A BILL FOR AN ACT

To amend Section 25 of Public Law No. 1-47 to dispense with administrative review of the ad hoc committee's decision on a disciplined employee's appeal, and for other purposes.

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

Section 1. Section 25 of Public Law No. 1-47 is hereby amended to read as follows:


(1) Suspension. A management official may, for disciplinary purposes, suspend any employee without pay for such length of time as he considers appropriate but not to exceed thirty days at any one time or sixty days in any twelve-month period. No single suspension for a period of more than three working days, whether consecutive or not, shall take effect until the management official transmits to the employee, by the most practical means, a written notice setting forth the specific reasons for the suspension and the employee's rights of appeal. A copy of the notice shall be filed with the Personnel Officer without delay. With the approval of the Personnel Officer, an employee may be suspended for a period longer than thirty days pending the investigation of any charge against him. When an employee has been suspended pending such an investigation and the charge is subsequently dropped, he shall be reinstated in his position with full pay and benefits retroactive to the date of suspension.

(2) Dismissal; Demotion: A management official may, for disciplinary reasons, dismiss or demote an employee when he determines that the good of the Public Service will be served thereby. Demotions may also be made for
reasons other than disciplinary ones; the Personnel
Regulations shall specify the circumstances in which
such demotions may be authorized. No dismissal or
demotion of a permanent employee shall be effective
for any purpose until the management official
transmits to the employee, by the most practical means,
a written notice setting forth the specific reasons for
the dismissal or demotion and the employee's rights of
appeal. A copy of the notice shall be filed with the
Personnel Officer without delay.

(3) Appeals from Suspension, Dismissal, or Demotion.

(a) The President shall nominate and, with
the advice and consent of the Congress, shall designate
not fewer than seven persons to constitute a panel
from which ad hoc hearing committees may be drawn for
the purpose set forth in this Subsection. The President
may remove a member of the panel for cause. Persons
nominated shall be officers or employees of the Government
of the Federated States of Micronesia, of mature judgment
and experience. The panel shall include at least one
member from each of the three branches of government.
The President and Vice-President of the Federated States
of Micronesia, members of the Congress, and justices
and other judges of the national courts shall not be
eligible for membership on the panel.
(b) Any regular employee who is suspended for more than three working days, demoted, or dismissed may appeal through the Personnel Officer within fifteen calendar days after written notice of the suspension, demotion, or dismissal has been transmitted to him. Upon receiving such appeal, the Personnel Officer shall constitute an ad hoc hearing committee of three members, drawn from the panel established under Paragraph (a).

(i) The ad hoc committee shall comprise one member chosen by the Personnel Officer, one chosen by the appellant, and a third chosen jointly by the first two members. If the first two are unable to agree on the choice of a third member, the third member shall be selected by lot from among the remaining members of the panel.

(ii) No member of an ad hoc committee shall be an officer or employee of the agency to which the appellant is or was assigned, or a close relative of either the appellant or the responsible management official.

(iii) Members of ad hoc committees shall not be entitled to additional compensation for such service, but shall be reimbursed for necessary expenses connected with any hearing to which they are assigned.
(c) The hearing shall be held within fifteen calendar days after the Personnel Officer receives the appeal, unless the appellant requests a delay. At the hearing, the appellant and the responsible management official shall each have the right to be heard, to present evidence, to be confronted by all adverse witnesses, and to be represented by counsel of his own choosing.

(d) At the hearing, technical rules of evidence shall not apply, and evidence shall be taken stenographically or by recording machine. The committee shall on its own motion or on that of the Personnel Officer, management, or the appellant, subpoena witnesses and tangible evidence, when such witnesses or evidence are relevant and material to the hearing. Hearings shall be public except when the appellant requests a closed hearing.

(e) The committee shall prepare a full written statement of its finding of fact and its decision within seven calendar days after the close of the hearing. Its decision may include modification or reversal of the disciplinary action from which appeal was taken. It shall forthwith transmit that statement, with such supporting documentation as it deems appropriate, to the highest
management official responsible for the agency in which the appellant is or was employed. The decision of that management official the committee shall be final.

(f) Disciplinary actions taken in conformance with this Section shall in no case be subject to review in the courts until the administrative remedies prescribed herein have been exhausted; nor shall they be subject to such review thereafter except on the grounds of violation of law or regulation or of denial of due process or of equal protection of the laws."

Section 2. 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: May 14, 1982 Introduced by: Hiroshi Ismael