and shall declare
6 as the winning candidates for the Congress of the Federated States
7 of Micronesia from each election district the candidates receiving
8 the plurality of votes cast in each election.

9 Section 811. Resolution of ties. After all votes have been tabu-
10 lated and certified to the National election commissioner of the
11 State concerned, if two or more candidates shall have received an
12 equal number of votes, such tie shall be resolved by a runoff election
13 between those candidates held within 30 days. The candidate receiving
14 the plurality of votes in the runoff shall be declared the winner, and
15 the result shall be certified under the procedures of section 810 of
16 this act.

17 Section 812. Local counting and tabulating committee. In precincts
18 or other areas where the National election commissioner of the State
19 concerned deems it impracticable that ballot boxes be delivered to
20 a central place for counting and tabulating, the National election
21 commissioner shall appoint a local committee to count, tabulate,
22 certify, and report votes in such manner and according to such rules
23 as the National election commissioner shall establish.

24 Section 813. Rejected ballots. All ballots which have been
25 declared invalid due to defacement or other irregularity shall be sorted

1 and a notation placed upon them indicating that they are rejected ballots.
2 Upon completion of the counting of the ballots, the rejected ballots
3 shall be placed in the ballot box and returned by the counting and tabulating
4 committee to the National election commissioner with the validly cast
5 ballots.

6 Section 814. Imperfectly marked ballots. Two or more markings in
7 one voting square or a mark made partly within and partly without a
8 voting square or space does not make a ballot void.

9 Section 815. Spoiled ballot. Any voter who spoils a ballot may
10 return it to a member of the board of election and receive another in
11 its place. He shall be given one ballot at a time; PROVIDED that the
12 number of ballots given him is not to exceed three in all.

13 Section 816. Rejection of ballot for technical error. At any
14 election a ballot shall not be rejected for any technical error which
15 does not render it impossible to determine the voter's choice, even
16 though the ballot is soiled or partially defaced.

17 Section 817. Rejection of invalid portions. If for any reason a
18 ballot is imperfectly marked if it is impossible to determine the voter's
19 choice for any office, his ballot shall not be counted for that office,
20 but the rest of his ballot, if properly marked, shall be counted.

21 Section 818. Write-in votes. Write-in votes may be used in
22 general and special elections. Any name written upon a ballot shall be
23 counted as a vote for the person whose name is so written for the office
24 under which it is written.

25 CHAPTER 9

PROCEDURE FOR RECOUNTS AND APPEALS

Section 901. Petition for recount. A petition for recount may be filed by any candidate in an election who believes that there was fraud or error committed in the casting, canvassing, or return of the votes cast at said election. The petition shall be filed with the National election commissioner of the State concerned or the board of election of the election district in which the recount is requested. Such petition shall contain a statement sworn to before a notary public or other person authorized to administer oaths that the petitioner has reason to believe and does believe that the records or copies of records made by the board of election of such district are erroneous, specifying wherein he deems such records or copies thereof to be in error, or that votes were cast by persons not entitled to vote therein, and that he believes that a recount of the ballots cast in the district will affect the election of one or more candidates voted for at such election. The petition may not be filed later than two weeks after the election at which the votes were cast unless such filing is prevented by circumstances beyond the control of the petitioner.

Section 902. Recommendation by board of election. If a petition for recount is filed with a board of election, that board shall recommend to the National election commissioner within three days from the receipt of the petition whether the recount shall take place.

Section 903. Denial of petition, appeal of denial to National Government.

(1) If the National election commissioner decides not to approve the petition and grant the recount, he shall record the reasons for such

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1 decision. The aggrieved candidate may, within five days after receipt
2 of the decision of the National election commissioner, appeal his case
3 to the Supreme Court. The Supreme Court shall review the appeal
4 promptly and render a decision. If the decision is in favor of a
5 recount, the National election commissioner of the State concerned
6 shall be so notified and shall proceed as provided in sections 904 and
7 905 of this act.

8 (2) Appeals may be had in the manner prescribed in subsection
9 (1) of this section from any decision of the National election
10 commissioner concerning a ruling of an election board with respect to a
11 challenge affecting the acceptability of a vote or votes. A petition
12 hereunder for appeal shall contain the information specified in section
13 901 of this act for a petition for a recount. A decision of the Supreme
14 Court in favor of the petitioner may have the effect of disallowing
15 the challenged votes but shall not halt or delay balloting or counting
16 and tabulating.

17 Section 904. Approval of petition, notice of recount. Regardless
18 of whether a petition is first filed with a board of election or with
19 the National election commissioner, if the National election commissioner
20 determines that there is a substantial question of fraud or error and
21 that there is a substantial possibility that the outcome of the election
22 would be affected by a recount, he shall cause notice of the recount
23 to be given in a manner decided by him.

24 Section 905. Recount by counting and tabulating committee. The
25 recount shall be held by the counting and tabulation committee within

1 10 days after the decision of the National election commissioner of the
2 State concerned. The counting and tabulating committee shall make
3 certificates of such determination under oath showing the result of the
4 election and what persons were declared elected to fill office, one of
5 which shall be filed with the National election commissioner of the
6 State concerned, one with each board of election concerned, and one
7 with the person filing the petition for recount. The person receiving
8 the greatest number of votes shall be deemed to have been elected, but
9 if two or more candidates shall receive an equal number of votes for
10 the office, the tie vote shall be resolved in accordance with section
11 811 of this act.

CHAPTER 10

SEVERABILITY

14 Section 1001. Severability. If any provision of this act, or the
15 application thereof, to any person or circumstance is held invalid, such
16 holding shall not affect other provisions or application of this act
17 which can be given effect without the invalid provision or application,
18 and to this end the provisions of this act are severable.

CHAPTER 11

REGULATIONS

21 Section 1101. Regulations. Congress may, from time to time,
22 issue regulations not inconsistent with law to implement this act.

CHAPTER 12

EFFECTIVE DATE

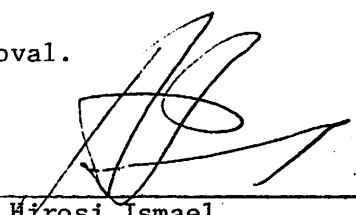
25 Section 1201. Effective date. This act shall become law upon

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1 approval by the President of the Federated States of Micronesia or
2 upon its becoming law without such approval.

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4 Date: 10/28/81 Introduced by: 
Hiroshi Ismael

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