A BILL FOR AN ACT

To amend Sections 302, 303 and 304 of Title 9 of the Code of the Federated States of Micronesia, as amended, for the purpose of authorizing the National Election Commissioner of each State to appoint members for an election board, counting and tabulation committee, and other temporary or permanent election staff for each Polling Place, and for other purposes.

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

Section 1. Section 302 of title 9 of the Code of the Federated States of Micronesia, as amended, is hereby, further amended to read as follows:

"Section 302. Appointment of national election officials.

(1) National Election Director.

(a) The President shall appoint one National Election Director with the advice and consent of the Congress. The National Election Director shall be a Resident of a State of the Federated States of Micronesia.

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

(2) National election commissioners.

(a) The President shall appoint a national
election commissioner for each of the four States with
the advice and consent of Congress.

(b) National election commissioners shall serve
for a term of four years, which term shall commence upon
appointment, subject to removal by the President for
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 National Election Director for
the purpose of preparing for and administering an
upcoming National Election.

(c) 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 President becomes effective.

(d) Each national election commissioner shall be
a legal Resident of the State for which he or she is
appointed to serve as national election commissioner.

(3) Election board and counting and tabulation
committee members.

(a) The national election commissioner of each
State [__, with the approval of the National Election
Director] shall appoint an election board for each Polling Place on or before January 2\textsuperscript{nd} of each election year. There shall be at least two board members at each Polling Place.

(b) The national election commissioner of each State[, with the approval of the National Election Director,] shall appoint members of the counting and tabulation committee for each Polling Place on or before January 2\textsuperscript{nd} of an election year. There shall be at least three committee members for each Polling Place.

(c) Election board and counting and tabulation committee members shall serve until the completion of the electoral process for a general or special election in a given election year, or until resignation or removal from office for cause by the National Election Director after consultation with the national election commissioner for the State concerned; provided, that they shall be compensated pursuant to employment contracts only for such period(s) of time as deemed necessary by the national election commissioner for the purpose of preparing for and administering an upcoming election.

(d) Election board and counting and tabulation committee members shall be legal Residents of the State and Congressional Election District for which they are
appointed to serve."

Section 2. Section 303 of title 9 of the Code of the Federated States of Micronesia, as amended, is hereby further amended to read as follows:

"Section 303. Powers and duties of the National Election Director. The National Election Director shall have responsibility for the overall supervision and administration of all National Elections, and shall perform such duties as are prescribed by law or regulation, which include, but are not limited to, the following:

(1) to supervise and direct the four national election commissioners in their administration of all general and special elections and in the performance of their duties;

(2) [to approve the appointment by the four national election commissioners of all election board members, counting and tabulation committee members, and other temporary or permanent election staff;]

[44] to request such reports from election officials as may be required by law or regulation or as the National Election Director may deem necessary;

[44] (3) to review and approve all nomination papers received by the four national election commissioners pursuant to section 202 of this title;
(4) to maintain, update and preserve the National Voter Register;

(5) to issue and implement rules and regulations for the conduct of regular and absentee balloting in all National Elections;

(6) not less than 20 days prior to each election, to prepare from the National Voter Register a Signature List for each Polling Place;

(7) to certify and declare the results of all National Elections;

(8) to review and investigate all registration and election irregularities, and any other alleged violations of this title, and where appropriate, to seek the assistance of other departments and agencies within the National Government with such investigations, provided, that in relation to assistance from the Department of Justice:

(a) the Secretary of Justice or an attorney employed by the Department of Justice shall not provide assistance to the National Election Director unless he or she makes a written request for legal advice, in which the scope of the legal advice sought is clearly identified;

(b) when providing legal advice pursuant to paragraph (a) of this section, neither the Secretary of
Justice nor any attorney employed by the Department of Justice shall make a decision in relation to a matter arising under this title independently of the National Election Director; and

(c) notwithstanding anything in this subsection, neither the Secretary of Justice nor any attorney employed by the Department of Justice shall actively participate in the conduct of a National Election, provided, that he or she may be present to observe and provide advice upon request;

[(10)][(9)] upon a finding that significant election irregularities at a Polling Place have affected the outcome of the election at the Polling Place, order a recount or exclusion of the votes cast at the Polling Place, a revote at the Polling Place, or any other remedy the National Election Director deems necessary to ensure a free and fair election;

[(11)][(10)] to rule on petitions alleging election irregularities pursuant to chapter 8 of this title;

[(12)][(11)] to refer to the Department of Justice any case in which he or she determines that a criminal prosecution for a violation of this title may be warranted;

[(13)][(12)] to determine and prescribe forms of affidavits, applications, petitions, ballots, Signature
Lists, National Voter Register, cards of instruction, poll books, tally sheets, Voter Identification Cards, 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, election boards and counting and tabulation committees;

[14] (13) to list all candidates for election on the ballot for each Congressional Election District in alphabetical order by first name;

[15] (14) to be the allottee of election funds unless otherwise provided for in the act appropriating such funds;

[16] (15) to designate appropriate Polling Places within the Municipalities of each Congressional Election District, upon recommendations of the national election commissioners;

[17] (16) to administer the National Election Offices and appoint and supervise the election staff of the National Election Offices; and

[18] (17) to retain an elections advisor.

(a) The National Election Director may retain an elections advisor to provide independent legal advice in relation to any matter arising under this title including, but not limited to:
(i) the supervision and administration of National Elections;

(ii) the review and investigation of any registration and election irregularities, and any other alleged violations of this title;

(iii) any decision or determination the Election Director is required or authorized to make pursuant to this title; and

(iv) the referral, to the Department of Justice, of any case in which the Election Director determines that a criminal prosecution for a violation of this title may be warranted.

(b) An elections advisor shall not conduct criminal prosecutions on behalf of the National Government.

(c) The National Election Director shall not retain any person as an elections advisor unless he or she is licensed to practice law before the Supreme Court of the Federated States of Micronesia, is of good character, has not been convicted of a felony even if pardoned, and is not an employee of the National Government.

(d) The National Election Director shall advise the President and the Speaker of Congress in writing within 14 days of entering into any retainer agreement
with an elections advisor."

Section 3. Section 304 of title 9 of the Code of the Federated States of Micronesia, as amended, is hereby further amended, to read as follows:

"Section 304. **Powers and duties of national election commissioners.** Subject to the authority of the National Election Director, each national election commissioner shall have responsibility for the overall supervision and administration of the election within his or her State and shall perform such duties as are prescribed by law, which include, but are not limited to the following:

1. to appoint, subject to the approval of the National Election Director, all election board members, counting and tabulating committee members and other temporary or permanent election staff;
2. to require such reports from the several election boards and counting and tabulation committees as may be required by law or regulation or as the national election commissioner may deem necessary;
3. to recommend to the National Election Director Polling Places within each Congressional Election District;
4. to receive nomination papers;
5. to register voters for National Elections;
(6) to assist the National Election Director in maintaining the National Voter Register required by section 401 of this title;

(7) to administer a National Election Office in the State and supervise the election staff of that office;

(8) to review and investigate all registration and election irregularities, and any other alleged violations of this title, and where appropriate, to seek the assistance of other departments and agencies within the National Government with such investigations, provided, that in relation to assistance from the Department of Justice:

(a) the Secretary of Justice or an attorney employed by the Department of Justice shall not provide assistance to a national election commissioner unless he or she makes a written request for legal advice, in which the scope of the legal advice sought is clearly identified;

(b) when providing legal advice pursuant to paragraph (a) of this section, neither the Secretary of Justice nor any attorney employed by the Department of Justice shall make a decision in relation to a matter arising under this title independently of the National Election Director or the relevant national election commissioner; and
(c) notwithstanding anything in this subsection, neither the Secretary of Justice nor any attorney employed by the Department of Justice shall actively participate in the conduct of a National Election, provided that he or she may be present to observe and provide advice upon request;

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

(10) to perform such other duties as the National Election Director may from time to time assign."

Section 4. This act shall become law upon approval by the President of the Federated States of Micronesia or upon its becoming law without such approval.

Date: ___________ Introduced by: ________________

Peter Sitan