

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:

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

4 "Section 302. Appointment of national election
5 officials.

6 (1) National Election Director.

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

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

18 (2) National election commissioners.

19 (a) The President shall appoint a national

1 election commissioner for each of the four States with
2 the advice and consent of Congress.

3 (b) National election commissioners shall serve
4 for a term of four years, which term shall commence upon
5 appointment, subject to removal by the President for
6 cause; provided, that they shall be employed full-time
7 and compensated pursuant to employment contracts during
8 their four-year terms only for such period(s) of time as
9 deemed necessary by the National Election Director for
10 the purpose of preparing for and administering an
11 upcoming National Election.

12 (c) National election commissioners shall not
13 concurrently serve as State election commissioners;
14 provided, however, that if any current national election
15 commissioner is nominated to serve as a State election
16 commissioner, he or she may continue to serve as
17 national election commissioner until such time as a new
18 appointment by the President becomes effective.

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

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

24 (a) The national election commissioner of each
25 State [~~with the approval of the National Election~~

1 ~~Director,~~] shall appoint an election board for each
2 Polling Place on or before January 2nd of each election
3 year. There shall be at least two board members at each
4 Polling Place.

5 (b) The national election commissioner of each
6 State~~[, with the approval of the National Election~~
7 ~~Director,~~] shall appoint members of the counting and
8 tabulation committee for each Polling Place on or before
9 January 2nd of an election year. There shall be at least
10 three committee members for each Polling Place.

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

23 (d) Election board and counting and tabulation
24 committee members shall be legal Residents of the State
25 and Congressional Election District for which they are

1 appointed to serve."

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

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

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

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

20 ~~[-(3)-]~~ to request such reports from election officials as
21 may be required by law or regulation or as the National
22 Election Director may deem necessary;

23 ~~[-(4)-]~~ (3) to review and approve all nomination papers
24 received by the four national election commissioners
25 pursuant to section 202 of this title;

1 ~~[(5)]~~ (4) to maintain, update and preserve the National
2 Voter Register;

3 ~~[(6)]~~ (5) to issue and implement rules and regulations
4 for the conduct of regular and absentee balloting in all
5 National Elections;

6 ~~[(7)]~~ (6) not less than 20 days prior to each election, to
7 prepare from the National Voter Register a Signature
8 List for each Polling Place;

9 ~~[(8)]~~ (7) to certify and declare the results of all
10 National Elections;

11 ~~[(9)]~~ (8) to review and investigate all registration and
12 election irregularities, and any other alleged
13 violations of this title, and where appropriate, to seek
14 the assistance of other departments and agencies within
15 the National Government with such investigations,
16 provided, that in relation to assistance from the
17 Department of Justice:

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

24 (b) when providing legal advice pursuant to
25 paragraph (a) of this section, neither the Secretary of

1 Justice nor any attorney employed by the Department of
2 Justice shall make a decision in relation to a matter
3 arising under this title independently of the National
4 Election Director; and

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

11 [~~(10)~~] (9) upon a finding that significant election
12 irregularities at a Polling Place have affected the
13 outcome of the election at the Polling Place, order a
14 recount or exclusion of the votes cast at the Polling
15 Place, a revote at the Polling Place, or any other
16 remedy the National Election Director deems necessary to
17 ensure a free and fair election;

18 [~~(11)~~] (10) to rule on petitions alleging election
19 irregularities pursuant to chapter 8 of this title;

20 [~~(12)~~] (11) to refer to the Department of Justice any
21 case in which he or she determines that a criminal
22 prosecution for a violation of this title may be
23 warranted;

24 [~~(13)~~] (12) to determine and prescribe forms of
25 affidavits, applications, petitions, ballots, Signature

1 Lists, National Voter Register, cards of instruction,
2 poll books, tally sheets, Voter Identification Cards,
3 and other materials required by the provisions of this
4 title for use by candidates, boards, committees, and
5 voters, and to supply the same to the national election
6 commissioners, election boards and counting and
7 tabulation committees;

8 [~~(14)~~] (13) to list all candidates for election on the
9 ballot for each Congressional Election District in
10 alphabetical order by first name;

11 [~~(15)~~] (14) to be the allottee of election funds unless
12 otherwise provided for in the act appropriating such
13 funds;

14 [~~(16)~~] (15) to designate appropriate Polling Places within
15 the Municipalities of each Congressional Election
16 District, upon recommendations of the national election
17 commissioners;

18 [~~(17)~~] (16) to administer the National Election Offices
19 and appoint and supervise the election staff of the
20 National Election Offices; and

21 [~~(18)~~] (17) to retain an elections advisor.

22 (a) The National Election Director may retain an
23 elections advisor to provide independent legal advice in
24 relation to any matter arising under this title
25 including, but not limited to:

1 (i) the supervision and administration of
2 National Elections;

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

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

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

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

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

23 (d) The National Election Director shall advise
24 the President and the Speaker of Congress in writing
25 within 14 days of entering into any retainer agreement

1 with an elections advisor."

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

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

13 (1) to appoint [~~, subject to the approval of the~~
14 ~~National Election Director,~~] all election board members,
15 counting and tabulating committee members and other
16 temporary or permanent election staff;

17 (2) to require such reports from the several election
18 boards and counting and tabulation committees as may be
19 required by law or regulation or as the national
20 election commissioner may deem necessary;

21 (3) to recommend to the National Election Director
22 Polling Places within each Congressional Election
23 District;

24 (4) to receive nomination papers;

25 (5) to register voters for National Elections;

1 (6) to assist the National Election Director in
2 maintaining the National Voter Register required by
3 section 401 of this title;

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

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

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

19 (b) when providing legal advice pursuant to
20 paragraph (a) of this section, neither the Secretary of
21 Justice nor any attorney employed by the Department of
22 Justice shall make a decision in relation to a matter
23 arising under this title independently of the National
24 Election Director or the relevant national election
25 commissioner; and

