



*Seventeenth Legislature
of the
Commonwealth of the Northern Mariana Islands*
IN THE HOUSE OF REPRESENTATIVES

3rd Day, Fourth Special Session

June 25, 2010

H. B. 17-66, HD1, SD1

AN ACT

To reform the Commonwealth's election statutes to conform with federal requirements.

**Be it enacted by the Seventeenth Northern Marianas
Commonwealth Legislature:**

1 **Section 1. Findings and Purposes.** The Legislature finds that Senate
2 Legislative Initiative 16-11 was passed, moving the local elections to even
3 numbered years so that they would be aligned with federal elections.
4 Accordingly, during each local election, the voters will not only vote on local
5 issues but also for the Federal Non-Voting Delegate. Federal elections have their
6 own set of requirements that must be followed by both the government and all
7 candidates. Consequently, in order to simplify the process and not have two
8 different sets of rules for each election, the Legislature finds it necessary to amend
9 election statutes that differ from federal election law.

10 Furthermore, the Legislature finds that by amending the local election
11 statutes to conform to federal requirements, issues that arose during the 2009

1 General Election will no longer occur. By creating a “Voter Challenge” process,
2 the Court will no longer have to question whether a voter is telling the truth about
3 who they voted for under oath. Instead, Commonwealth Election Commission, an
4 agency that specializes in elections will be able to handle this process prior to an
5 individual voting. This will save the Commonwealth both time and money, by
6 ensuring that lengthy court processes are unnecessary. The Legislature notes that,
7 as of late March 2010, the contest for Mayor of the Northern Islands was still
8 unsettled, and the various challenges arising out of the First Senatorial District
9 have yet to become final.

10 Moreover, the Legislature finds that these amendments not only comply
11 with federal requirements, but also empower the Commonwealth Election
12 Commission to continue conducting elections in a fair and democratic manner.

13 The Legislature finds and declares that these amendments are necessary,
14 and are a proper use of the legislative authority granted by section 1 of Article II
15 of the Commonwealth Constitution.

16 **Section 2. Amendment.** Section 6104 of Title 1 of the Commonwealth
17 Code is hereby amended as follows:

18 **“§ 6104. Election Commission: Election of Chairperson.**

19 The Commission shall annually elect one of its members as
20 Chairperson and one of its members as Vice-Chairperson, by a majority
21 vote.”

1 **Section 3. Amendment.** Section 6205 of Title 1 of the Commonwealth
2 Code is hereby amended as follows:

3 **“§ 6205. Registration Procedures.**

4 (a) Any person qualified to vote in a general, primary, local or special
5 election may register to vote not less than sixty days before the day of the
6 election.

7 (b) When registering to vote, the person shall sign an affidavit of
8 registration on a form prepared and furnished by the Commission stating
9 that he meets the qualifications established by the Constitution and by this
10 part for voting in the elections in the Commonwealth.

11 (1) Except as provided in 1 CMC 6214, no person may
12 register to vote or vote in an election district other than that in
13 which he is a resident. A person has a residence in, or is a resident
14 of, the election district where that person is factually living and has
15 an abode.

16 (2) No person may vote in any election or be listed in
17 any general register who fails to register according to the
18 requirements of this part.

19 (3) Persons who are domiciled in the Commonwealth
20 as provided in Sections 6202-6204, but who are temporarily out of
21 the Commonwealth for any reason such as business, employment,
22 service in the Armed Forces, or Merchant Marines of the United

1 States, education, training, or medical treatment are considered
2 residents for purposes of this part.

3 (c) Any person desiring to register to vote in an election
4 district may register with a registration clerk or other person authorized by
5 the Commission or, if a person registers by mail, provide a picture
6 identification form as part of the election registration packet. The
7 Commission shall authorize one or more registration clerks for Rota and
8 for Tinian and Aguiguan, which may be the Clerk of Court on the
9 respective islands or other persons, and who shall be available to register
10 voters at registrant shall be examined under oath as to his or her
11 qualification and it may be attested to in the form of a mark. The affidavit
12 shall contain the following information:

- 13 (1) Full legal name;
- 14 (2) Last four digits of the individual's social security
15 number;
- 16 (3) Date and place of birth;
- 17 (4) Residence, including mailing address;
- 18 (5) That the residence stated in the affidavit is not
19 simply because of the person's presence in the Commonwealth but
20 that the residence was acquired with the intent to make the
21 Northern Mariana Islands the person's legal residence with all the
22 accompanying obligations therein;

1 (6) That the person is a citizen of the United States;

2 (7) Any other information as may be required by the
3 Commission;

4 (8) That the person meets the requirements of the
5 Commonwealth Constitution and this part.

6 (d) If a registration clerk administering an oath or the Election
7 Commission staff upon reviewing the application has any question
8 regarding the propriety of an affidavit of registration, the clerk or staff
9 member shall forward the affidavit to the Commission for final decision as
10 to its propriety. In case of a questionable affidavit, residency or any
11 question regarding the qualifications of the voter, the Commission shall
12 conduct a formal or informal hearing to determine the correct facts. The
13 registrant has the right to present evidence to the board regarding his or
14 her qualifications to vote and the registrant's proper election district.

15 (e) Any voter may change election districts by reregistering in
16 the general, primary, or special election register in the manner prescribed
17 by this section. The Commission shall cancel the existing registration and
18 reregister the voter in the new election district. No registration may be
19 allowed due to a change of residency within sixty days before an election.
20 No change in residency during the forty days before an election shall
21 affect the eligibility of the voter to vote in the precinct where registered.

1 (f) Notwithstanding any other registration requirements
2 provided for in this part, a registered voter need not register again unless it
3 is necessary due to a change of identification or residency or unless the
4 voter has been removed from the register pursuant to Section 6206 of this
5 part or disqualifications enumerated by this part have intervened. If voting
6 records have been destroyed or lost, the Commission nevertheless may
7 require re-registration of voters.

8 (g) Registration of voters shall continue indefinitely, except
9 during the sixty days prior to an election day.”

10 **Section 4. Amendment.** Sub-subsection (a)(7) of Section 6206 of Title 1
11 of the Commonwealth Code is hereby amended as follows:

12 **“§ 6206. Removal of Names from Register; When; Re-registration.**

13 (a)(7) If the person did not vote in the preceding two general elections,
14 provided however, that failure to vote in a general election that gives rise to a run-
15 off election shall not preclude the person from participating in a run-off election
16 related to that same general election; A person who votes in a run-off election
17 shall remain a registered voter unless otherwise disqualified under 1 CMC
18 §§ 6201 to 6214.”

19 **Section 5. Amendment.** Subsection (c) of Section 6207 of Title 1 of the
20 Commonwealth Code is hereby amended as follows:

21 **“§ 6207. Transfers, Name Changes; Initiated by Executive Director.**

1 (c) A voter may contest the transfer or change up to forty days
2 before election day by presenting evidence that the voter actually resides
3 at the old address or that the transfer or change was otherwise erroneous or
4 inappropriate, which, if found valid by the executive director or the
5 Commission, shall entitle the voter to be returned to the old voting list or
6 previous registration.”

7 **Section 6. Amendment.** Section 6208 of Title 1 of the Commonwealth
8 Code is hereby amended as follows:

9 **“§6208. Voting Procedures.**

10 (a) The Commission shall distribute to each polling place a list
11 of the eligible voters for that polling place. Not less than 15 days before
12 the day of election, a copy of the list shall be posted at the office of the
13 Commission and Mayors for examination by the public. Only those voters
14 whose names appear on the list may vote at that polling place. Any name
15 which does not appear on the list due to an error may be inserted by the
16 Commission any time prior to the closing of the polls.

17 (b) All elections held in accordance with this part shall be held
18 by official ballot. The Commission shall print copies of each official
19 ballot for each polling place. The Commission shall also print a specimen
20 ballot to be posted conspicuously near the entrance to each polling place
21 where it may be easily seen by the voters prior to voting and in the office
22 of the Commission at least seven (7) days before the election for viewing

1 by the general public. Further samples may be made available to the
2 public.

3 (c) A ballot shall contain the names of candidates in an order
4 identifying party affiliation or nonpartisanship for Board of Education and
5 municipal council, as established by the Commission, and the office to be
6 sought.

7 (d) If a voter indicates the choice of more candidates than there
8 are offices to be filled or if for any reason it is impossible to determine the
9 voter's choice for any office, the ballot shall not be counted for that office
10 or offices. The rest of the ballot, if properly marked, shall be counted.

11 (e) The ballot may include questions concerning proposed
12 Commonwealth constitutional amendments or proposed initiative or
13 referendum issues. When such matters are to be printed on the ballot, the
14 question shall be phrased as simply and as clearly as possible to address
15 the issue and require a yes or no response by the voter, yes to be in favor
16 of the question and no to be against.

17 (f) The Commission shall establish a method of marking and
18 identifying each person who has completed voting.

19 (g) Each voter shall be required to show photo identification at
20 the poll in order to receive a ballot; if the voter does not have or refuses to
21 produce photo identification, the voter shall fill out an affidavit that

1 includes their name, address and their signature swearing under penalty of
2 perjury as to the truth of the affidavit.

3 (h) If an individual declares that such individual is a registered
4 voter in the jurisdiction in which the individual desires to vote and that the
5 individual is eligible to vote in the election, but the name of the individual
6 does not appear on the official list of eligible voters for the polling place,
7 such individual shall be permitted to cast a provisional ballot as follows:

8 (1) An election official at the polling place shall notify
9 the individual that the individual may cast a provisional ballot in
10 that election.

11 (2) The individual shall be permitted to cast a
12 provisional ballot at that polling place upon the execution of an
13 affidavit under penalty of perjury by the individual before an
14 election official at the polling place stating that the individual is:

15 (A) a registered voter in the jurisdiction in which
16 the individual desires to vote; and

17 (B) eligible to vote in that election.

18 (3) An election official at the polling place shall seal
19 the ballot cast by the individual and the voter information
20 contained in the affidavit executed by the individual in an envelope
21 and transmit it to the Commission for prompt
22 verification/disposition.

1 (4) The Commission shall review all provisional ballots
2 cast information to determine the validity of such ballot and render
3 a decision no later than five calendar days after the date of
4 election.

5 (5) If the Commission determines that the individual is
6 eligible to vote, the individual's provisional ballot shall be counted
7 in that election.

8 (6) At the time that an individual casts a provisional
9 ballot, the election official shall give the individual written
10 information that states that any individual who casts a provisional
11 ballot will be notified whether their ballot was counted and if their
12 ballot was not counted, the reason that the ballot was not counted."

13 **Section 7. Amendment.** Section 6209 of Title 1 of the Commonwealth
14 Code is hereby amended to include subsection (c):

15 **"§ 6209. Absentee Voting.**

16 (a) Subject to the procedures set forth in this Chapter, any
17 registered voter at any election may request and cast an absentee ballot
18 with the Commission. The Commission shall compile and keep
19 immediately current a list of person requesting an absentee ballot pursuant
20 to 1 CMC sections 6210 and 6211, including the date such request was
21 made; shall make and keep immediately current a list of persons to whom
22 an absentee ballot was personally delivered or mailed, including the dates

1 the ballots were delivered or mailed; and shall make each list immediately
2 available for public inspection:

3 (1) at one government building in each senatorial
4 district which maintains regular business hours; and

5 (2) on a website accessible without requiring user
6 registration or the use of a password.

7 (b) For the purposes of this section, ‘keep immediately
8 current’ and ‘make each list immediately available’ mean the information
9 is updated and published to the public as soon as practical after the
10 information is received, and in no case later than 48 hours after the receipt
11 of the information.

12 (c) If on the day of the election, the registered absentee voter is
13 within the Commonwealth and has not received his or her ballot, he or she
14 may vote at a polling place designated by the Commonwealth Election
15 Commission where his or her ballot will be treated as an absentee ballot,
16 until it can be confirmed that another ballot was not received for him or
17 her.”

18 **Section 8. Amendment.** Subsection (b) and (c) of Section 6211 of
19 Title 1 of the Commonwealth Code is hereby amended as follows:

20 “§ 6211. **Absentee Voting: Absence from the District in Which Voter**
21 **is Registered.**

1 (a) Any registered voter of the Commonwealth may, as
2 provided in this part and subject to the conditions of this Section, may vote
3 at any election by absentee ballot if he or she feels it likely he or she will
4 be prevented from personally going to the polls in the senatorial district in
5 which he or she is registered to vote and voting on election day because
6 of:

- 7 (1) The conduct of his or her business;
- 8 (2) The necessity of travel;
- 9 (3) Attendance at an institution of learning;
- 10 (4) Serving in the United States Armed Forces or the
11 Merchant Marine;
- 12 (5) Employment;
- 13 (6) Training;
- 14 (7) Receiving treatment at a medical institution;
- 15 (8) Government representation; or
- 16 (9) Accompanying a member of the household who is
17 engaged in an activity listed above.

18 (b) Any registered voter, under the circumstances specified in
19 subsection (a)(1-9), inclusive, may make an application to the
20 Commission for an official ballot to be voted at such election. Such
21 application if made by mail or by facsimile or by other electronic means
22 approved by the Commission shall be made not more than seventy-five

1 (75) days nor less than twenty-five (25) days before the election, or if the
2 application is made in person, not later than during regular office hours of
3 the day prior to the election. Any such application shall be made in
4 writing on a form furnished by the Commission and shall indicate the
5 applicant's name, last four digits of their social security number, the
6 applicant's election district, the reason for requesting an absentee ballot,
7 any other information required by the Commission, and the address to
8 which the applicant wishes the ballot forwarded if the applicant is not
9 picking up the ballot in person.

10 (c) Beginning not less than one week before the day of
11 election, the Commission shall establish a mailbox in each senatorial
12 district at which a voter eligible to cast an absentee ballot may, cast and
13 deliver their ballot into the custody of the Commission to be processed and
14 counted in the Third Senatorial District as provided in this Chapter."

15 **Section 9. Amendment.** Section 6213 of Title 1 of the Commonwealth
16 Code is hereby amended as follows:

17 **"§ 6213. Absentee Voting: Counting Ballots.**

18 (a) To be eligible to be counted, an absentee ballot shall be
19 received by the Commission not later than the date of election; provided
20 that in the case of a runoff election an absentee ballot shall be postmarked
21 not later than the day of the runoff election and shall be received by the
22 Commission no later than fourteen days after the date of the runoff

1 election. If the Commission is using a post office box for the receipt of
2 absentee ballots, it shall remove all absentee ballots contained in the post
3 office box as follows for such ballots to be deemed to have been received
4 within the deadline:

5 (1) No less than two persons, one of whom shall be
6 designated by the Commission Chairperson and the other of whom
7 shall be designated by the Executive Director, shall go to the
8 designated post office in each senatorial district to collect absentee
9 ballots on the day they are to be counted:

10 (A) after the official closing time of polling
11 places on the day of the general or runoff election; and

12 (B) until 5:00 p.m. on the fourteenth day after a
13 runoff election.

14 (2) The reply envelopes shall not be opened but shall be
15 postmarked as provided in subsection (b) and shall be deposited in
16 a locked ballot box until processed by the Commission pursuant to
17 subsections (c) through (i).

18 (b) The date and time of receipt shall be noted on each return
19 envelope.

20 (c) The Commission shall compare this signature of the voter
21 on the application for absentee ballot with that on the affidavit and the
22 registration. If the signatures appear to be by the same person, if the

1 affidavit is properly completed, and if the envelope is sealed and it does
2 not appear to have been tampered with, the notation OK shall be placed on
3 the return envelope and shall be initialed by no less than five members of
4 the Commission.

5 (d) An absentee ballot may be rejected if:

6 (1) After comparing the signature of the voter
7 on the application for absentee ballot with that on the
8 affidavit and registration, it appears the signatures were not
9 made by the same person; or

10 (2) The affidavit is not properly completed; or

11 (3) The return envelope is not sealed; or

12 (4) The seal appears to have been tampered
13 with; or

14 (5) The Commission has already received an
15 absentee ballot from that person; or

16 (6) The absentee voter has died or has otherwise
17 become ineligible to vote on the Election Day; or

18 (7) The ballot has been received after the
19 deadline; or

20 (8) The voter has not complied with Section
21 6212 of this part.

1 (e) If any of the conditions in subsection (d) of this section
2 apply, then the word rejected shall be printed on the return envelope along
3 with a short statement of the reason for rejection. Five signatures of the
4 Commission members constitute a verification of the discrepancy noted as
5 the cause for rejection. The rejected ballot may not be delivered to the
6 accounting and tabulation committee, but shall be maintained in a secure
7 place by the Commission for at least six months after the election.

8 (f) The application for absentee ballot shall be attached to the
9 corresponding ballot envelope and the envelope shall not be opened.

10 (g) A duplicate list shall be prepared in each election district of
11 the names and addresses of the absentee voters as shown on return
12 envelopes. The Commission shall maintain one copy of the list for at least
13 one year from the election date.

14 (h) The returned envelopes marked 'OK', together with the
15 application attached shall be delivered by the Commission to the
16 accounting and tabulation committee the day of the general election, or in
17 the case of a runoff election absentee ballots shall be postmarked no later
18 than the date of the run off election and be received by the Commission no
19 later than fourteen days following the runoff election date, to be tabulated
20 by the accounting and tabulation committee.

21 (i) Absentee ballots in the possession of the Commission on a
22 runoff election day shall be processed, counted and tabulated on Election

1 day, and reported pursuant to 1 CMC § 6524. Other runoff election
2 absentee ballots shall be postmarked, received and counted as provided in
3 this section.”

4 **Section 10. Repeal.** Section 6214 of Title 1 of the Commonwealth Code
5 is hereby repealed.

6 **Section 11. Amendment.** Section 6304 of Title 1 of the Commonwealth
7 Code is hereby amended as follows:

8 **“§ 6304. Delegate to the United States House of Representatives.**

9 A candidate for Delegate to the United States House of
10 Representatives shall be qualified to vote in the Commonwealth, a citizen
11 of the United States, at least twenty-five (25) years of age, and a resident
12 and a domiciliary of the Commonwealth for at least seven (7) years
13 immediately preceding the date on which the resident representative takes
14 office. No person convicted of a felony in the Commonwealth or in any
15 area under jurisdiction of the United States may be eligible for this office
16 unless a full pardon has been granted.”

17 **Section 12. Amendment.** Section 6341 of Title 1 of the Commonwealth
18 Code is hereby amended as follows:

19 **“§ 6341. Nominations—Delegate to the United States House of**
20 **Representatives.**

21 The nomination of candidates for Delegate to the United States
22 House of Representatives is made by petition of any political party or any

1 independent candidate. The procedures for political party nominations
2 and for independent nominations for Governor and Lieutenant Governor
3 set forth in Articles 2 and 3 of this Chapter 3 shall apply with respect to
4 the nomination of candidates for Delegate to the United States House of
5 Representatives, except that the filing fee shall be five-hundred dollars
6 (\$500.00) for each resident representative. Each petition shall be
7 accompanied by the signature of the person nominated, which shall
8 constitute the nominees assent to be a candidate.”

9 **Section 13. Amendment.** Section 6362 of Title 1 of the
10 Commonwealth Code is hereby amended as follows:

11 **“§ 6362. Election.**

12 (a) The delegate shall be elected by the people qualified to
13 vote for the popularly elected officials of the Commonwealth of the
14 Northern Mariana Islands.

15 (b) The election of Delegate shall be conducted at the general
16 election on the Tuesday next after the first Monday in November in even-
17 numbered years, and at such elections every two years thereafter.

18 (c) The Delegate shall be elected at-large and by a plurality of
19 the votes cast for the office of Delegate.”

20 **Section 14. Amendment.** Section 6501 of Title 1 of the Commonwealth
21 Code is hereby amended as follows:

22 **“§ 6501. General Election.**

1 In conformance with Article VIII, Section 1 of the Constitution of
2 the Commonwealth of the Northern Mariana Islands, regular general
3 election of the Commonwealth shall be held on the Tuesday next after the
4 first Monday in November in even numbered years. In the event of a
5 natural disaster or other Act of God, the effect of which precludes holding
6 the election on the foregoing day, the Governor, acting pursuant to his
7 powers under Article III, Section 10 of the Constitution, may proclaim the
8 general election be held not later than thirty (30) days thereafter in the
9 Commonwealth, or in the affected senatorial or election district or
10 districts.”

11 **Section 15. Amendment.** Subsection (a) of Section 6509 of Title 1 of the
12 Commonwealth Code is hereby amended as follows:

13 **“§ 6509. Runoff Elections for Governor and Lieutenant Governor.**

14 (a) If in an election for the offices of governor and lieutenant
15 governor-no candidate receives more than one-half (1/2) of the total votes
16 cast and counted, there shall be a runoff election fourteen (14) days after
17 the Commonwealth Election Commission has certified the results of the
18 general election consistent with Article III, Section 4 of the Constitution of
19 the Commonwealth of the Northern Mariana Islands. The Commission
20 shall certify the results of the general election not later than twenty (20)
21 days after the date of the general election.”

1 **Section 16. Amendment.** Article 1 entitled “General Election and
2 Special Election) of Chapter 5 of Part 1 of Division 6 of Title 1 of the
3 Commonwealth Code is hereby amended by the addition of a new section as
4 follows:

5 **“§ 65xx. Employees entitled to leave on election day for voting.**

6 (a) Any voter shall on the day of the election be entitled to be
7 absent from any service or employment in which such voter is then
8 engaged or employed for a period of not more than two hours (excluding
9 any lunch or rest periods) between the time of opening and closing the
10 polls to allow two consecutive hours in which to vote. Such voter shall
11 not because of such absence be liable to any penalty, nor shall there be any
12 rescheduling of normal hours or any deduction made, on account of the
13 absence from any usual salary or wages; provided that the foregoing shall
14 not be applicable to any employee whose hours of employment are such
15 that the employee has a period of two consecutive hours (excluding any
16 lunch or rest periods) between the time of opening and closing the polls
17 when the employee is not working for the employer. If, however, any
18 employee fails to vote after taking time off for that purpose the employer,
19 upon verification of that fact, may make appropriate deductions from the
20 salary or wages of the employee for the period during which the employee
21 is hereunder entitled to be absent from employment.

1 (b) Any person, business, or corporation who refuses an
2 employee the privileges conferred by this section, or subjects an employee
3 to a penalty or deduction of wages because of the exercise of the
4 privileges, or who directly or indirectly violates this section, shall be
5 subject to a fine of not less than \$50 nor more than \$300 per violation.

6 (c) Any action taken to impose or collect the fines established
7 in this section shall be a civil action.”

8 **Section 17. Amendment.** Section 6521 of Title 1 of the Commonwealth
9 Code is hereby amended by the addition of a new subsection as follows:

10 **“§ 6521. Right to Cast Secret Ballot.**

11 (a) Each qualified voter has the right to cast a secret ballot in
12 private. The Commission shall set up voting booths and places to
13 guarantee that each voter may vote in private. No person shall be allowed
14 with a voter in a voting booth, except as provided by the Commission.
15 Voting booths shall provide the voter with a fully enclosed space within
16 which to vote.

17 (b) Except where voting machines are used, each election
18 ballot shall remain sealed until issued to a registered voter. Issues for
19 initiatives, referendum and recall shall be listed separately and apart from
20 the names of candidates.

21 (c) Each qualified voter’s right to cast a secret ballot shall be
22 maintained in the courts of the Commonwealth. No voter shall be

1 compelled to reveal his or her vote unless and until he or she has been
2 determined to have been unqualified pursuant to a timely filed voter
3 qualification challenge as provided by law, and then only if and so far as
4 such disclosure is necessary to determine the outcome of an election.”

5 **Section 18. Amendment.** Subsection (d) of Section 6524 of Title 1 of
6 the Commonwealth Code is hereby amended as follows:

7 **“§ 6524. Tabulation of Votes.**

8 (d) Votes physically cast in each Senatorial District’s polling
9 place(s), for Senator, Representative, Municipal Council and Mayor, as
10 well as for any local initiative or any other matter for which only voters
11 registered in one senatorial district may determine the outcome must be
12 preliminarily counted, tabulated, and published in the senatorial district in
13 which they were cast prior to shipment to the Third Senatorial District for
14 the official count.

15 This preliminary count may be conducted by one Commission
16 Member in the presence of one representative from the Office of the
17 Public Auditor and one assistant attorney general. Any rejected ballots
18 during the preliminary count either by electronic, mechanical or hand,
19 shall be set aside and sent to the Third Senatorial District for disposition
20 by the Commission during the official count.”

21 **Section 19. Amendment.** Section 6601 of Title 1 of the Commonwealth
22 Code is hereby amended as follows:

1 **“§ 6601. Election Contests: Recount.**

2 (a) Any Commonwealth voter may contest an election for any
3 of the following reasons:

4 (1) The person declared elected to an office will not be
5 eligible for that office at the beginning of his term.

6 (2) The candidate has given to an election official
7 anything of value to procure his election.

8 (3) The Commission in the conduct of election or
9 arithmetical tabulation of votes made errors sufficient to change
10 the final result of the election as to any person who has been
11 declared elected.

12 (4) Actual fraud by any person in the voting process, in
13 the conduct of the election or in the tabulation of the votes
14 sufficient to have changed the outcome of the election.

15 (b) Recount. If less than five votes separate the person
16 declared elected and the next highest vote getter, the next highest vote
17 getter is entitled to a recount. Such recount shall be made in the presence
18 of the parties and the Commonwealth Superior Court. A quorum of the
19 Commonwealth Election Commission will conduct the recount and will be
20 responsible for the recount and determining marks on ballots and
21 envelopes and determining the intent of the voter. ”

1 **Section 20. Repeal.** Subsection (b) of Section 6602 of Title 1 of the
2 Commonwealth Code is hereby repealed.

3 **Section 21. Repeal.** Subsection (d) of Section 6603 of Title 1 of the
4 Commonwealth Code is hereby repealed.

5 **Section 22. Amendment.** Section 6605 of Title 1 of the Commonwealth
6 Code is hereby amended as follows:

7 **“§ 6605. Election Contest: Court Hearing; Recount.**

8 (a) At the hearing the ballots shall be recounted in the presence
9 of all parties, where it appears from the complaint that actual prejudice
10 occurred making a recount necessary for the proper determination of the
11 contest. If two or more statements of contest are filed requiring a recount,
12 the Commission may join the action of the contestants for the purpose of
13 recounting the votes.

14 (b) If the statements of the cause of the contest are insufficient,
15 the court may dismiss the proceedings for lack of evidence or for want of
16 prosecution.

17 (c) The court shall hear and determine all issues arising in
18 contested elections, except that the Commonwealth Election
19 Commission’s determinations concerning the intent of a voter in marking
20 a ballot are unreviewable and shall not be judicially disturbed. After
21 hearing the evidence and within five (5) days of the submission thereof,
22 the court shall issue its findings of fact and conclusions of law, and

1 immediately thereafter announce judgment in the case, either confirming,
2 or reversing the result of the election.

3 (d) A quorum of the Commonwealth Election Commission will
4 conduct the recount in the presence of the Court. The quorum will be
5 responsible for the recount and determining marks on ballots and
6 envelopes and determining the intent of the voter. ”

7 **Section 23. Amendment.** Chapter 2 (entitled “Registration and Voting
8 Procedures”) of Part 1 of Division 6 of Title 1 of the Commonwealth Code is
9 hereby amended by the addition of a new section as follows:

10 “§ 62xx. **Challenge by voters; grounds; procedure.**

11 (a) **Challenge prior to election day.** Any registered voter
12 may challenge the right of a person to be or to remain registered as a voter
13 in any district. The challenge shall be made in writing, setting forth the
14 grounds upon which it is based, and be signed by the person making the
15 challenge under penalty of perjury. The challenge shall be delivered to the
16 Commonwealth Election Commission Executive Director who shall
17 forthwith serve notice thereof on the person challenged. The Executive
18 Director shall, as soon as possible, investigate and rule on the challenge.
19 If the Executive Director does not rule prior to election day, the
20 challenged voter will be given a provisional ballot on election day or the
21 voter’s ballot will be set aside if the voter voted during the Early Voting

1 period. After the Executive Director has ruled, the decision can be
2 appealed following subsections (c)–(e) of this section.

3 (b) **Challenge on election day.** Any voter rightfully in the
4 polling place may challenge the right to vote of any person who comes to
5 the election officials for voting purposes. The challenge shall be on the
6 grounds that the voter is not the person the voter alleges to be, that the
7 voter is not entitled to vote in that election district or that the voter does
8 not meet the CNMI residency and domiciliary requirements. No other
9 challenge shall be allowed. Any person thus challenged shall first be
10 given the opportunity to make the relevant correction. The challenge shall
11 be considered and decided immediately by a Commonwealth Election
12 Commission staff member and the ruling shall be announced.

13 (c) If neither the challenger nor the challenged voter shall
14 immediately appeal the ruling of the Commonwealth Election
15 Commission, then the challenged voter shall either be allowed to vote or
16 be prevented from voting in accordance with the ruling. If an appeal is
17 immediately taken to the Commonwealth Election Commission, the
18 challenged voter shall be allowed to vote; provided that the ballot is placed
19 in a sealed envelope to be later counted or rejected in accordance with the
20 ruling on appeal.

21 (d) Appeals of the staff member's ruling must be made
22 immediately to the Commonwealth Election Commission. The notice of

1 appeal must be in writing but need not take any particular form, though
2 forms may be provided by the Commonwealth Election Commission Any
3 notice of appeal not actually received by the election commission staff
4 member prior to either the challenged voter being allowed to vote or the
5 closing of the polls, whichever first occurs will be considered untimely.

6 (e) This Appeal will be heard by a panel of three consisting of
7 the Chair or a Commissioner of the Commonwealth Election Commission
8 designated by the Chair from an island other than the challenged voter, the
9 Public Auditor, and the Attorney General. This appeal must be heard
10 within five calendar days of the election, at which point both the appellant
11 and appellee may provide evidence to prove their case. The appellant and
12 appellee may be represented by counsel. During all portions of the appeal
13 to include any discussions the panel may have about each case the panel
14 will not enter into executive session. The panel will issue a decision within
15 two calendar days. A party to the appeal may appeal the panel's ruling
16 within five calendar days to the Commonwealth Superior Court which will
17 review the panel's legal conclusions de novo but will overturn the
18 Commission's factual determinations only upon a showing of clear error.

19 (f) **Voter Eligibility Challenges: Costs.** If, for any reason,
20 the proceedings terminate in such a fashion that the challenged voter was
21 deemed eligible to vote, judgment shall be rendered against the challenger,
22 for costs and reasonable attorneys fees, in favor of the challenged voter. If,

1 for any reason, the proceedings terminate in such a fashion that the
2 challenged voter was deemed ineligible, judgment shall be rendered
3 against the challenged voter, for costs and reasonable attorneys fees, in
4 favor of the challenger. If the decision of the Election Commission is not
5 appealed to the Superior Court, the prevailing party shall apply to the
6 Superior Court for an order and entry of judgment rendered against the
7 losing party, for costs and reasonable attorney’s fees, in favor of the
8 prevailing party.”

9 **Section 24. Amendment.** Chapter 2 (entitled “Registration and Voting
10 Procedures”) of Part 1 of Division 6 of Title 1 of the Commonwealth Code is
11 hereby amended by the addition of a new section as follows:

12 “§ **xxxx.** Federal write-in absentee ballot / Federal postcard
13 application. In lieu of using an absentee registration form, any overseas
14 uniformed services voter, or person who is a spouse or dependent of such
15 person, and any person who temporarily resides outside the territorial
16 limits of the United States and is territories, may apply for registration and
17 enrollment on the Federal postcard application form provided pursuant to
18 the Uniformed and Overseas Citizens Absentee Voting Act (100 Stat. 924;
19 42 U.S.C. 1973 F.F. et seq., as amended) or any other applicable law. The
20 failure of an applicant to take the elector’s oath on such Federal postcard
21 application will not invalidate such application.”

1 **Section 25. Amendment.** Section 6212 of Title 1 of the Commonwealth
2 Code is amended read as follows:

3 “§ 6212. Absentee Voting: Marking and Mailing Ballots.

4 (a) The Commission shall provide to any registered voter entitled
5 to vote by absentee ballot and who applied for one, an official ballot, a
6 ballot envelope, an affidavit prescribed by the Commission, and a reply
7 envelope. The absentee voter shall mark the ballot in the usual manner
8 provided by law and in a manner such that no other person can know how
9 the ballot is marked. The absentee voter shall then deposit the ballot in the
10 ballot envelope and securely seal it. The absentee voter shall then
11 complete and execute the affidavit. The ballot envelope and the affidavit
12 shall then be enclosed and sealed in the covering reply envelope and
13 mailed or sent by commercial courier service to the commission. Such
14 ballots and affidavits will not be counted by the Commission unless
15 mailed. For the purpose of this part, the word “mailed” includes ballots
16 and affidavits sent through the postal or courier services.

17 (b) The Executive Director of the Commission shall coordinate
18 with the Public Auditor on the proper procedure of mailing absentee
19 ballots to voters to ensure that the absentee ballots are unmarked, sealed
20 and mailed accordingly.”

21 **Section 26. Amendment.** Chapter 2 of Part 1 of Division 6 of Title 1 of
22 the Commonwealth Coded is amended by adding new sections to read as follows:

1 **“§ xxxx. Early Voting: Issuance of Ballots; Voting Booths.**

2 (a) If a request is made to vote early by a registered voter in
3 person, the Commission shall issue a ballot for early voting to the voter.
4 The ballot must be voted on the premises of the Commission, except as
5 otherwise provided in this Chapter, and returned to the Commission.
6 Early voting is subject to a challenge by a voter.

7 (b) On the dates for early voting prescribed in Section 6216, the
8 Commission shall provide voting booths, with suitable equipment for
9 voting, on the premises of the Commission and any other designated early
10 voting polling place for use by registered voters who are issued ballots for
11 early voting.

12 (c) The Commission must maintain a list for each election of the
13 voters to whom it has issued early ballots. The list must be maintained for
14 each precinct of the Commonwealth. Before the opening of the polls on
15 election day, the Commission shall deliver to the election official in each
16 precinct the list of registered voters who have voted by early ballot.

17 **§ xxxx. Early Voting: Permanent Polling Places for Early**
18 **Voting.**

19 (a) The Commission may establish permanent polling places for
20 early voting by personal appearance at locations throughout the
21 Commonwealth. Any person entitled to vote early by personal appearance
22 may do so at any polling place established for early voting.

1 (b) If the early voting polling place does not have the correct ballot
2 form for a person seeking to vote early, the election official conducting
3 early voting at that polling place shall inform the person of that fact, give
4 the person the appropriate telephone number of the Commission in order
5 to locate an early voting polling place with the correct ballot form for use
6 in that person's assigned precinct, and instruct the person to go to the
7 proper early voting polling place to vote early.

8 **§ xxxx. Early Voting: Period for Early Voting; Hours.**

9 (a) The period for early voting by personal appearance begins the
10 11th day preceding an election and extends through the last day before
11 election day.

12 (b) A permanent polling place for early voting must remain open
13 during the hours of 8:00 a.m. to 4:00 p.m. on weekdays and 8:00 a.m. to
14 4:00 p.m. on Saturdays, Sundays, and holidays; except that the
15 Commission may extend the voting hours as necessary to accommodate
16 emergency early voting.

17 **§ xxxx. Temporary Branch Polling Places.**

18 (a) In addition to permanent polling places for early voting, the
19 Commission may establish temporary branch polling places for early
20 voting.

1 (b) Voting at a temporary branch polling place may be conducted
2 on any one or more days and during any hours within the period for early
3 voting by personal appearance that are determined by the Commission.

4 **§ xxxx. Schedule of Locations and Times for Early Voting.**

5 (a) The Commission shall publish during the week before the
6 period for early voting and at least once each week during the period for
7 early voting in a newspaper of general circulation in the Commonwealth a
8 schedule stating:

9 (1) the location of each permanent and temporary polling
10 place for early voting and the precincts served by each location;
11 and

12 (2) the dates and hours that early voting will be conducted
13 at each location.

14 (b) The election authority shall post a copy of the schedule at any
15 office or other location that is to be used as a polling place for early
16 voting. The schedule must be posted continuously for a period beginning
17 not later than the 5th day before the first day of the period for early voting
18 by personal appearance and ending on the last day of that period.

19 (c) If the Commission maintains a website, it shall make the
20 schedule available on its website.

21 (d) No additional polling places for early voting may be
22 established after the schedule is published under this Section.”

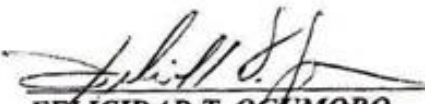
1 **Section 27. Rules and Regulations.** The Commonwealth Election
2 Commission shall promulgate rules and regulations to carryout the provisions of
3 this Act.

4 **Section 28. Severability.** If any provisions of this Act or the application
5 of any such provision to any person or circumstance should be held invalid by a
6 court of competent jurisdiction, the remainder of this Act or the application of its
7 provisions to persons or circumstances other than those to which it is held invalid
8 shall not be affected thereby.

9 **Section 29. Savings Clause.** This Act and any repealer contained herein
10 shall not be construed as affecting any existing right acquired under contract or
11 acquired under statutes repealed or under any rule, regulation or order adopted
12 under the statutes. Repealers contained in this Act shall not affect any proceeding
13 instituted under or pursuant to prior law. The enactment of the Act shall not have
14 the effect of terminating, or in any way modifying, any liability, civil or criminal,
15 which shall already be in existence on the date this Act becomes effective.

- 1 **Section 30. Effective Date.** This Act shall take effect upon its approval
2 by the Governor, or its becoming law without such approval.

Attested to by: 
Evelyn C. Fleming, House Clerk

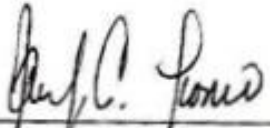
Certified by: 
FELICIDAD T. OGUMORO
ACTING SPEAKER

DISAPPROVED this 21ST day of JULY
2010

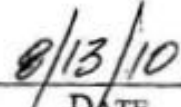

BENIGNO R. FITIAL
Governor
Commonwealth of the Northern Mariana Islands

Overridden by the House of Representatives on August 10, 2010, and by the Senate on August 12, 2010, by the affirmative vote of two-thirds of the members in each house.

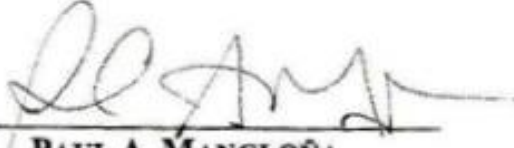
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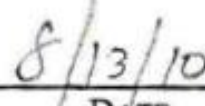
FROILAN C. TENORIO
SPEAKER OF THE HOUSE



DATE



PAUL A. MANGLOÑA
PRESIDENT OF THE SENATE



DATE