

## AN ACT

To further amend Public Law No. 2-73, as amended by Public Law No. 3-36, sections 101 through 108, 201 through 905, and 1101 of which are codified as sections 101 through 108, 201 through 905, and 109 respectively of title 9 of the Code of the Federated States of Micronesia, by amending sections 108, 109, 203, 302, 501, 504, 506, 603 through 606, 701, 703, 704, 807, and 901 through 904 of title 9 of the Code of the Federated States of Micronesia, and by adding a new section 906 of title 9 of the Code of the Federated States of Micronesia, for the purpose of amending the law relating to National elections, and for other purposes.

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

1 Section 1. Section 108 of title 9 of the Code of the Federated  
2 States of Micronesia is hereby amended to read as follows:

3 "Section 108. Affidavit to be sworn. The affidavits  
4 required pursuant to this title shall be sworn to before  
5 any officer or person authorized by law to administer oaths  
6 except for the affidavit accompanying absentee ballots  
7 which does not need to be witnessed."

8 Section 2. Section 109 of title 9 of the Code of the Federated  
9 States of Micronesia is hereby amended to read as follows:

10 "Section 109. Regulations. The National election  
11 commissioners may, from time to time, issue regulations  
12 not inconsistent with law to implement this title. Such  
13 regulations shall be promulgated in accordance with chapter  
14 1 of title 17 of the Code of the Federated States of  
15 Micronesia."

16 Section 3. Section 203 of title 9 of the Code of the Federated  
17 States of Micronesia is hereby amended to read as follows:

18 "Section 203. Nomination by petition. Nomination of  
19 candidates shall be made by petition initiated by a  
20 candidate; provided, that said nomination petition shall  
21 specify whether the candidate is seeking a four-year or a  
22 two-year term of membership of the Congress. The name of

1 any candidate for election shall be printed on an official  
2 ballot to be used for choosing candidates only if, at least  
3 45 days prior to such election, a nomination paper shall  
4 have been filed in the office of the national election  
5 commissioner of the State concerned and signed by at  
6 least twenty-five qualified voters of the State or  
7 single-member congressional district wherein he seeks  
8 election, as the case may be. There shall be deposited  
9 with the nomination paper a filing fee of twenty-five  
10 dollars, which shall be paid over to the General Fund of  
11 the Federated States of Micronesia as a local revenue  
12 available for appropriation by the Congress. Any person  
13 who is elected as a write-in candidate, shall after  
14 certification of the election results, pay a twenty-five  
15 dollar fee. The national election commissioner of the  
16 State concerned shall, upon receipt of the nomination  
17 paper, endorse thereon the day, hour, and minute that such  
18 nomination paper is received."

19 Section 4. Section 302 of title 9 of the Code of the Federated  
20 States of Micronesia is hereby amended to read as follows:

21 "Section 302. Powers and duties of national election  
22 commissioner. A national election commissioner shall have  
23 responsibility for the overall supervision and administra-  
24 tion of the election within his State and shall perform  
25 such duties as are prescribed by law, which include, but

1 are not limited to the following:

2 (1) to appoint all members of the several boards of  
3 election in his State as provided for in this title;

4 (2) to designate special polling places in other  
5 States of the Federated States of Micronesia or abroad  
6 upon request received by his office at least 20 days  
7 prior to the election day, and to appoint a board of  
8 election therefor consisting of not less than two  
9 members;

10 (3) to require such reports from the several boards  
11 as may be required by law or regulation or as he may  
12 deem necessary;

13 (4) to review and examine voting irregularities  
14 or violations of any election laws in accordance with  
15 the provisions of chapter 6 of this title;

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

21 (6) to receive nomination petitions;

22 (7) to list all candidates for election on the  
23 ballot for each election district in alphabetical order;

24 (8) to register or cause to be registered all the  
25 voters in his State and to maintain the General State

1 Register as provided in this title;

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

5 (10) to implement rules, regulations, and  
6 instructions for absentee ballots for the conduct of the  
7 election; and

8 (11) to determine and prescribe forms of ballots  
9 and the forms of all blanks, cards of instruction,  
10 pollbooks, tally sheets, and all forms and blanks  
11 required by the provisions of this title for use by  
12 candidates, boards, committees, and voters, and supply  
13 the same to the boards of election."

14 Section 5. Section 501 of title 9 of the Code of the Federated  
15 States of Micronesia is hereby amended to read as follows:

16 "Section 501. When required. New registration of voters  
17 for election of Members of the Congress of the Federated  
18 States of Micronesia shall not be required; provided, that  
19 the following are complied with:

20 (1) that the General State Registers maintained  
21 heretofore by the election commissioners of Kosrae,  
22 Pohnpei, Truk, and Yap shall be used to determine  
23 registered voters for the purpose of election of  
24 Members-at-large therefrom; provided, that those voters  
25 from Kosrae and Yap, whose names appear on their

1           respective registers, shall be entitled to also elect  
2           a Member of the Congress for a two-year term;

3           (2) that for the purpose of election of Members  
4           for two-year terms from Pohnpei and Truk, only those  
5           registered voters of a municipality which has been  
6           apportioned as part of a single-member congressional  
7           district shall be entitled to elect one Member therefrom;

8           (3) that new voter registration will be required  
9           every ten years commencing with registration for the  
10          1989 election;

11          (4) that unregistered persons eligible to vote,  
12          including those attaining legal voting age between  
13          decennial registrations shall be able to register  
14          between decennial registrations but shall not have to  
15          register again until the following decennial regis-  
16          tration; and

17          (5) registration conducted under subsections (3)  
18          and (4) of this section shall conform to sections 502  
19          through 508 of this title."

20          Section 6. Section 504 of title 9 of the Code of the Federated  
21 States of Micronesia is hereby amended to read as follows:

22          "Section 504. Application for registration - Affidavit.  
23          Any person qualified to and desiring to register as a  
24          voter in any election district may present himself at  
25          any time during business hours to any of the members

1 of the board of election (herein empowered and authorized  
2 to administer oaths and take acknowledgements) or  
3 persons authorized by law to administer oaths, then and  
4 there to be examined under oath as to his qualifications  
5 as an elector. Each applicant shall make and subscribe  
6 to an application in substantially the following  
7 form:

8 AFFIDAVIT ON APPLICATION FOR REGISTRATION

9 Federated States of Micronesia

- 10 1. My full name is \_\_\_\_\_.
- 11 2. I was born at \_\_\_\_\_.
- 12 3. My date of birth is \_\_\_\_\_.
- 13 4. I live at \_\_\_\_\_.
- 14 5. I am a citizen of the Federated States of

15 Micronesia.

- 16 6. I was naturalized as a citizen of the Federated  
17 States of Micronesia at \_\_\_\_\_ State on the  
18 \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_.

- 19 7. I have resided in the Federated States of  
20 Micronesia not less than nine months, and in Congressional  
21 Election District No. \_\_\_\_\_ in the State of  
22 \_\_\_\_\_ not less than three months immediately  
23 preceding this date on which I now offer to register to vote  
24 in that district, to wit, the \_\_\_\_\_ date of \_\_\_\_\_,  
25 19\_\_.

1           8. I am not currently under parole, probation,  
2           or sentence for any felony for which I have been  
3           convicted by any court of the Federated States of Micro-  
4           nesia or any court within the jurisdiction of the  
5           United States.

6           9. I am not currently under a judgment of mental  
7           incompetence or insanity.

8           10. I solemnly swear that the foregoing statements  
9           are true, so help me God.....

10          Subscribed and sworn to before me this \_\_\_\_\_ day  
11          of \_\_\_\_\_ 19\_\_.

12          This applicant shall strike out allegations that are  
13          inapplicable and shall sign or make a mark on and swear  
14          to the truth of the allegations in his application. In any  
15          case where the person who administers the oath shall so  
16          desire or believe the same to be expedient, he may demand  
17          that the applicant produce a witness or witnesses to  
18          further substantiate the allegations of his application."

19          Section 7. Section 506 of title 9 of the Code of the Federated  
20          States of Micronesia is hereby amended to read as follows:

21          "Section 506. Entry of a voter's name in the General  
22          State Register - Filing of affidavits.

23                 (1) If the person authorized to receive an  
24          affidavit of application for registration is satisfied  
25          that the applicant is entitled to be registered as a

1 voter, he shall number the affidavit consecutively as  
2 approved by him and shall transmit the affidavit to the  
3 national election commissioner. The national election  
4 commissioner shall thereupon enter or cause to be entered  
5 in the General State Register the following facts:

- 6 (a) the number of the affidavit;  
7 (b) the date of registration;  
8 (c) the name of the applicant in full;  
9 (d) the age of the applicant;  
10 (e) if naturalized, the date of such natural-  
11 ization;  
12 (f) the residence of the applicant; and  
13 (g) any other pertinent information which the  
14 national election commissioner may deem necessary.

15 (2) The national election commissioner shall also  
16 forthwith enter or cause to be entered the name so  
17 registered in its proper place in the general alphabetical  
18 index, together with a reference to the page on which the  
19 registration appears. A voter having once been registered  
20 shall not be required to register again for any succeeding  
21 election, except in case of change of name or residence  
22 as specified in section 507 of this title or intervening  
23 disqualification as specified in section 305 of this  
24 title; provided, that in the event the voting records  
25 are destroyed or lost, the national election commissioner



1           may require the registration of voters.

2                   (3) The national election commissioner shall file  
3           the accepted affidavits in consecutive numbers, and keep  
4           the same in some convenient place so as to be open to  
5           public inspection and examination."

6           Section 8. Section 603 of title 9 of the Code of the  
7   Federated States of Micronesia is hereby amended to read as  
8   follows:

9           "Section 603. Printing and distributing.

10                   (1) The ballots should be printed by order of  
11           the national election commissioner at Government expense.  
12           The national election commissioner shall deliver an  
13           adequate amount of ballots to each election precinct.

14                   (2) At least 35 days before the election the  
15           national election commissioner shall print a sample  
16           ballot and shall forthwith submit copies of the same  
17           to the members of the several boards of election and to  
18           the several candidates at their addresses as given on their  
19           nomination papers, and the members of the boards shall post  
20           a copy of the same in a conspicuous place in their office  
21           or a public place."

22           Section 9. Section 604 of title 9 of the Code of the Federated  
23   States of Micronesia is hereby amended to read as follows:

24           "Section 604. Withdrawal of candidates.

25                   (1) Any candidate may withdraw before an election by

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

14 (2) If a candidate withdraws his name later than 30  
15 days before an election and the ballots are in the process  
16 of or have been printed, and it becomes necessary in the  
17 opinion of the national election commissioner or the board of  
18 election for a reprinting of ballots or a striking out of the  
19 candidate's name by a reprint blockout, all expenses thereof,  
20 except in case of a withdrawal necessitated for medical cause  
21 and so certified by a physician, shall be a charge against  
22 the withdrawing candidate and shall be paid by him within  
23 sixty days after such withdrawal to the national election  
24 commissioner. Monies so received shall be deposited in the  
25 General Fund of the Federated States of Micronesia, as a local

1 revenue general realization, available for appropriation by  
2 the Congress of the Federated States of Micronesia.

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

9 Section 10. Section 605 of title 9 of the Code of the Federated  
10 States of Micronesia is hereby amended to read as follows:

11 "Section 605. Substitute candidates. In the case of the  
12 death, withdrawal, or disqualification of candidates after  
13 the deadline for filing nominations, substitute candidates  
14 may be nominated prior to 31 days before the date of an  
15 election. A person nominated as a substitute for a  
16 candidate nominated by petition must be nominated by petition  
17 in the same manner as the candidate who has died, withdrawn,  
18 or been disqualified. The national election commissioner of  
19 the State concerned in the case of a substitute candidate  
20 filling a vacancy caused by death, withdrawal, or disquali-  
21 fication of a candidate shall cause the name of any substitute  
22 candidate to be placed upon the proper ballots by reprinting,  
23 over-printing, or through the use of stamps or such other  
24 means as the national election commissioner may deem satis-  
25 factory for the purpose and may require the services of

1 members of the board of election who may be in the election  
2 district or precinct in which such a person is a candidate.  
3 The board of election shall post a notice at the polling place  
4 of the name and office sought by any such substitute  
5 candidate."

6 Section 11. Section 606 of title 9 of the Code of the Federated  
7 States of Micronesia is hereby amended to read as follows:

8 "Section 606. Packaging - Sealing - Record of distribution.  
9 When printed, the ballots shall be fastened together in blocks  
10 of 25 each in such manner that each ballot may be detached  
11 and removed separately. They shall be forwarded by the  
12 national election commissioner of each State to the member  
13 or members of the board of election in sealed packages, which  
14 shall not be opened until the opening of the polls. A record  
15 of the number of ballots sent to each board of election member  
16 shall be kept by the national election commissioner."

17 Section 12. Section 701 of title 9 of the Code of the Federated  
18 States of Micronesia is hereby amended to read as follows:

19 "Section 701. 'Voter' and 'ballot' defined.

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

23 (a) he is confined to his home or hospital by  
24 reason of such illness or physical disability as will  
25 prevent him from attending the polls, or

1 (b) he is prevented from voting by reason of  
2 being at sea, absent from the State in which he is  
3 registered, or obstructed by natural barrier making it highly  
4 impractical or extremely difficult for him to arrive at his  
5 place of voting in time to cast his ballot.

6 (2) An absentee ballot is an official ballot which is  
7 authorized by this title to be voted outside of any designated  
8 polling place or prior to the date of the election."

9 Section 13. Section 703 of title 9 of the Code of the Federated  
10 States of Micronesia is hereby amended to read as follows:

11 "Section 703. Request for ballot.

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

16 (2) Any registered voter qualified to vote by absentee  
17 ballot may, not more than 120 days, but before the close  
18 of the polling place on the day of the election, request  
19 the national election commissioner in writing for an  
20 absentee ballot to be voted at the election. The request  
21 shall include information stating the voter's voting  
22 precinct, election district, reasons for being absent,  
23 address to which he wishes his ballot forwarded and the  
24 establishment of his right to a ballot."

25 Section 14. Section 704 of title 9 of the Code of the Federated

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CONGRESSIONAL BILL NO. 5-323, C.D.1, C.D.2

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1 States of Micronesia is hereby amended to read as follows:

2 "Section 704. Marking and return of ballot - Voting at polls.

3 (1) The national election commissioner of each State or  
4 the board of election, as the case may be, shall, at least  
5 30 days prior to an election, provide to any person who  
6 may be entitled to vote by absentee ballot, and who requests  
7 the same, an official ballot, a ballot envelope, an affidavit  
8 prescribed by the national election commissioner, and a  
9 covering reply envelope. If a request for an absentee ballot  
10 is made 30 days or less prior to an election, the commissioner  
11 or board shall provide the materials to the person making the  
12 request as soon as is practicable. The absentee voter shall  
13 mark the ballot in the usual manner provided by law and in such  
14 manner that no person can see or know how the ballot is marked  
15 except as provided in section 702 of this title. The absentee  
16 voter shall then deposit the ballot in the envelope and  
17 securely seal the same. The absentee voter shall then complete  
18 and execute the affidavit. The ballot envelope and the  
19 affidavit shall then be enclosed and sealed in the covering  
20 reply envelope and shall be mailed or delivered to reach the  
21 national election commissioner of his State issuing the  
22 absentee ballot not later than the established closing hour  
23 of the polls on the day of the election except as provided  
24 in section 702 of this title.

25 (2) It is unlawful for persons having voted an absen-

1           tee ballot to cast a ballot at the polls on election day."

2           Section 15. Section 807 of title 9 of the Code of the Federated  
3 States of Micronesia is hereby amended to read as follows:

4           "Section 807. Election irregularities. Any person may file an  
5 oral or written complaint of any election irregularity with a  
6 member of the board of election present at the polling place.  
7 The board member shall give any individual against whom the  
8 complaint is made time to present witnesses and an explanation,  
9 if any, but in no event shall time be granted so as to prevent  
10 the board of election from making a decision prior to the time  
11 for the closing of the polls. The complainant, or the  
12 individual against whom the complaint is made, may appeal the  
13 decision to the national election commissioner of the State  
14 concerned or his designated representative. The national  
15 election commissioner, or his said representative, shall, as  
16 soon as possible, examine the findings of the board of election  
17 and may hear witnesses, if he deems necessary. The national  
18 election commissioner, or his representative, shall make his  
19 decision prior to the time of the closing of the polls, and  
20 the aggrieved party may appeal the decision in accordance with  
21 section 903 of this title. In the event the decision of the  
22 national election commissioner, or his designated represen-  
23 tive, cannot be obtained as heretofore provided, the  
24 aggrieved party may file a petition with the National election  
25 commissioner prior to certification of the results of the

1 election or within 1 week of the election, whichever occurs  
2 first. A candidate may appeal a decision of the National  
3 election commissioner or of the election board in  
4 accordance with section 903 of this title."

5 Section 16. Section 901 of title 9 of the Code of the Federated  
6 States of Micronesia is hereby amended to read as follows:

7 "Section 901. Petition for recount.

8 (1) A petition for recount may be filed by any  
9 candidate in an election who believes that there was fraud  
10 or error committed in the casting, canvassing, or return of  
11 the votes cast at said election. The petition shall be  
12 filed with the national election commissioner of the State  
13 in which the recount is requested. Such petition shall  
14 contain a statement that the petitioner has reason to  
15 believe and does believe that the records or copies of  
16 records made by the board of election of such district are  
17 erroneous, specifying wherein he deems such records or  
18 copies thereof to be in error, or that votes were cast by  
19 persons not entitled to vote therein, and that he believes  
20 that a recount of the ballots cast in the district will  
21 affect the election of one or more candidates voted for at  
22 such election.

23 (2) A petition for a recount must be granted if the  
24 difference between the number of votes cast for the winning  
25 candidate and the next highest candidate is one-half of one



1           percent or less of the total votes cast for all of the  
2           candidates for that particular seat."

3           Section 17. Section 902 of title 9 of the Code of the Federated  
4 States of Micronesia is hereby repealed in its entirety and a new  
5 section 902 is hereby enacted to read as follows:

6           "Section 902. Filing timeframes. A petition for a recount  
7           must be filed within 1 week of certification of the results  
8           of the election. Any other petition challenging the  
9           acceptability of a vote or votes must be filed prior to  
10          certification of the results of the election or within 1  
11          week of the election, whichever occurs first. The winning  
12          candidate shall have 1 week to respond to the petition. The  
13          National election commissioner shall then have 10 days to  
14          decide whether to approve the petition. If the National  
15          election commissioner decides not to approve the petition,  
16          he shall record the reasons for such decision."

17          Section 18. Section 903 of title 9 of the Code of the Federated  
18 States of Micronesia is hereby amended to read as follows:

19          "Section 903. Denial of petition - Appeal to Supreme  
20          Court.

21                 (1) The aggrieved candidate may, within five days  
22                 after receipt of the decision of the national election  
23                 commissioner, appeal his case to the Appellate Division of  
24                 the Supreme Court. The Appellate Division of the Supreme  
25                 Court shall review the appeal to determine if the decision

1 by the election commissioner was:

2 (a) Arbitrary, capricious, an abuse of  
3 discretion, or otherwise not in accordance with law;

4 (b) In excess of statutory jurisdiction,  
5 authority, or limitations, or a denial of legal rights;

6 (c) Without substantial compliance with the  
7 procedures required by law; or

8 (d) Unwarranted by the facts.

9 If the decision is in favor of a recount, the national  
10 election commissioner of the State concerned shall be so  
11 notified and shall proceed as provided in sections 904 and  
12 905 of this title.

13 (2) Appeals may be had in the manner prescribed in  
14 section 902 and subsection (1) of this section from any  
15 decision of the national election commissioner with respect  
16 to a challenge affecting the acceptability of a vote or  
17 votes. A petition under this section for appeal shall  
18 contain the information specified in section 901 of this  
19 title for a petition for a recount. A decision of the  
20 Appellate Division of the Supreme Court in favor of the  
21 petitioner may have the effect of disallowing the  
22 challenged votes but shall not halt or delay balloting or  
23 counting and tabulating."

24 Section 19. Section 904 of title 9 of the Code of the Federated  
25 States of Micronesia is hereby amended to read as follows:

1           "Section 904. Approval of petition - Notice of recount.  
2           If the national election commissioner determines that there  
3           is a substantial question of fraud or error and that there  
4           is a substantial possibility that the outcome of the  
5           election would be affected by a recount, he shall cause  
6           notice of the recount to be given in a manner decided by  
7           him."

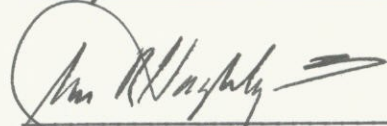
8           Section 20. Title 9 of the Code of the Federated States of  
9           Micronesia is hereby amended by adding a new section 906 to  
10          read as follows:

11           "Section 906. Irregularities not correctable by recount.  
12           In the event of election irregularities which cannot  
13           be corrected by recount, a candidate may petition for  
14           an election to be set aside and done over, either in a  
15           district as a whole or in the portion thereof where  
16           the irregularities took place. The procedures for the  
17           filing of such petition, action thereon, and appeal  
18           of its denial shall be the same as such procedures for  
19           a petition for recount. A petition made pursuant to this  
20           section shall not be granted unless the petitioner proves  
21           it is more likely than not that the irregularities  
22           complained of could have resulted in the election of a  
23           candidate who would not have won had the irregularities  
24           not occurred."  
25

Public Law No. 5 - 70  
CONGRESSIONAL BILL NO. 5-323, C.D.1, C.D.2

1 Section 21. This act shall become law upon approval by the  
2 President of the Federated States of Micronesia or upon its becoming  
3 law without such approval.

4  
5 September 7, 1988

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7 \_\_\_\_\_  
8 John R. Haglergam  
9 President  
10 Federated States of Micronesia

