

AN ACT

To further amend title 9 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 5-70, 5-95, 5-96, 5-103, and 7-122, by repealing section 109 in its entirety, by amending sections 102, 105, 301, 302, 401, 402, 501, 502, 601, 603, 604, 606, 704, 705, 801, 804, 807, 810, 811, 812, 901, 902, 903, 904, and 905, by renumbering sections 110, 303 and 304, and by adding new sections 302, 306, and 509, to create a new position of National Election Director, and for other purposes.

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

1 Section 1. Section 109 of title 9 of the Code of the Federated  
2 States of Micronesia is hereby repealed in its entirety.

3 Section 2. Section 102 of title 9 of the Code of the Federated  
4 States of Micronesia is hereby amended to read as follows:

5 "Section 102. Eligible voters. Every citizen of the  
6 Federated States of Micronesia is eligible to vote for  
7 Members of the Congress of the Federated States of  
8 Micronesia, if he or she has fulfilled the following  
9 requirements:

10 (1) be eighteen years of age or older on the day of  
11 the election;

12 (2) be a resident or domiciliary of the State of  
13 Kosrae, Pohnpei, Chuuk, or Yap and a registered voter  
14 therein for at least thirty days immediately preceding  
15 the election;

16 (3) is not currently under a judgment of mental  
17 incompetency or insanity;

18 (4) is not currently under parole, probation, or  
19 sentence for any felony for which he or she has been  
20 convicted by any court of the Federated States of Micro-  
21 nesia, the Trust Territory, or any court within the  
22 jurisdiction of the United States; and



1                   (5) is not currently disqualified to vote under  
2                   section 305 of this title."

3           Section 3. Section 105 of title 9 of the Code of the Federated  
4 States of Micronesia is hereby amended to read as follows:

5                   "Section 105. Vacancies - Special election.

6                   (1) After the election of the President and Vice  
7 President, vacancies shall be declared by the Speaker of  
8 Congress for the seats to which the President and Vice  
9 President were originally elected as Members-at-large of  
10 the Congress of the Federated States of Micronesia. Upon  
11 notification by the Speaker, the national election  
12 commissioner of the affected State shall schedule a special  
13 election to occur fifty days after receipt of notification.  
14 A candidate for the special election must submit a petition  
15 for candidacy within twenty days after the national  
16 election commissioner schedules the special election.  
17 After all candidates are registered, the National Election  
18 Director shall cause the ballots to be produced. Absentee  
19 ballots are to be available from the National Election  
20 Director up to five days before the election date.

21                   (2) Any other vacancy in the Congress shall be filled  
22 for the unexpired term by special election, except that an  
23 unexpired term of one year or less shall be filled by  
24 appointment by the chief executive of the State affected.  
25 The appointee shall possess the qualifications required by

1 section 201 of this title and shall serve only for the  
2 unexpired term."

3 Section 4. Section 301 of title 9 of the Code of the Federated  
4 States of Micronesia, as amended by Public Law No. 7-122, is hereby  
5 further amended to read as follows:

6 "Section 301. Appointment of National Election Officials.

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

11 (2) The President shall appoint a national election  
12 commissioner for each of the four States with the advice  
13 and consent of the Congress. National election commissioners  
14 shall not concurrently serve as State election commissioners;  
15 provided, however, that if any current National election  
16 commissioner is also serving as a State election commissioner,  
17 he or she may continue to serve as National election  
18 commissioner until such time as a new appointment by the  
19 President becomes effective. Each national election  
20 commissioner shall be a citizen of the State for which he  
21 is appointed to serve as national election commissioner;  
22 provided, that national election commissioners may be  
23 appointed by the President for the national elections  
24 occurring in March 1993, and special elections resulting  
25 therefrom, and may serve without advice-and-consent

1 confirmation for those elections. All appointments made  
2 prior hereto shall expire 45 days after the effective date  
3 of this act, unless the names of said Commissioners are  
4 resubmitted to Congress and approved prior thereto."

5 Section 5. Title 9 of the Code of the Federated States of  
6 Micronesia is hereby further amended by adding a new section 302 to  
7 read as follows:

8 "Section 302. Powers and duties of the National Election  
9 Director. The National Election Director shall have  
10 responsibility for the overall supervision and adminis-  
11 tration of all National elections, and shall perform such  
12 duties as are prescribed by law, which include, but are  
13 not limited to the following:

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

18 (2) to approve the appointment by the four national  
19 election commissioners of all election board members  
20 pursuant to section 303 of chapter 3 of this title;

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

25 (4) to review all nomination petitions received by

1 the four national election commissioners pursuant to section  
2 303 of chapter 3 of this title;

3 (5) to maintain a national election register;

4 (6) to review and investigate all voting and  
5 registration irregularities, and any other alleged  
6 violations of this title;

7 (7) to implement rules and regulations for absentee  
8 ballots for conduct of all national elections;

9 (8) to issue in accordance with chapter 1 of title  
10 17 of this code regulations not inconsistent with law to  
11 implement this title;

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

13 (10) to rule on petitions for recount pursuant to  
14 chapter 9 of this title; and

15 (11) to determine and prescribe forms of ballots and  
16 the forms of all blanks, cards of instruction, pollbooks,  
17 tally sheets, and all forms and blanks required by the  
18 provisions of this title for use by candidates, boards,  
19 committees, and voters, and supply the same to the national  
20 election commissioners and boards of elections."

21 Section 6. Section 302 of title 9 of the Code of the Federated  
22 States of Micronesia, as amended by Public Law No. 5-70, is hereby  
23 further amended to read as follows:

24 "Section 303. Powers and duties of national election  
25 commissioner. A national election commissioner shall have

1 responsibility for the overall supervision and  
2 administration of the election within his State and shall  
3 perform such duties as are prescribed by law, which  
4 include, but are not limited to the following:

5 (1) to appoint all members of the several boards  
6 of election in his or her State as provided for in this  
7 title;

8 (2) to require such reports from the several boards  
9 as may be required by law or regulation or as the national  
10 election commissioner may deem necessary;

11 (3) to establish voting precincts within each  
12 election district and designate appropriate polling places  
13 within each voting precinct, upon recommendations of the  
14 members of the board of election of the particular election  
15 district;

16 (4) to receive nomination petitions;

17 (5) to list all candidates for election on the ballot  
18 for each election district in alphabetical order;

19 (6) to register or cause to be registered all the  
20 voters in his State and to maintain the General State  
21 Register as provided in this title;

22 (7) to prepare from the General State Register a  
23 registered voters list for each voting precinct prior to  
24 any election;

25 (8) to promulgate in accordance with chapter 1 of

1 title 17 of this code local rules and regulations which  
2 are consistent with rules and regulations promulgated by  
3 the National Election Director pursuant to section 302 of  
4 chapter 3 of this title; and

5 (9) to assist the National Election Director in  
6 maintaining the national election register."

7 Section 7. Title 9 of the Code of the Federated States of  
8 Micronesia is hereby further amended by adding a new section 306 to  
9 read as follows:

10 "Section 306. National Election Register. The National  
11 Election Director shall maintain a national election  
12 register comprised of the updated General State Register  
13 from each of the four States as provided for in section 304  
14 of chapter 3 of this title."

15 Section 8. Section 401 of title 9 of the Code of the Federated  
16 States of Micronesia is hereby amended to read as follows:

17 "Section 401. Creation, appointment, terms, and  
18 qualifications of members. The national election  
19 commissioner of each State, with the approval of the  
20 National Election Director, shall appoint a board of  
21 election for each election district on or before January  
22 2nd of each election year whose members shall serve until  
23 resignation or until their successors are appointed. The  
24 members shall be citizens of the Federated States of  
25 Micronesia registered to vote under the provisions of this

1 act and be of such numbers as are necessary to have at  
2 least one board member present at each polling place. No  
3 board member shall participate in an election campaign  
4 during his appointment."

5 Section 9. Section 402 of title 9 of the Code of the Federated  
6 States of Micronesia is hereby amended to read as follows:

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

- 9 (1) to perform all duties prescribed by law;
- 10 (2) to supervise and manage each polling place;
- 11 (3) to receive, preserve, and maintain ballot boxes,  
12 locks, maps, cards of instructions, and other supplies and  
13 equipment necessary to conduct the election;
- 14 (4) to give such instruction deemed necessary for the  
15 orderly conduct of the election;
- 16 (5) to provide for the issuance of all notices and  
17 publications concerning the election;
- 18 (6) to review and examine the sufficiency and  
19 validity of nominating petitions and other documents where  
20 the national election commissioner or National Election  
21 Director designates the board to act in his stead;
- 22 (7) to receive and transmit all ballot boxes, locked  
23 and sealed, to the national election commissioner;
- 24 (8) to receive, investigate, and decide complaints  
25 concerning election irregularities and determine the



1 residence qualifications of voters, subject to review  
2 according to chapter 9 of this title;

3 (9) to recommend to the national election  
4 commissioner designation of appropriate polling places  
5 within each voting precinct or election district, as may be  
6 deemed suitable and convenient to the public;

7 (10) to perform such other duties as are prescribed by  
8 law or rules issued by the national election commissioner  
9 or National Election Director; and

10 (11) to register electors."

11 Section 10. Section 501 of title 9 of the Code of the Federated  
12 States of Micronesia, as amended by Public Laws Nos. 5-70 and 5-96,  
13 is hereby further amended to read as follows:

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

18 (1) that the General State Registers maintained  
19 heretofore by the four national election commissioners of  
20 Kosrae, Pohnpei, Chuuk, and Yap shall be used to  
21 determine registered voters for the purpose of election of  
22 Members-at-large therefrom; provided, that those voters  
23 from Kosrae and Yap, whose names appear on their respective  
24 registers, shall be entitled to also elect a Member of the  
25 Congress for a two-year term;

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

6           (3) that unregistered persons eligible to vote,  
7 including those attaining legal voting age, shall be able  
8 to register; and

9           (4) registration conducted under subsection (3) of  
10 this section shall conform to sections 502 through 508 of  
11 this title."

12       Section 11. Section 502 of title 9 of the Code of the Federated  
13 States of Micronesia is hereby amended to read as follows:

14       "Section 502. Eligibility to register, place of  
15 registering and voting.

16           (1) Every citizen who has reached the age of eighteen  
17 years, or who will have reached the age of eighteen years  
18 on or before the date of the next election, and who has  
19 resided in the Federated States of Micronesia for nine  
20 months and in the congressional election district of  
21 registration three months preceding the date of  
22 registration, and who, except for the requirements of  
23 registration, is otherwise entitled to vote may register to  
24 vote in the State in which he resides.

25           (2) The national election commissioner of each State

1 shall designate such place or places within each election  
2 district wherein registration of voters may be made.

3 (3) No person shall register to vote or vote as an  
4 elector of any other precinct than that in which he  
5 resides; provided, that where there is a mistake in placing  
6 the name of the voter on the list of voters of a precinct,  
7 in which he does not actually reside, such voter shall  
8 nevertheless be allowed to vote therein, if otherwise  
9 qualified; and the member of the board of election of the  
10 particular election district and precinct where such voter  
11 has voted shall notify the National election commissioner  
12 of the affected State of the error in order that the name  
13 of such voter may be placed on the next succeeding list of  
14 voters of the precinct where he actually resides.

15 (4) If any person resides in more than one precinct,  
16 he may choose which precinct as an elector of which he will  
17 register, but he shall register as an elector of one  
18 precinct only."

19 Section 12. Title 9 of the Code of the Federated States of  
20 Micronesia is hereby further amended by adding a new section 509 to  
21 read as follows:

22 "Section 509. National Election Register. All changes or  
23 additions to the General State Register must also be made in  
24 the National Election Register."

25 Section 13. Section 601 of title 9 of the Code of the Federated

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

2 "Section 601. Official ballots required - Specimen ballots  
3 - Imitating.

4 (1) All elections held in accordance with the  
5 provisions of this title shall be held by official ballot  
6 only. An official ballot is a written or printed, or  
7 partly written and partly printed paper, designated as an  
8 official ballot and containing the names of persons to be  
9 voted for and the office to be filled, and issued by the  
10 National Election Director and the national election  
11 commissioner of each State. The National Election  
12 Director shall have printed two exact copies of each  
13 official ballot which is to be used in the general  
14 election, for each voting place, such copies to have  
15 printed thereon, in large bold letters, and with ink of a  
16 color plainly contrasting to the color of the paper used,  
17 the word 'Specimen.' Two copies of each such specimen  
18 ballot shall be forwarded to the national election  
19 commissioner of each State and the members of the board of  
20 election at the same time with the official ballots, and  
21 the member or members of the board of election shall post  
22 one of each such specimen ballot on either side of the  
23 entrance of the voting place or other places plainly in  
24 sight for the general public.

25 (2) Any person who knowingly, willfully, and unlawfully

1 prints, copies, imitates, or distributes, or causes to be  
2 printed, copied, imitated, or distributed any official  
3 ballot or any document that is so substantially similar in  
4 style or content to the official ballot as to cause the  
5 likelihood of confusion with the official ballot without  
6 the authorization of the national election commissioner or  
7 the National Election Director is guilty of a national  
8 crime and punishable by a fine of not more than \$500."

9 Section 14. Section 603 of title 9 of the Code of the Federated  
10 States of Micronesia, as amended by Public Law No. 5-70, is hereby  
11 further amended to read as follows:

12 "Section 603. Printing and distributing.

13 (1) The ballots should be printed by order of the  
14 National Election Director at Government expense. Under  
15 the direction of the National Election Director, the national  
16 election commissioner shall deliver an adequate amount of  
17 ballots to each election precinct.

18 (2) At least 35 days before the election the National  
19 Election Director shall print a sample ballot and shall  
20 forthwith submit copies of the same to the National Election  
21 Commissioner for distribution to the members of the several  
22 boards of election and to the several candidates at their  
23 addresses as given on their nomination papers, and the  
24 members of the boards shall post a copy of the same in a  
25 conspicuous place in their office or a public place."

1 Section 15. Section 604 of title 9 of the Code of the Federated  
2 States of Micronesia, as amended by Public Law No. 5-70, is hereby  
3 further amended to read as follows:

4 "Section 604. Withdrawal of candidates.

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

21 (2) If a candidate withdraws his name later than 30  
22 days before an election and the ballots are in the process  
23 of or have been printed, and it becomes necessary in the  
24 opinion of the National Election Director or national  
25 election commissioner or the board of election for a

1 reprinting of ballots or a striking out of the candidate's  
2 name by a reprint blackout, all expenses thereof, except in  
3 case of a withdrawal necessitated for medical cause and so  
4 certified by a physician, shall be a charge against the  
5 withdrawing candidate and shall be paid by him within sixty  
6 days after such withdrawal to the national election  
7 commissioner. Monies so received shall be deposited in the  
8 General Fund of the Federated States of Micronesia, as a  
9 local revenue general realization, available for  
10 appropriation by the Congress of the Federated States of  
11 Micronesia.

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

18 Section 16. Section 606 of title 9 of the Code of the Federated  
19 States of Micronesia, as amended by Public Law No. 5-70, is hereby  
20 further amended to read as follows:

21 "Section 606. Packaging - Sealing - Record of distribution.  
22 When printed, the ballots shall be fastened together in  
23 blocks of 25 each in such manner that each ballot may be  
24 detached and removed separately. They shall be forwarded  
25 by the National Election Director to the national election

1 commissioner of each State who will forward them to the  
2 member or members of the board of election in sealed  
3 packages, which shall not be opened until the opening of  
4 the polls. A record of the number of ballots sent to each  
5 board of election member shall be kept by the national  
6 election commissioner."

7 Section 17. Section 704 of title 9 of the Code of the Federated  
8 States of Micronesia, as amended by Public Law No. 5-70, is hereby  
9 further amended to read as follows:

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

12 (1) The national election commissioner of each State  
13 or the board of election, as the case may be, shall, at  
14 least 30 days prior to an election, provide to any person  
15 who may be entitled to vote by absentee ballot, and who  
16 requests the same, an official ballot, a ballot envelope,  
17 an affidavit prescribed by the national election  
18 commissioner, and a covering reply envelope. If a request  
19 for an absentee ballot is made 30 days or less prior to an  
20 election, the national election commissioner or board shall  
21 provide the materials to the person making the request as  
22 soon as is practicable. The absentee voter shall mark the  
23 ballot in the usual manner provided by law and in such  
24 manner that no person can see or know how the ballot is  
25 marked except as provided in section 702 of this title.



1           The absentee voter shall then deposit the ballot in the  
2           envelope and securely seal the same. The absentee voter  
3           shall then complete and execute the affidavit. The ballot  
4           envelope and the affidavit shall then be enclosed and  
5           sealed in the covering reply envelope and shall be mailed  
6           or delivered to reach the national election commissioner of  
7           the State issuing the absentee ballot not later than  
8           the established closing hour of the polls on the day of the  
9           election except as provided in section 702 of this title.

10                   (2) It is unlawful for persons having voted an absentee  
11           ballot to cast a ballot at the polls on election day."

12           Section 18. Section 705 of title 9 of the Code of the Federated  
13 States of Micronesia is hereby amended to read as follows:

14                   "Section 705. Disposition of ballots.

15                   (1) Upon the receipt of the envelope marked 'Absentee  
16           ballot enclosed' within the period prescribed in section  
17           704 of this title from any person voting under the  
18           provisions of this title, the national election commis-  
19           sioner, or his appointee, shall open it, remove the ballot  
20           envelope, and examine the statement as to its proper  
21           execution, the person's qualifications to register as an  
22           elector, and to vote. If the national election  
23           commissioner determines that the person is qualified to  
24           vote by absentee ballot, the ballot envelope shall be  
25           deposited unopened in a container retained for that

1           purpose. The container shall be securely sealed except for  
2           an opening sufficient to permit deposit of ballot envelopes  
3           and shall be marked with the name and official title of the  
4           National election commissioner or his appointee, and the  
5           words, 'This container holds absentee ballots and must  
6           be opened only pursuant to law.' The national election  
7           commissioner or his appointee shall safely keep each  
8           container in his office until the day of election and at  
9           such time he shall publicly open the container, extract and  
10          segregate the ballot envelopes, and deliver such envelopes  
11          to the counting and tabulation committee.

12                 (2) In case the statement is found to be insufficient  
13                 or in case the signatures do not correspond, or in case the  
14                 voter has not complied with the requirements of section 704  
15                 of this title or is not a duly qualified elector or the  
16                 ballot envelope is open or has been opened and resealed,  
17                 the ballot envelope shall not be opened and the national  
18                 election commissioner or his appointee shall mark across  
19                 its face 'Rejected,' giving the reason therefor, and shall  
20                 preserve the same in the manner provided by law.

21                 (3) If the ballot is received after the time fixed in  
22                 section 704 of this title, the ballot envelope shall be  
23                 endorsed by the national election commissioner or his appointee  
24                 for the period of time required for the preservation of ballots  
25                 used at such election, and shall then, without being opened,

1 be destroyed in accordance with applicable law.

2 (4) If upon receiving the ballot envelope from the  
3 national election commissioner or his appointee it is found  
4 that the voter has already voted, the election inspectors  
5 shall immediately cancel the ballot envelope and write  
6 'Rejected' across its face, giving the reason therefor, and  
7 shall preserve the same in the manner provided by law."

8 Section 19. Section 801 of title 9 of the Code of the Federated  
9 States of Micronesia is hereby amended to read as follows:

10 "Section 801. Supervision of polling places. The National  
11 Election Director or the national election commissioner of  
12 each State shall ensure that polling places are supervised  
13 by the board of election and such other officials as the  
14 National Election Director or the national election  
15 commissioner shall deem necessary, who must be present at  
16 the designated polling places during the election. Public  
17 schools and other public places shall be utilized insofar  
18 as practicable as polling places. Rent shall not be  
19 charged or paid for the use thereof."

20 Section 20. Section 804 of title 9 of the Code of the Federated  
21 States of Micronesia is hereby amended to read as follows:

22 "Section 804. Checking of register. Any person appearing  
23 in the polling place shall report his name in full and his  
24 address to the election officials. An election official  
25 shall then check the register of voters as to whether or

1 not the person appearing is a registered voter and if so,  
2 shall announce the name and address appearing in the  
3 register. At this point a challenge may be interposed on  
4 the grounds that the ballot is subject to challenge under  
5 law or rules or regulations issued by the national  
6 election commissioner or the National Election Director.  
7 Voting shall then proceed in accordance with procedures  
8 prescribed by the national election commissioner; however,  
9 all voting shall be by secret ballot."

10 Section 21. Section 807 of title 9 of the Code of the Federated  
11 States of Micronesia, as amended by Public Law No. 5-70, is hereby  
12 further amended to read as follows:

13 "Section 807. Election irregularities. Any person may  
14 file an oral or written complaint of any election  
15 irregularity with a member of the board of election present  
16 at the polling place. The board member shall give any  
17 individual against whom the complaint is made time to  
18 present witnesses and an explanation, if any, but in no  
19 event shall time be granted so as to prevent the board of  
20 election from making a decision prior to the time for the  
21 closing of the polls. The complainant, or the individual  
22 against whom the complaint is made, may appeal the decision  
23 to the national election commissioner of the State  
24 concerned or his designated representative. The national  
25 election commissioner, or his said representative, shall,

1 as soon as possible, examine the findings of the board of  
2 election and may hear witnesses, if he deems necessary.  
3 The national election commissioner, or his representative,  
4 shall make his decision prior to the time of the closing of  
5 the polls or as soon as practicable, and the aggrieved  
6 party may appeal the decision in accordance with section  
7 903 of this title. In the event the decision of the  
8 national election commissioner, or his designated  
9 representative, cannot be obtained as heretofore provided,  
10 the aggrieved party may file a petition with the National  
11 Election Director prior to certification of the results of  
12 the election or within 1 week of the election, whichever  
13 occurs first. A candidate may appeal a decision of the  
14 National Election Director or national election commissioner  
15 or of the election board in accordance with section 903 of  
16 this title."

17 Section 22. Section 810 of title 9 of the Code of the Federated  
18 States of Micronesia is hereby amended to read as follows:

19 "Section 810. Certification of election results. Upon  
20 completion of the counting and tabulation of election  
21 results by the national election commissioners, the National  
22 Election Director shall certify the results and shall declare  
23 as the winning candidates for the Congress of the Federated  
24 States of Micronesia from each election district the candidates  
25 receiving the plurality of votes cast in each election."

1 Section 23. Section 811 of title 9 of the Code of the Federated  
2 States of Micronesia is hereby amended to read as follows:

3 "Section 811. Resolution of ties. After all votes have  
4 been tabulated by the national election commissioner and  
5 his or her designees and certified to by the national  
6 election commissioner of the State concerned, if two or  
7 more candidates shall have received an equal number of  
8 votes, such tie shall be resolved by a runoff election  
9 between those candidates held within thirty days. The  
10 candidate receiving the plurality of votes in the runoff  
11 shall be declared the winner, and the result shall be  
12 certified under the procedures of section 810 of this title."

13 Section 24. Section 812 of title 9 of the Code of the Federated  
14 States of Micronesia is hereby amended to read as follows:

15 "Section 812. Local counting and tabulating committee. In  
16 precincts or other areas where the national election  
17 commissioner of the State concerned deems it impracticable  
18 that ballot boxes be delivered to a central place for  
19 counting and tabulating, the national election commissioner  
20 shall appoint a local committee to count, tabulate, certify,  
21 and report votes in such manner and according to such rules  
22 as the national election commissioner and the National  
23 Election Director shall establish."

24 Section 25. Section 901 of title 9 of the Code of the Federated  
25 States of Micronesia, as amended by Public Law No. 5-70, is hereby

1 further amended to read as follows:

2 "Section 901. Petition for recount.

3 (1) A petition for recount may be filed by any  
4 candidate in an election who believes that there was fraud or  
5 error committed in the casting, canvassing, or return of the  
6 votes cast at said election. The petition shall be filed  
7 with the National Election Director. Such petition shall  
8 contain a statement that the petitioner has reason to believe  
9 and does believe that the records or copies of records made  
10 by the board of election of such district are erroneous,  
11 specifying wherein he or she deems such records or copies  
12 thereof to be in error, or that votes were cast by persons  
13 not entitled to vote therein, and that he or she believes  
13 that a recount of the ballots cast in the district will  
15 affect the election of one or more candidates voted for at  
16 such election.

17 (2) A petition for a recount must be granted if the  
18 difference between the number of votes cast for the winning  
19 candidate and the next highest candidate is one-half of one  
20 percent or less of the total votes cast for all of the  
21 candidates for that particular seat."

22 Section 26. Section 902 of title 9 of the Code of the Federated  
23 States of Micronesia, as amended by Public Law No. 5-70, is hereby  
24 further amended to read as follows:

25 "Section 902. Filing timeframes. A petition for a recount

1 must be filed within 1 week of certification of the results  
2 of the election. Any other petition challenging the  
3 acceptability of a vote or votes must be filed prior to  
4 certification of the results of the election or within 1 week  
5 of the election, whichever occurs first. The winning  
6 candidate shall have 1 week to respond to the petition. The  
7 National Election Director shall then have 10 days to decide  
8 whether to approve the petition. If the National Election  
9 Director decides not to approve the petition, he shall record  
10 the reasons for such decision."

11 Section 27. Section 903 of title 9 of the Code of the Federated  
12 States of Micronesia, as amended by Public Law No. 5-70, is hereby  
13 further amended to read as follows:

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

15 (1) The aggrieved candidate may, within five days after  
16 receipt of the decision of the National Election Director,  
17 appeal his case to the Appellate Division of the Supreme  
18 Court. The Appellate Division of the Supreme Court shall  
19 review the appeal to determine if the decision by the  
20 National Election Director was:

- 21 (a) Arbitrary, capricious, an abuse of discretion,  
22 or otherwise not in accordance with law;
- 23 (b) In excess of statutory jurisdiction, authority,  
24 or limitations, or a denial of legal rights;
- 25 (c) Without substantial compliance with the



1 procedures required by law; or

2 (d) Unwarranted by the facts.

3 If the decision is in favor of a recount, the National  
4 Election Director shall be so notified and shall proceed  
5 as provided in sections 904 and 905 of this title.

6 (2) Appeals may be had in the manner prescribed in  
7 section 902 and subsection (1) of this section from any  
8 decision of the National Election Director with respect to  
9 a challenge affecting the acceptability of a vote or votes.  
10 A petition under this section for appeal shall contain the  
11 information specified in section 901 of this title for a  
12 petition for a recount. A decision of the Appellate  
13 Division of the Supreme Court in favor of the petitioner may  
14 have the effect of disallowing the challenged votes but shall  
15 not halt or delay balloting or counting and tabulating."

16 Section 28. Section 904 of title 9 of the Code of the Federated  
17 States of Micronesia, as amended by Public Law No. 5-70, is hereby  
18 further amended to read as follows:

19 "Section 904. Approval of petition - Notice of recount. If  
20 the National Election Director determines that there is a  
21 substantial question of fraud or error and that there is a  
22 substantial possibility that the outcome of the election  
23 would be affected by a recount, he or she shall cause  
24 notice of the recount to be given in an appropriate manner."

25 Section 29. Section 905 of title 9 of the Code of the Federated

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

2 "Section 905. Recount by counting and tabulating committee.

3 The recount shall be held by the counting and tabulating  
4 committee within ten days after the decision of the National  
5 Election Director. The counting and tabulating committee  
6 shall make certificates of such determination under oath  
7 showing the result of the election and what persons were  
8 declared elected to fill office, one of which shall be filed  
9 with the National Election Director, one with each board of  
10 election concerned, and one with the person filing the  
11 petition for recount. The person receiving the greatest  
12 number of votes shall be deemed to have been elected, but if  
13 two or more candidates shall receive an equal number of  
14 votes for the office, the tie vote shall be resolved in  
15 accordance with section 811 of this title."

16 Section 30. Sections 110, 303 and 304 of title 9 of the Code of the  
17 Federated States of Micronesia are hereby renumbered as sections 109,  
18 304 and 305, respectively.

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1 Section 31. 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.

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\_\_\_\_\_, 1994

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*Law w/out signature  
September 5, 1994*

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Bailey Olter  
President  
Federated States of Micronesia

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