



*Territory of Guam*  
*Territorio de Guam*

OFFICE OF THE GOVERNOR  
UHSINAN I MAGA'LARI  
AGANA, GUAM 96910 U.S.A.

RECEIVED  
OFFICE OF THE SPEAKER  
DATE: 4/5/94  
TIME: 10:10am  
RECD BY: [Signature]

APR 01 1994

REFER TO  
LEGISLATIVE SECRETARY

[Signature]

The Honorable Joe T. San Agustin  
Speaker, Twenty-Second Guam Legislature  
155 Hesler Street  
Agana, Guam 96910

Dear Mr. Speaker:

Transmitted herewith is Bill No. 551 which I have signed into law this date as  
Public Law 22-109.

Sincerely yours,

[Signature of Joseph F. Ada]

JOSEPH F. ADA  
Governor of Guam

220616

Attachment



Commonwealth Now!

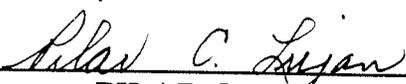
TWENTY-SECOND GUAM LEGISLATURE  
1994 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Substitute Bill No. 551 (LS), "AN ACT TO REPEAL AND REENACT §§3108, 3109, 10104 AND 11115 OF TITLE 3, GUAM CODE ANNOTATED, TO AMEND SUBSECTION (f) OF §§3122, 4108, 10102, 11137 AND 19103 OF SAID TITLE, TO ADD A NEW SUBSECTION (d) TO §13103, TITLE 4, GUAM CODE ANNOTATED, AND TO ADD NEW §§19103.1 AND 19103.2 TO TITLE 3, GUAM CODE ANNOTATED, TO UPDATE, CLARIFY AND ADD FEDERAL POSTCARD REGISTRATION TO THE GUAM ELECTION CODE, AND TO PERMIT THE FILING OF THE FINAL FINANCIAL REPORT OF A CANDIDATE AFTER THE CANDIDATE'S DEATH, AND TO ADD §11133.1 TO TITLE 3, GUAM CODE ANNOTATED, AND PARAGRAPH (d) TO §16404 OF SAID TITLE TO MAKE THE NEXT HIGHEST VOTE GETTER THE CANDIDATE AFTER A CANDIDATE DIES FOLLOWING CERTIFICATION OF ELECTION," was on the 14th day of March, 1994, duly and regularly passed.

  
\_\_\_\_\_  
JOE T. SAN AGUSTIN  
Speaker

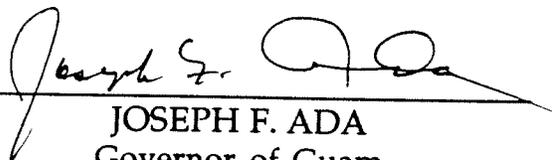
Attested:

  
\_\_\_\_\_  
PILAR C. LUJAN  
Senator and Legislative Secretary

-----  
This Act was received by the Governor this 21<sup>st</sup> day of March, 1994, at  
11:10 o'clock A.M.

  
\_\_\_\_\_  
Assistant Staff Officer  
Governor's Office

APPROVED:

  
\_\_\_\_\_  
JOSEPH F. ADA  
Governor of Guam

Date: APR 01 1994

Public Law No. 22-109

TWENTY-SECOND GUAM LEGISLATURE  
1993 (FIRST) Regular Session

Bill No. 551 (LS)

As amended by the Committee on  
General Governmental Operations  
and Micronesian Affairs and as  
substituted by the Committee on Rules

Introduced by:

T. S. Nelson  
H. D. Dierking  
T. C. Ada  

---

J. P. Aguon  
E. P. Arriola  
M. Z. Bordallo  
C. T. C. Gutierrez  
P. C. Lujan  
V. C. Pangelinan  
D. Parkinson  
E. D. Reyes  
J. T. San Agustin  
F. E. Santos  
D. L. G. Shimizu  
J. G. Bamba  
A. C. Blaz  
D. F. Brooks  
F. P. Camacho  
M. D. A. Manibusan  
T. V. C. Tanaka  
A. R. Unpingco

AN ACT TO REPEAL AND REENACT §§3108, 3109, 10104  
AND 11115 OF TITLE 3, GUAM CODE ANNOTATED, TO  
AMEND SUBSECTION (f) OF §§3122, 4108, 10102, 11137  
AND 19103 OF SAID TITLE, TO ADD A NEW SUBSECTION  
(d) TO §13103, TITLE 4, GUAM CODE ANNOTATED, AND  
TO ADD NEW §§19103.1 AND 19103.2 TO TITLE 3, GUAM  
CODE ANNOTATED, TO UPDATE, CLARIFY AND ADD  
FEDERAL POSTCARD REGISTRATION TO THE GUAM

ELECTION CODE, AND TO PERMIT THE FILING OF THE FINAL FINANCIAL REPORT OF A CANDIDATE AFTER THE CANDIDATE'S DEATH, AND TO ADD §11133.1 TO TITLE 3, GUAM CODE ANNOTATED, AND PARAGRAPH (d) TO §16404 OF SAID TITLE TO MAKE THE NEXT HIGHEST VOTE GETTER THE CANDIDATE AFTER A CANDIDATE DIES FOLLOWING CERTIFICATION OF ELECTION.

1           **BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:**

2           **Section 1. Legislative intent.** Certain sections of Guam's Election  
3 Code have proven to be obsolete or outdated. This Act is intended to rectify  
4 this situation and to bring the Code into current status.

5           **Section 2.** §3108 of Title 3, Guam Code Annotated, is repealed and  
6 reenacted to read:

7                   **"§3108. Unlawful registration as crime.** Every person who  
8 willfully causes, procures or allows himself or any person to be  
9 registered as a voter, knowing himself or that other person not to be  
10 entitled to registration, is guilty of a felony of the third degree."

11           **Section 3.** §3109 of Title 3, Guam Code Annotated, is repealed and  
12 reenacted to read:

13                   **"§3109. Appointment of Registration Clerks.** The Commission  
14 shall appoint one (1) Registration Clerk for each district."

15           **Section 4.** Subsection (f) of §3122, Title 3, Guam Code Annotated, is  
16 amended to read:

17                   **"(f)** If the person registered has not voted at the last general  
18 election, unless such person mailed an absentee ballot that was  
19 postmarked on or before the last general election day but was  
20 received after the close of the polls."

21           **Section 5.** §4108, Title 3, Guam Code Annotated, is amended to read:

1           **“§4108. Publication of names of precinct board members.** The  
2 Commission shall publish the list of names of the members of the  
3 precinct board in a daily newspaper of general circulation published  
4 in the territory of Guam for at least five (5) issues, the last  
5 publication to be not less than one (1) day before the day of election.”

6           **Section 6.** Subsection (a) of §10102, Title 3, Guam Code Annotated, is  
7 amended to read:

8           “(a) Except as provided in subsection (b), any voter, under the  
9 circumstances specified in §10101 may, not less than three (3) days or  
10 if application is made in person, not later than during the regular  
11 office hours of the day prior to any election, make application to the  
12 Commission for an official ballot to be voted at such election. Any  
13 such application shall be made in writing on a form furnished by the  
14 Commission.”

15           **Section 7.** §10104, Title 3, Guam Code Annotated, is repealed and  
16 reenacted to read:

17           **“§10104. (a) Armed Forces or absentee application.** A voter  
18 who: (1) is eligible for an absentee ballot, (2) wants to execute an  
19 affidavit or form for voter registration, and (3) is absent from the  
20 United States or is a member of the Armed Forces of the United  
21 States, is not required to sign the affidavit or form in the presence of  
22 a person authorized to administer an oath, and the affidavit or form  
23 need not be signed by such an oath administrator. The Commission  
24 shall inform the voter that no signature other than that of the voter  
25 is required on the affidavit or form and that a voter who makes a  
26 false statement on the affidavit or form is subject to the penalties for  
27 perjury.

1           (b) **Federal postcard application.** In lieu of the application  
2 form prescribed in this title, any person serving in the Armed Forces  
3 of the United States Merchant Marine, or who is a spouse or  
4 dependent of such a person, and any person who temporarily resides  
5 outside the territorial limits of the United States and its territories,  
6 may apply for registration and enrollment on the Federal postcard  
7 application form provided pursuant to the Uniformed and Overseas  
8 Citizens Absentee Voting Act (100 Stat. 924; 42 U.S.C. 1973 F.F. *et*  
9 *seq.*, as amended) or any other applicable law. The failure of an  
10 applicant to take the elector's oath on such Federal postcard  
11 application will not invalidate such application."

12       **Section 8.** §11115 of Title 3, Guam Code Annotated, is repealed and  
13 reenacted to read:

14           "§11115. **Write-in votes.** If the write-in voting square is  
15 marked, a write-in vote shall be counted for the office under which it  
16 is marked. If the total number of write-in votes counted for an office  
17 could change the results as to the person having the largest number  
18 of votes for that office, the names appearing next to the marked  
19 write-in voting squares for that office shall be tabulated and  
20 published. Otherwise, only the total number of write-in voting  
21 squares marked shall be tabulated and published."

22       **Section 9.** §11137 of Title 3, Guam Code Annotated, is amended to  
23 read:

24           "§11137. **Entry of results on record.** Immediately upon the  
25 completion of the tabulation of all ballots, the Commission shall  
26 enter on its record a statement of the result, which will show:

27           (a) The total number of votes cast in the territory;

1 (b) The names of the persons voted for; except as  
2 provided for Write-in Votes in §11115;

3 (c) For what office each person was voted for, except as  
4 provided for Write-in Votes in §11115."

5 **Section 10.** A new subsection (d) is added to §13103 of Title 4, Guam  
6 Code Annotated, to read:

7 "(d) If an official or candidate dies after he has been granted  
8 an extension for filing the financial disclosure report, the Executive  
9 Director of the Election Commission shall have a statement placed in  
10 the file of the official or candidate that states: 'Unable to file  
11 Financial Disclosure Report as a result of death on \_\_\_\_\_ (date  
12 of death)'."

13 **Section 11.** A new §19103.1 is added to Title 3, Guam Code Annotated,  
14 to read:

15 "§19103.1. **Death of candidate prior to filing reports.** If a  
16 candidate dies prior to the filing of his final report, the campaign  
17 treasurer for the election committee of said candidate shall file a  
18 final report as required by §19115. The treasurer should note in the  
19 report that the candidate is deceased and that this will be the last  
20 report of the candidate's status, even if there is a deficit or a surplus.

21 **Section 12.** A new §19103.2 is added to Title 3, Guam Code Annotated,  
22 to read:

23 "§19103.2. **Death of candidate after submitting final report.** If  
24 a candidate passes away after a final report has been submitted to  
25 the Commission but before a supplemental report is due regarding a  
26 deficit or surplus as provided in subsections (c) and (d) of §19115, the  
27 treasurer or authorized representative of the candidate shall file the

1 supplemental report showing the status of the deficit or surplus and  
2 note therein that the candidate is deceased and no further reports  
3 shall be forthcoming."

4 Section 13. §11133.1 is hereby added to Title 3, Guam Code Annotated,  
5 to read:

6 "§11133.1. **Death of candidate after certification.** Except in  
7 the case of the office of the Governor or Lieutenant Governor, in the  
8 event that a candidate dies after he or she has been certified as  
9 elected and prior to the commencement of his or her term, the  
10 Commission shall certify as elected the person who received the next  
11 highest number of votes in that election. If no other person had  
12 fewer votes than the candidate whose election was certified, the  
13 vacancy shall be filled as otherwise provided by law. In the case of a  
14 person who has been certified as being elected Governor or  
15 Lieutenant Governor and who dies prior to the commencement of his  
16 or her term, the vacancy shall be filled as provided by law."

17 Section 14. Paragraph (d) is added to §16404 of Title 3, Guam Code  
18 Annotated, to read:

19 "(d) Except in the case of a gubernatorial team, if in any  
20 primary a candidate who has been certified as being nominated (i)  
21 submits to the Board a written declination of his or her nomination  
22 or (ii) dies, the Board shall certify as nominated the person having  
23 the next highest number of votes in the same primary; provided, that  
24 the Board determines that the addition of the newly certified  
25 candidate to the ballot shall not prevent the Board from conducting  
26 the general election at the scheduled date and time. If the Board in  
27 its discretion determines that time does not permit the addition of the

1 new nominee to the ballot, the vacancy shall be filled as otherwise  
2 provided by law. In the case of the death of a nominee for Governor  
3 or Lieutenant Governor, the vacancy shall be filled as provided by  
4 law."

# TWENTY-SECOND GUAM LEGISLATURE

1994 (SECOND) Regular Session

Date: 3/14/94

## VOTING SHEET (AS REVISED)

Bill No. 551  
 Resolution No. \_\_\_\_\_  
 Question: \_\_\_\_\_

NAME	AYE	NO	NOT VOTING/ ABSTAINED	ABSENT/ OUT DURING ROLL CALL
ADA, Thomas C.	✓			
AGUON, John P.	✓			
ARRIOLA, Elizabeth P.	✓			
BAMBA, J. George	✓			
BLAZ, Anthony C.	✓			
BORDALLO, Madeleine Z.	✓			
BROOKS, Doris F.	✓			
CAMACHO, Felix P.	✓			
DIERKING, Herminia D.	✓			
GUTIERREZ, Carl T. C.	✓			
LUJAN, Pilar C.	✓			
MANIBUSAN, Marilyn D. A.	✓			
NELSON, Ted S.	✓			
PANGELINAN, Vicente C.	✓			
PARKINSON, Don	✓			
REYES, Edward D.	✓			
SAN AGUSTIN, Joe T.	✓			
SANTOS, Francis E.	✓			
SHIMIZU, David L. G.	✓			
TANAKA, Thomas V. C.	✓			
UNPINGCO, Antonio R.	✓			

TOTAL 21 \_\_\_\_\_



# Committee on General Governmental Operations

and

## Micronesian Affairs

Twenty-Second Guam Legislature

Sen. Ted S. Nelson  
Chairman

August 25, 1993

Honorable Joe T. San Agustin  
Speaker  
21st Guam Legislature  
155 Hessler Street  
Agana, Guam 96910

Dear Mr. Speaker:

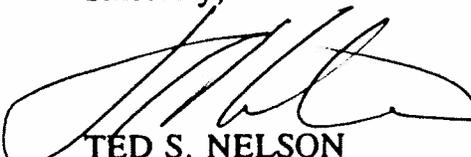
The Committee on General Governmental Operations and Micronesian Affairs, to which was referred **Bill No. 551** (*An Act to update and clarify 3 GCA §§3108, 3109, 3122, 4108, 10102, 10104, and 19103 and 4 GCA §13103 of Guam's Election Code*) has had the same consideration and now wishes to report back the same with the recommendation **to do pass.**

The Committee votes are as follows:

To do pass	<u>6</u>
Not to pass	<u>0</u>
To place in inactive file	<u>0</u>
Abstain	<u>0</u>

A copy of the Committee Report and other pertinent documents are enclosed for your reference and information.

Sincerely,



TED S. NELSON

Enclosures



**GUAM ELECTION COMMISSION**  
**Territory of Guam**

P.O. Box BG  
Agana, Guam 96910



STATEMENT BY ELIZABETH M. BLAS  
ACTING EXECUTIVE DIRECTOR - GUAM ELECTION COMMISSION

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE ON GENERAL GOVERNMENTAL OPERATIONS, MY NAME IS ELIZABETH M. BLAS AND I AM THE ACTING EXECUTIVE DIRECTOR OF THE GUAM ELECTION COMMISSION. ACCOMPANYING ME IS THE COMMISSION'S LEGAL COUNSEL, MR. JEFFREY A. COOK. THANK YOU FOR THE INVITATION TO PRESENT TESTIMONY ON BILL NO. 551 WHICH ORIGINATED FROM THE COMMISSION. MR. CHAIRMAN, PLEASE ALLOW ME TO OFFER COMMENTS ON EACH SECTION OF THIS BILL.

SECTION 2 - WOULD ALLOW FOR A MORE SEVERE PENALTY IN OUR REGISTRATION PROGRAM. SINCE GUAM TAKES ITS ELECTIONS SERIOUSLY, AND TO MAINTAIN THE INTEGRITY OF THE ELECTION IT IS SUGGESTED TO CHANGE THE WORD "MISDEMEANOR" TO "THIRD DEGREE FELONY" IN SECTION 3108.

SECTION 3 - WOULD CORRECT THE LANGUAGE OF SECTION 3109 WHERE THE COMMISSION SHALL APPOINT A REGISTRATION CLERK FOR EACH PRECINCT. THE LANGUAGE SHOULD READ "THE COMMISSION SHALL APPOINT ONE (1) REGISTRAR FOR EACH DISTRICT." WITH THE EXISTING STATUTE INDICATING THE WORD "PRECINCT", IT MAY BE CONSTRUED THAT THE COMMISSION WILL APPOINT 76 REGISTRARS INSTEAD OF THE REQUIRED 19 REGISTRARS FOR EACH DISTRICT.

SECTION 4 - IS AN AMENDMENT TO PARAGRAPH (F) OF SECTION 3122 WHICH WILL SAVE AN ABSENTEE VOTER'S NAME FROM BEING PURGED FROM THE REGISTRATION LIST BECAUSE HIS ABSENTEE BALLOT WAS NOT RECEIVED ON TIME. IT IS OF THE OPINION OF THE COMMISSION'S LEGAL COUNSEL THAT WHEN AN ABSENTEE VOTER MAILES HIS BALLOT TO THE ELECTION COMMISSION IRREGARDLESS OF THE POSTMARK BUT IS NOT

RECEIVED BY THE COMMISSION ON OR BEFORE 8:00 P.M. ON ELECTION DAY, THE ABSENTEE VOTER'S NAME IS REMOVED FROM THE REGISTRATION LIST. WITH THIS AMENDMENT, THE COMMISSION WILL NOT REMOVE THOSE ABSENTEE VOTERS WHO MAILED THEIR ABSENTEE BALLOTS ON OR BEFORE ELECTION DAY.

SECTION 5 - WILL ENABLE THE COMMISSION TO SAVE COSTS BY REDUCING THE NUMBER OF PUBLICATIONS OF THE LIST OF PRECINCT BOARD MEMBERS APPOINTED THAT MUST APPEAR IN A DAILY NEWSPAPER FROM TEN (10) ISSUES TO FIVE (5) ISSUES.

MR. CHAIRMAN, FOR YOUR INFORMATION, THE COMMISSION CLOSELY COORDINATES THESE APPOINTMENTS WITH BOTH POLITICAL PARTY CHAIRS.

SECTION 6 - IS A PROPOSAL, AS RECOMMENDED BY THE FEDERAL ELECTION COMMISSION, FOR ACCEPTANCE OF AN ABSENTEE APPLICATION FROM AN OVERSEAS CITIZEN OR A MILITARY PERSON AS EARLY AS POSSIBLE. FREQUENTLY, PEOPLE ARE MOTIVATED TO REGISTER AND/OR APPLY FOR AN ABSENTEE BALLOT AT A TIME CONVENIENT TO THEM ONLY TO HAVE THEIR APPLICATION REJECTED BECAUSE OF THE "NOT EARLIER THAN" LIMITATION.

SECTION 7 - IS ALSO A RECOMMENDATION FROM THE FEDERAL ELECTION COMMISSION TO REMOVE THE NOTARY REQUIREMENT ON THE AFFIDAVIT ENVELOPE OF THE ABSENTEE BALLOT WHICH CREATES PROBLEMS FOR INDIVIDUALS LIVING OVERSEAS WHERE SUCH SERVICES ARE DIFFICULT AND EXPENSIVE, IF NOT IMPOSSIBLE, TO OBTAIN. THIS RECOMMENDATION IS INCLUDED FOR THOSE THAT WOULD OTHERWISE QUALIFY.

SECTION 8 - IS A PROPOSAL TO ADD A NEW SUBSECTION (A) TO SECTION 10104 WHICH WILL ALLOW A MILITARY MEMBER, A FEDERAL EMPLOYEE, OR OTHER PERSONS WHO FOR SOME DEFINED REASON CANNOT RECEIVE BALLOTS UNDER NORMAL CIRCUMSTANCES, TO BE A SPECIAL ABSENTEE VOTER WHO WOULD BE SENT A BLANK BALLOT WITH A LIST OF EVERYONE WHO'S TURNED IN NOMINATING PETITIONS AND MARKING HIS BALLOT ACCORDINGLY.

MR. CHAIRMAN, THE COMMISSION IN THE PAST HAD EXPERIENCED THE UNTIMELY DEATH OF AN OFFICIAL AND A CANDIDATE WHEN AN OUTSTANDING REPORT WAS DUE TO THE COMMISSION AS REQUIRED BY STATUTES. SECTION 9 AND 10 OF THIS BILL WILL CLARIFY WHAT ACTIONS A CANDIDATE'S TREASURER (IN THE CASE OF THE ELECTION CAMPAIGN CONTRIBUTION AND EXPENDITURE REPORT) AND A REPRESENTATIVE OF THE DECEASED OFFICIAL (IN THE CASE OF THE PUBLIC OFFICIAL FINANCIAL DISCLOSURE ACT) MUST TAKE UPON THE UNTIMELY DEATH OF A CANDIDATE OR AN OFFICIAL BEFORE/AFTER AN ELECTION.

AT THIS TIME, I WOULD LIKE TO SEEK THE INDULGENCE OF THIS COMMITTEE TO INCLUDE IN BILL 551 A PROPOSED CHANGE TO SECTION 11115 OF TITLE 3, GUAM CODE ANNOTATED, REGARDING WRITE-IN VOTES. THE ELECTION COMMISSION HAS DETERMINED THAT THE STOPPING OF THE MACHINE TO REMOVE WRITE-IN VOTE BALLOTS IS A MAJOR CAUSE OF THE SLOWNESS IN COUNTING VOTES. WRITE-IN VOTES WILL ONLY BE TABULATED AS TO THE NAMES OF THE PEOPLE BEING VOTED FOR, IF THE NUMBER OF WRITE-INS WOULD ACTUALLY AFFECT THE OUTCOME OF AN ELECTION FOR ANY GIVEN OFFICE.

THEREFORE, SECTION 11115 OF TITLE 3 BE REPEALED AND REENACTED TO READ AS FOLLOWS:

"IF THE WRITE-IN VOTING SQUARE IS MARKED, A WRITE-IN VOTE SHALL BE COUNTED FOR THE OFFICE UNDER WHICH IT IS MARKED. IF THE TOTAL NUMBER OF WRITE-IN VOTES COUNTED FOR AN OFFICE COULD CHANGE THE RESULTS AS TO THE PERSON HAVING THE LARGEST NUMBER OF VOTES FOR THAT OFFICE, THE NAMES APPEARING NEXT TO THE MARKED WRITE-IN VOTING SQUARES FOR THAT OFFICE SHALL BE TABULATED AND PUBLISHED. OTHERWISE, ONLY THE TOTAL NUMBER OF WRITE-IN VOTING SQUARES MARKED SHALL BE TABULATED AND PUBLISHED.

IN ADDITION, SECTION 11137 OF THE SAME TITLE WOULD BE AMENDED TO READ AS FOLLOWS:

"IMMEDIATELY UPON COMPLETION OF THE TABULATION OF ALL BALLOTS, THE COMMISSION SHALL ENTER ON ITS RECORD A STATEMENT OF THE RESULT, WHICH WILL SHOW: (A) THE TOTAL NUMBER OF VOTES CAST IN THE TERRITORY; (B) THE NAMES OF PERSONS VOTED FOR, EXCEPT AS PROVIDED FOR WRITE-IN VOTES IN SECTION 11115; (C) FOR WHAT OFFICE EACH PERSON WAS VOTED FOR, EXCEPT AS PROVIDED FOR WRITE-IN VOTES IN SECTION 11115; AND, (D) THE NUMBER OF VOTES GIVEN EACH PERSON BY THE ENTIRE TERRITORY, EXCEPT AS PROVIDED FOR IN WRITE-IN VOTES IN SECTION 11115.

THANK YOU FOR ALLOWING US TO APPEAR BEFORE THIS COMMITTEE. AT THIS TIME, I WILL BE HAPPY TO ANSWER ANY QUESTIONS THAT THE MEMBERS OF THIS COMMITTEE MIGHT HAVE.



ELIZABETH M. BLAS

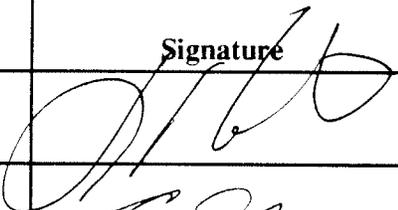
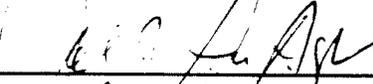
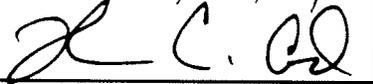
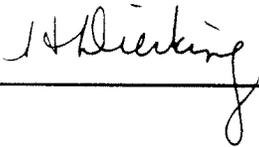
ACTING EXECUTIVE DIRECTOR

**COMMITTEE ON GENERAL GOVERNMENTAL OPERATIONS  
AND MICRONESIAN AFFAIRS**

**VOTE SHEET ON BILL NO. 551**

**(AN ACT TO UPDATE AND CLARIFY 3 GCA §§3108, 3109,  
3122, 4108, 10102, 10104, AND 19103 AND 4 GCA §13103 OF  
GUAM'S ELECTION CODE)**

**RECOMMENDATION TO DO PASS AS AMENDED**

Committee Members	Signature	To Do Pass	Not To Pass	Place in the Inactive File	Abstain
Senator Ted S. Nelson Chairman		✓			
Senator Edward D. Reyes Vice-Chairman		✓			
Speaker Joe T. San Agustin Ex-Officio Member		✓			
Senator Thomas C. Ada Member		✓			
Senator J. George Bamba Member					
Senator Anthony C. Blaz Member					
Senator Herminia D. Dierking Member		✓			
Senator Carl T.C. Gutierrez Member					
Senator Marilyn D.A. Manibusan Member					
Senator Vicente C. Pangelinan Member		✓			
Senator Thomas V.C. Tanaka Member					

## PROFILE ON BILL NO. 551

Official Title: **AN ACT TO UPDATE AND CLARIFY 3 GCA §§3108, 3109, 3122, 4108, 10102, 10104 AND 19103 AND 4 GCA §13103 OF GUAM'S ELECTION CODE.**

Date Introduced: July 8, 1993

Main Sponsor(s): T.S. Nelson

Referral: Committee on General Governmental Operations and Micronesian Affairs on July 19, 1993.

Committee Public Hearing: 9:30 a.m. Friday, August 6, 1993  
Public Hearing Room, Guam Legislature  
Temporary Bldg., Agana

Recommendation: To Do Pass as amended by the committee

### COMMITTEE RECOMMENDATIONS

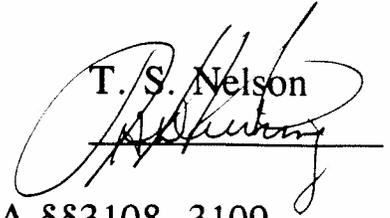
The recommendation of the committee is to amend Bill No. 551 for the purpose of incorporating additional language as submitted by the Guam Election Commission. Sections 11 and 12 have been added to Bill No. 551.

TWENTY-SECOND GUAM LEGISLATURE  
1993 (FIRST) Regular Session

Bill No. 551

As Amended by the Committee on General  
Governmental Operations & Micronesian Affairs

Introduced by:

T. S. Nelson  


AN ACT TO UPDATE AND CLARIFY 3 GCA §§3108, 3109,  
3122, 4108, 10102, 10104 AND 19103 AND 4 GCA §13103 OF  
GUAM'S ELECTION CODE.

1           BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF  
2           GUAM:

3           **Section 1.** Legislative Intent. Certain sections of Guam's  
4           Election Code have proved to be obsolete or out-dated. To rectify this  
5           situation and to bring the Code into current status, the following  
6           amendments are offered for adoption by the Guam Election  
7           Commission.

8           **Section 2.** 3 GCA §3108 is repealed and reenacted to read:

9                   "§3108. Every person who willfully causes, procures or  
10                  allows himself or any person to be registered as a voter, knowing  
11                  himself or that other person not to be entitled to registration, is  
12                  guilty of a [*misdemeanor*] **third degree felony.**"

13  
14           **Section 3.** 3 GCA §3109 is repealed and reenacted to read:

15  
16                   "§3109. The Commission shall appoint [*a*] **one (1)**

1 Registration Clerk for each [precinct] district."

2  
3 **Section 4.** 3 GCA §3122(f) is repealed and reenacted to read:

4  
5 "(f) If the person registered has not voted at the last  
6 general election, except if the person has mailed an absentee  
7 ballot that is postmarked on or before election day, but  
8 received after the close of polls."

9  
10 **Section 5.** 3 GCA §4108 is repealed and reenacted to read:

11  
12 "§4108. The Commission shall publish the list of names of  
13 the members of the precinct board in a daily newspaper of  
14 general circulation published in the territory of Guam for at least  
15 [*ten (10)*] five (5) issues, the last publication to be not less than  
16 one (1) [*week*] day before the day of election."

17  
18 **Section 6.** 3 GCA §10102(a) is repealed and reenacted to read:

19  
20 "(a) Except as provided in Subsection (b), any voter, under  
21 the circumstances as specified in §10101 may not [*more than*  
22 *sixty (60) nor*] less than three (3) days[,] or if application is made  
23 in person, not later than during the regular office hours of [*the*]  
24 day prior to any election, make application to the Commission for  
25 an official ballot to be voted at such election. Any such  
26 application shall be made in writing on a form furnished by the  
27 Commission."

28  
29 **Section 7.** 3 GCA §10104 is repealed and reenacted to read:

30  
31 "§10104. A voter who: (1) is eligible for an absentee  
32 ballot; (2) wants to execute an affidavit or form for voter  
33 registration; and (3) is absent from the United States or is a  
34 member of the Armed Forces of the United States; is not required  
35 to sign the affidavit or form in the presence of a person  
36 authorized to administer an oath, and the affidavit or form need  
37 not be signed by such a person. The Commission shall inform  
38 the voter that no signature other than that of the voter is required

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34

on the affidavit or form and that a voter who makes a false statement on the affidavit or form is subject to the penalties for perjury."

**Section 8.** A new subsection (a) is added to 3 GCA §10104 to

read:

"(a) In lieu of the application form prescribed herein, any person who, because of service in the armed forces, membership of the United States Merchant Marine, is a spouse or dependent of such a person, and any person who because of temporary residence outside the territorial limits of the several states of the United States and its territories may apply for registration and enrollment on the federal postcard application form provided pursuant to the Uniformed and Overseas Citizens Absentee Voting Act (100 Stat. 924; 42 U.S.C. 1973 F.F. et. seq., as amended) or any other applicable law. The failure of an applicant to take the elector's oath on such federal postcard application will not invalidate such application for admission."

**Section 9.** A new subsection (a) is added to 3 GCA §19103 to

read:

"(a) If a candidate dies prior to the filing of his final report, the campaign treasurer for the committee of said candidate shall file a final report as required by Section 19115 of Title 3, Guam Code Annotated. The treasurer should note in the report that the candidate is deceased and that this will be the last report of the candidate's status, even if there is a deficit or a surplus.

If a candidate passes away after a final report has been submitted to the Guam Election Commission but before a supplemental report is due regarding a deficit or surplus as provided in Section 19115(c) and (d), the Treasurer or authorized representative of the candidate shall file the supplemental report showing the status of the deficit or surplus and note therein that

1 the candidate is deceased and no further reports shall be  
2 forthcoming."

3  
4 **Section 10.** A new subsection (d) is added to 4 GCA §13103 to

5 read:

6 "(d) If an official or candidate dies after he has been  
7 granted an extension for filing the financial disclosure report, the  
8 Executive Director of the Election Commission shall have a  
9 statement placed in the file of the official that states: 'Unable to  
10 file Financial Disclosure Report as a result of death on \_\_\_\_\_,  
11 (date of death).'

12 **Section 11.** 3 GCA §11115 is repealed and reenacted to read:

13 "Section 11115. Write-In Votes. If the Write-In voting  
14 square is marked, a Write-In vote shall be counted for the office  
15 under which it is marked. If the total number of Write-In votes  
16 counted for an office could change the results as to the person  
17 having the largest number of votes for that office, the names  
18 appearing next to the marked Write-In voting squares for that  
19 office shall be tabulated and published. Otherwise, only the total  
20 number of Write-In voting squares marked shall be tabulated and  
21 published."  
22

23 **Section 12.** 3 GCA §11137 is hereby amended to read:

24  
25 "Section 11137. Entry of Results on Record. Immediately  
26 upon the completion of the tabulation of all ballots, the  
27 Commission shall enter on its record a statement of the result,  
28 which will show: (a) The total number of votes cast in the  
29 territory; (b) The names of the persons voted for, except as  
30 provided for Write-In votes in Section 11115; (c) For what office  
31 each person was voted for, except as provided for Write-In votes  
32 in Section 11115; and (d) The number of votes given each person  
33 by the entire territory, except as provided for Write-In votes in  
34 Section 11115."

**COMMITTEE ON GENERAL GOVERNMENTAL OPERATIONS  
AND MICRONESIAN AFFAIRS  
TWENTY-SECOND GUAM LEGISLATURE  
155 Hessler Street, Agana, Guam 96910**

**COMMITTEE REPORT**

**ON**

**BILL NO. 551**

***(AN ACT TO UPDATE AND CLARIFY 3 GCA §§3108, 3109,  
3122, 4108, 10102, 10104, AND 19103 AND 4 GCA §13103 OF  
GUAM'S ELECTION CODE)***

**COMMITTEE MEMBERS:**

Chairman: Ted S. Nelson

Vice-Chairman: Edward D. Reyes

Ex-Officio Member: Speaker Joe T. San Agustin

Thomas C. Ada  
Herminia D. Dierking  
Carl T.C. Gutierrez  
Vicente C. Pangelinan

J. George Bamba  
Anthony C. Blaz  
Marilyn D.A. Manibusan  
Thomas V.C. Tanaka

**COMMITTEE ON GENERAL GOVERNMENTAL OPERATIONS  
AND MICRONESIAN AFFAIRS**

Public Hearing  
9:30 a.m. Friday, August 6, 1993  
Public Hearing Room  
Guam Legislature Temporary Bldg., Agana

Committee members present:

	Sen. Ted S. Nelson, Chairman
	Sen. E.D. Reyes
	Sen. T.V.C. Tanaka
	Sen. V.C. Pangelinan
	Sen. T.C. Ada

**Bill No. 551: AN ACT TO UPDATE AND CLARIFY 3 GCA §§3108, 3109, 3122, 4108, 10102, 10104, and 19103 AND 4 GCA §13103 OF GUAM'S ELECTION CODE.**

**TESTIMONY**

**Elizabeth M. Blas**  
**Acting Executive Director, Guam Election Commission**

Ms. Blas provided the committee with a written statement and was accompanied by Mr. Jeff Cook, Legal Counsel for the commission. The statement by the commission provided a section-by-section analysis of Bill No. 551 and clarified the proposed changes as addressed in the bill. At the request of the Guam Election Commission, the following language to repeal and reenact Section 11115 of 3 GCA is provided.

Section 11115. **Write-In Votes.** "If the Write-In voting square is marked, a Write-In vote shall be counted for the office under which it is marked. If the total number of Write-In votes counted for an office could change the results as to the person having the largest number of votes for that office, the names appearing next to the marked Write-In voting squares for that office shall be tabulated and published. Otherwise, only the total number of Write-In voting squares marked shall be tabulated and published."

In addition to the previous proposed amendment, the Guam Election Commission also proposed an amendment to Section 11137 of Title 3 GCA to read as follows:

“Section 11137. **Entry of Results on Record.** “Immediately upon the completion of the tabulation of all ballots, the commission shall enter on its record a statement of the result, which will show:

- (a) The total number of votes cast in the territory;
- (b) The names of the persons voted for, except as provided for Write-in votes in Section 11115;
- (c) For what office each person was voted for, except as provided for Write-in votes in Section 11115;
- (d) The number of votes given each person by the entire territory, except as provided for Write-in votes in Section 11115.”

### Questions by Committee Members

**Senator Reyes:** Requested clarification from Ms. Blas regarding the proposed amendments as it relates to Write-in votes. (Proposed amendment to Section 11115 of Title 3 GCA)

**Ms. Blas:** The request is that the commission not tabulate the write-in votes the night of the election. The concern of the commission is the slow process of tabulating ballots especially when the computer identifies a ballot with a write-in vote.

**Mr. Jeff Cook:** The proposed amendment would allow for the computer to record the Write-in vote, in which case the computer would not stop. The commissioners would then look at the number of Write-in votes recorded and should the number of Write-in votes affect the outcome of any given race, the same ballots would then be placed back into the computer so that the ballots with the Write-in votes could be identified and tabulated.

**Senator Reyes:** Wanted reassurance that people would not be deprived of their constitutional right to vote for the sake of administrative convenience.

**Senator Pangelinan:** Inquired if the current computer counting the ballots has the capability to coalate the Write-in ballots as it goes through the computer. In reference to Section 5, Senator Pangelinan inquired as to the cost savings for the announcements. Senator Pangelinan continued to inquire if the reduction in the announcements would affect the voter turnout.

**Ms. Blas:** Responded that the computer does not have the capability to coalate. In reference to the cost savings, Ms. Blas estimated the cost savings at \$5,000.00 or more. Regarding the proposal to reduce the announcements from ten (10) to five (5), Ms. Blas responded that the reduction in the announcements would not affect the voter turnout and that what is being published are names of the Precinct Board.

**Senator Pangelinan:** Inquired as to the difference between a penalty for a Misdemeanor and a Third Degree Felony.

**Jeff Cook:** Responded that a Misdemeanor is a prison sentence not to exceed one (1) year and/or a fine of not more than \$1,000.00. A Third Degree Felony for a first offender would be a prison sentence for 0-3 years and/or a fine not to exceed \$5,000.00. In addition to that, as a convicted felon, a person loses several civil rights.

**Senator Pangelinan:** Inquired if the commission has ever encountered false registration. If so, has it been investigated and prosecuted.

**Jeff Cook:** Responded that the commission has not encountered such an incident, however, the commission has tried forwarding information to the Attorney General's office for an investigation and due to the lack of evidence, there was neither an investigation nor prosecution.

**Senator Tanaka:** Commended the commission for proposing "Housekeeping Measures". Senator Tanaka suggested that the language in the bill be expanded to establish a percentage regarding Write-in votes. Senator Tanaka continued his inquiry regarding Absentee Ballots and whether those ballots received by 8:00 p.m. the night of the election will be the only ballots tabulated. Senator Tanaka suggested that the current law be amended to allow for late absente ballots to be tabulated.

**Jeff Cook:** Responded that the current law is very specific that voting ends at 8:00 p.m. at which time the commission commences tabulating the ballots. Mr. Cook continued that the commission has tried submitting a proposal that would amend the current law to allow for late absentee ballots to be tabulated.

**Senator Ada:** Inquired as to the procedure to pick up a nominating petition and if anyone other than the candidate can pick up a petition. Senator Ada asked Ms. Blas if it would be too restrictive if the individual picking up the petition, to register that he/she is picking up the petition on behalf of the candidate.

**Jeff Cook:** Responded that it is not the concern of the commission to know who the petition is for. However, if the politicians feel differently, then the procedure could not be revised administratively.

**Senator Ada:** Inquired in reference to Section 7 which suggests to do away with the notary requirement for absentee ballots from the Federal Election Commission and what situation has prompted the need for the change.

**Jeff Cook:** Responded that this recommendation came from a division within the Department of Defense for overseas citizens and military personnel who may be assigned at a location on foreign soil where access to a notary may be difficult to obtain.

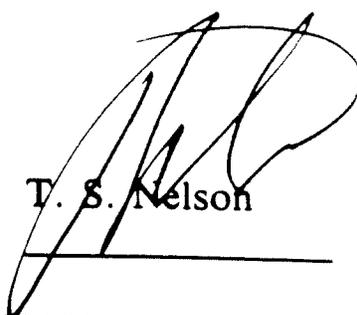
**Senator Ada:** In reference to Section 8, Senator Ada inquired as to the time lapse between the time that all nominating petitions are turned in and the time that the ballots are printed.

**Ms. Blas:** Responded that nominating petitions should be turned within sixty (60) days prior to election day. Immediately after receiving the petitions, the petitions would go through a screening process to determine if in fact the candidate qualifies by obtaining the number of signatures required. Thereafter, the board would meet to ratify the names of the candidates and then a drawing is conducted for ballot placement.

There being no other witnesses to testify on Bill No. 551, the Chairman excused the witnesses and moved on to the next item on the agenda.

Bill No. 551

Introduced by:

  
T. S. Nelson

AN ACT TO UPDATE AND CLARIFY 3 GCA §§3108, 3109,  
3122, 4108, 10102, 10104 AND 19103 AND 4 GCA §13103 OF  
GUAM'S ELECTION CODE.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF

2 GUAM:

3 **Section 1.** Legislative Intent. Certain sections of Guam's  
4 Election Code have proved to be obsolete or out-dated. To rectify this  
5 situation and to bring the Code into current status, the following  
6 amendments are offered for adoption by the Guam Election  
7 Commission.

8 **Section 2.** 3 GCA §3108 is repealed and reenacted to read:

9 "§3108. Every person who willfully causes, procures or  
10 allows himself or any person to be registered as a voter, knowing  
11 himself or that other person not to be entitled to registration, is  
12 guilty of a [*misdemeanor*] **third degree felony**."  
13

14 **Section 3.** 3 GCA §3109 is repealed and reenacted to read:

15 "§3109. The Commission shall appoint [a] **one (1)**  
16 Registration Clerk for each [*precinct*] **district**."  
17

Section 4. 3 GCA §5122(I) is repealed and reenacted to read:

"(f) If the person registered has not voted at the last general election, except if the person has mailed an absentee ballot that is postmarked on or before election day, but received after the close of polls."

Section 5. 3 GCA §4108 is repealed and reenacted to read:

"§4108. The Commission shall publish the list of names of the members of the precinct board in a daily newspaper of general circulation published in the territory of Guam for at least [*ten (10)*] **five (5)** issues, the last publication to be not less than one (1) [*week*] **day** before the day of election."

Section 6. 3 GCA §10102(a) is repealed and reenacted to read:

"(a) Except as provided in Subsection (b), any voter, under the circumstances ~~as~~ specified in §10101 may not [*more than sixty (60) nor*] less than three (3) days[,] or if application is made in person, not later than during the regular office hours of [*the*] day prior to any election, make application to the Commission for an official ballot to be voted at such election. Any such application shall be made in writing on a form furnished by the Commission."

Section 7. 3 GCA §10104 is repealed and reenacted to read:

"§10104. A voter who: (1) is eligible for an absentee ballot; (2) wants to execute an affidavit or form for voter registration; and (3) is absent from the United States or is a member of the Armed Forces of the United States; is not required to sign the affidavit or form in the presence of a person authorized to administer an oath, and the affidavit or form need not be signed by such a person. The Commission shall inform the voter that no signature other than that of the voter is required on the affidavit or form and that a voter who makes a false statement on the affidavit or form is subject to the penalties for

perjury."

**Section 8.** A new subsection (a) is added to 3 GCA §10104 to

read:

"(a) In lieu of the application form prescribed herein, any person who, because of service in the armed forces, membership of the United States Merchant Marine, is a spouse or dependent of such a person, and any person who because of temporary residence outside the territorial limits of the several states of the United States and its territories may apply for registration and enrollment on the federal postcard application form provided pursuant to the Uniformed and Overseas Citizens Absentee Voting Act (100 Stat. 924; 42 U.S.C. 1973 F.F. et. seq., as amended) or any other applicable law. The failure of an applicant to take the elector's oath on such federal postcard application will not invalidate such application for admission."

**Section 9.** A new subsection (a) is added to 3 GCA §19103 to

read:

"(a) If a candidate dies prior to the filing of his final report, the campaign treasurer for the committee of said candidate shall file a final report as required by Section 19115 of Title 3, Guam Code Annotated. The treasurer should note in the report that the candidate is deceased and that this will be the last report of the candidate's status, even if there is a deficit or a surplus.

If a candidate passes away after a final report has been submitted to the Guam Election Commission but before a supplemental report is due regarding a deficit or surplus as provided in Section 19115(c) and (d), the Treasurer or authorized representative of the candidate shall file the supplemental report showing the status of the deficit or surplus and note therein that the candidate is deceased and no further reports shall be forthcoming."

1                   Section 10. A new subsection (d) added to 4 GCA §13103 to

2                   read:

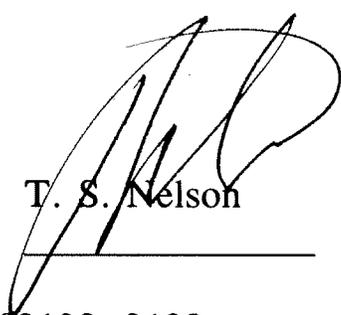
3                   "(d) If an official or candidate dies after he has been  
4                   granted an extension for filing the financial disclosure report, the  
5                   Executive Director of the Election Commission shall have a  
6                   statement placed in the file of the official that states: 'Unable to  
7                   file Financial Disclosure Report as a result of death on \_\_\_\_\_,  
8                   (date of death).'

AUG 19 '93

TWENTY-SECOND GUAM LEGISLATURE  
1993 (FIRST) Regular Session

Bill No. 551 (LS)

Introduced by:

  
T. S. Nelson

AN ACT TO UPDATE AND CLARIFY 3 GCA §§3108, 3109,  
3122, 4108, 10102, 10104 AND 19103 AND 4 GCA §13103 OF  
GUAM'S ELECTION CODE.

1           BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF  
2           GUAM:

3           **Section 1.** Legislative Intent. Certain sections of Guam's  
4           Election Code have proved to be obsolete or out-dated. To rectify this  
5           situation and to bring the Code into current status, the following  
6           amendments are offered for adoption by the Guam Election  
7           Commission.

8           **Section 2.** 3 GCA §3108 is repealed and reenacted to read:

9           "§3108. Every person who willfully causes, procures or  
10          allows himself or any person to be registered as a voter, knowing  
11          himself or that other person not to be entitled to registration, is  
12          guilty of a [*misdemeanor*] **third degree felony**."

13  
14          **Section 3.** 3 GCA §3109 is repealed and reenacted to read:

15  
16          "§3109. The Commission shall appoint [*a*] **one (1)**  
17          Registration Clerk for each [*precinct*] **district**."

1           **Section 4.** 3 GCA §3122(f) is repealed and reenacted to read:  
2

3           "(f) If the person registered has not voted at the last  
4           **general election, except if the person has mailed an absentee**  
5           **ballot that is postmarked on or before election day, but**  
6           **received after the close of polls.**"  
7

8           **Section 5.** 3 GCA §4108 is repealed and reenacted to read:  
9

10           "§4108. The Commission shall publish the list of names of  
11           the members of the precinct board in a daily newspaper of  
12           general circulation published in the territory of Guam for at least  
13           ~~*ten (10)*~~ **five (5)** issues, the last publication to be not less than  
14           one (1) ~~*week*~~ **day** before the day of election."  
15

16           **Section 6.** 3 GCA §10102(a) is repealed and reenacted to read:  
17

18           "(a) Except as provided in Subsection (b), any voter, under  
19           the circumstances **as** specified in §10101 may not ~~*more than*~~  
20           ~~*sixty (60) nor*~~ less than three (3) days[,] or if application is made  
21           in person, not later than during the regular office hours of ~~*the*~~  
22           day prior to any election, make application to the Commission for  
23           an official ballot to be voted at such election. Any such  
24           application shall be made in writing on a form furnished by the  
25           Commission."  
26

27           **Section 7.** 3 GCA §10104 is repealed and reenacted to read:  
28

29           "§10104. A voter who: (1) is eligible for an absentee  
30           ballot; (2) wants to execute an affidavit or form for voter  
31           registration; and (3) is absent from the United States or is a  
32           member of the Armed Forces of the United States; is not required  
33           to sign the affidavit or form in the presence of a person  
34           authorized to administer an oath, and the affidavit or form need  
35           not be signed by such a person. The Commission shall inform  
36           the voter that no signature other than that of the voter is required  
37           on the affidavit or form and that a voter who makes a false  
38           statement on the affidavit or form is subject to the penalties for

1 perjury."

2  
3 **Section 8.** A new subsection (a) is added to 3 GCA §10104 to

4 read:

5 "(a) In lieu of the application form prescribed herein, any  
6 person who, because of service in the armed forces, membership  
7 of the United States Merchant Marine, is a spouse or dependent  
8 of such a person, and any person who because of temporary  
9 residence outside the territorial limits of the several states of the  
10 United States and its territories may apply for registration and  
11 enrollment on the federal postcard application form provided  
12 pursuant to the Uniformed and Overseas Citizens Absentee  
13 Voting Act (100 Stat. 924; 42 U.S.C. 1973 F.F. et. seq., as  
14 amended) or any other applicable law. The failure of an  
15 applicant to take the elector's oath on such federal postcard  
16 application will not invalidate such application for admission."  
17

18 **Section 9.** A new subsection (a) is added to 3 GCA §19103 to

19 read:

20 "(a) If a candidate dies prior to the filing of his final  
21 report, the campaign treasurer for the committee of said candidate  
22 shall file a final report as required by Section 19115 of Title 3,  
23 Guam Code Annotated. The treasurer should not in the report  
24 that the candidate is deceased and that this will be the last report  
25 of the candidate's status, even if there is a deficit or a surplus.  
26

27 If a candidate passes away after a final report has been  
28 submitted to the Guam Election Commission but before a  
29 supplemental report is due regarding a deficit or surplus as  
30 provided in Section 19115(c) and (d), the Treasurer or authorized  
31 representative of the candidate shall file the supplemental report  
32 showing the status of the deficit or surplus and note therein that  
33 the candidate is deceased and no further reports shall be  
34 forthcoming."

1           **Section 10.** A new subsection (d) is added to 4 GCA §13103 to  
2 read:

3                   "(d) If an official or candidate dies after he has been  
4 granted an extension for filing the financial disclosure report, the  
5 Executive Director of the Election Commission shall have a  
6 statement placed in the file of the official that states: 'Unable to  
7 file Financial Disclosure Report as a result of death on \_\_\_\_\_,  
8 (date of death).'