ELEVENTH CONGRESS OF THE FEDERATED STATES OF MICRONESIA

FOURTH REGULAR SESSION, 2000

CONGRESSIONAL BILL NO. 11-173, C.D.1, C.D.2, C.D.3

Public Law No. 11-62

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:

Section 1. Section 202 of title 9 of the Code of the Federated States of Micronesia, as amended by Public Law No. 5-70 and renumbered by Public Law No. 5-103, is hereby further amended to read as follows:

"Section 202. Nomination by petition.

Nomination of candidates shall be made by petition initiated by a candidate; provided, that said nomination petition shall specify whether the candidate is seeking a four-year or a two-year term of membership of the Congress. The name of any candidate for election shall be printed on an official ballot to be used for choosing candidates only if, at least 90 days prior to such election, a nomination paper shall have been filed in the office of the national election commissioner of the State concerned and signed by at least 25 qualified voters of the State or single-member congressional district wherein he seeks election, as the case may be. There shall be deposited with the nomination paper a filing fee of $100.00, which shall be paid over to the General Fund of the Federated States of Micronesia as a local revenue available for appropriation by the Congress. Any person who is elected as a write-in candidate shall, after certification of the election results, pay a $100.00 filing fee. The national election commissioner of the State concerned shall, upon receipt of the nomination paper, endorse thereon the day, hour, and minute that such nomination paper is received."

CBL 11-186
Section 2. Section 301 of title 9 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 7–122 and 8–97, is hereby further amended to read as follows:

"Section 301. Appointment of National Election Officials.

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

(2) The National Election Director shall, after consultation with the Governor of the State concerned, appoint a national election commissioner for each of the four States. National election commissioners serve for a term of 4 years, which term shall commence upon appointment, subject to removal by the National Election Director for good cause; provided, that they shall be employed full-time and compensated pursuant to employment contracts during their four-year terms only for such period(s) of time as deemed necessary by the President of the FSM for the purpose of preparing for and administering an upcoming election. National election commissioners shall not concurrently serve as State election commissioners; provided, however, that if any current national election commissioner is nominated to serve as a State election commissioner, he or she may continue to serve as national election commissioner until
such time as a new appointment by the National Election Director becomes effective. Each national election commissioner shall be a legal resident of the State for which he is appointed to serve as national election commissioner."

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

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

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

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

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

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

(5) to maintain a national election register;
(6) to review and investigate all voting and registration irregularities, and any other alleged violations of this title;

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

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

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

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

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

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

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

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

"Section 303. **Powers and duties of national election commissioners.** Each national election commissioner shall
have responsibility for the overall supervision and
administration of the election within his State and shall
perform such duties as are prescribed by law, which include,
but are not limited to the following:

(1) to appoint all members of the several boards of
election in his or her State as provided for in this title;
(2) to require such reports from the several boards as may
be required by law or regulation or as the national election
commissioner may deem necessary;
(3) to establish voting precincts within each election
district and designate appropriate polling places within each
voting precinct, upon recommendations of the members of the
board of election of the particular election district;
(4) to receive nomination petitions;
(5) to register or cause to be registered all the voters in
his State and to maintain the General State Register as
provided in this title;
(6) to prepare from the General State Register a registered
voters list for each voting precinct prior to any election;
(7) to promulgate in accordance with chapter 1 of title 17
of the Code of the Federated States of Micronesia local rules
and regulations which are consistent with rules and
regulations promulgated by the National Election Director
pursuant to section 302 of chapter 3 of this title;
(8) to assist the National Election Director in maintaining
the national election register;
(9) to report directly to the National Election Director;
and
(10) to execute his responsibilities and perform his duties
as lawfully directed and authorized by the National Election
Director in accordance with the provisions of this title."

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

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

(1) to perform all duties prescribed by law;
(2) to supervise and manage each polling place in the
capacity of a pollworker;
(3) to receive, preserve, and maintain ballot boxes, locks,
maps, cards of instructions, and other supplies and equipment
necessary to conduct elections;
(4) to give such instruction deemed necessary for the
orderly conduct of elections;
(5) to provide for the issuance of all notices and
publications concerning elections;
(6) to review and examine the sufficiency and validity of
nominating petitions and other documents where the national
election commissioner or the National Election Director
designates the board to act in his stead;
(7) to receive and transmit all ballot boxes, locked and
sealed, to the national election commissioner;
(8) to receive, investigate, and decide on complaints
concerning election irregularities and determine the
residence qualifications of voters, subject to review
according to chapter 9 of this title;
(9) to recommend to the national election commissioner
designation of appropriate polling places within each voting
precinct or election district, as may be deemed suitable and
convenient to the public;
(10) to perform such other duties as are prescribed by law
or rules issued by the national election commissioner or
National Election Director; and
(11) to register electors."

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

"Section 603. Printing and distributing.

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

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

Section 7. Section 604 of title 9 of the Code of the Federated
States of Micronesia, as amended by Public Laws Nos. 5–70 and 8–97, is
hereby further amended to read as follows:

"Section 604. Withdrawal of candidates.

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

(2) If a candidate withdraws his name later than 65 days before an election and the ballots are in the process of or have been printed, and it becomes necessary in the opinion of the National Election Director or national election commissioner or the board of election for a reprinting of ballots or a striking out of the candidate's name by a reprint blockout, all expenses thereof, except in case of a withdrawal necessitated for medical cause and so certified by a physician, shall be a charge against the withdrawing candidate and shall be paid by him within sixty days after such withdrawal to the national election commissioner. Monies so received shall be deposited in the General Fund of
the Federated States of Micronesia, as a local revenue
general realization, available for appropriation by the
Congress of the Federated States of Micronesia.

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

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

"Section 605. Substitute candidates. In the case of the
death, withdrawal, or disqualification of candidates after
the deadline for filing nominations, substitute candidates
may be nominated prior to 60 days before the date of an
election. A person nominated as a substitute for a candidate
nominated by petition must be nominated by petition in the
same manner as the candidate who has died, withdrawn, or been
disqualified. The national election commissioner of the
State concerned in the case of a substitute candidate filling
a vacancy caused by death, withdrawal, or disqualification of
a candidate shall cause the name of any substitute candidate
to be placed upon the proper ballots by reprinting, over-
printing, or through the use of stamps or such other means as
the national election commissioner may deem satisfactory for
the purpose and may require the services of members of the
board of election who may be in the election district or
precinct in which such a person is a candidate. The board of
Section 9. Section 703 of title 9 of the Code of the Federated States of Micronesia, as amended by Public Law No. 5-70, is hereby further amended to read as follows:

"Section 703. Request for ballot.

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

(2) Any registered voter qualified to vote by absentee ballot may, not more than 120 days before the close of the polling place on the day of the election, request the national election commissioner in writing for an absentee ballot to be voted at the election; provided, that an otherwise qualified voter who requested to cast an absentee ballot outside of the State in which he intends to vote is solely responsible for ensuring that his request for an absentee ballot shall be received by the national election commissioner of the State concerned no later than 60 days before the election, and any such request for an absentee ballot received by the national election commissioner concerned later than 60 days before the election shall be rejected by the national election commissioner concerned, unless the request is postmarked and mailed before the 60 days and is received by the national election commissioner of the State concerned no later than 51 days before the election. Delayed and lost mails for absentee ballot requests shall not create any obligation of the National
Election Director and the national election commissioners of the States to provide absentee ballots at any time after the time periods set forth in this chapter have expired. The request must be personally signed by the voter seeking to vote by absentee ballot, and it shall include information stating the voter's voting precinct, election district, reasons for being absent, the address to which the voter wishes his ballot forwarded and establishing the voter's right to a ballot. Only the person seeking to vote by absentee ballot may submit an absentee ballot request; absentee ballots may not be obtained by individuals on behalf of others."

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

"Section 704. Marking and return of ballot – voting at polls.

(1) The national election commissioner of each State or the board of election, as the case may be, shall, at least 50 days prior to an election, provide to any person who may be entitled to vote by absentee ballot outside of the State concerned, and who requests the same in accordance with section 703(2) of this chapter, an official ballot, a ballot envelope, an affidavit prescribed by the national election commissioner, and a covering reply envelope. The absentee voter shall mark the ballot in the usual manner provided by law and in such manner that no person can see or know how the ballot is marked except as provided in section 702 of this title. The absentee voter shall then deposit the ballot in
the envelope and securely seal the same. The absentee voter shall then complete and execute the affidavit. The ballot envelope and the affidavit shall then be enclosed and sealed in the covering reply envelope and shall be mailed to reach the national election commissioner of the State issuing the absentee ballot not later than the established closing hour of the polls on the day of the election except as provided in section 702 of this title.

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

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

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

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

"Section 810. Certification and declaration of election results. Upon completion of the counting and tabulation of election results as certified by the national election commissioners, and no later than three days after the certification of election results from all four states have
been received by the National Election Director, the National
Election Director shall certify the election results and
shall declare as the winning candidates for the Congress of
the Federated States of Micronesia from each election
district the candidates receiving the plurality of votes cast
in each election. Upon certification and declaration of the
results, the National Election Director shall immediately
provide to all election candidates notice of such
certification in the most practical and expeditious manner
available."

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

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

Nov. 15th, 2000
/s/ Leo A. Falcam
President
Federated States of Micronesia