

# CONSTITUTION OF THE STATE OF CHUUK

## *Preamble*

*WE, THE PEOPLE OF CHUUK, blessed by the Grace of Almighty God, source of our sovereign power, and moved by our faith to control and chart our own destiny, do hereby ordain and establish this Constitution as the supreme reaffirmation of our sacred bond, and as the guiding star in our journey across the seas.*

*With this Constitution we declare our solemn duty to uphold the principle of democracy, to protect our lands, waters, and cultures which sustain us and bind us together, to live together in peace and harmony, guided by law, custom, and tradition as one people, now and forever.*

## ARTICLE I TERRITORY

**Section 1.** The territory of the State of Chuuk includes the islands, reefs, shoals, banks, sands, oceans, and other natural landmarks bearing names or identities known in any of the dialects of the State, and any other territory or water belonging to the State by history right, custom, or legal title. Unless limited by law, this territory shall also include a marine space of 200 nautical miles measured outward from appropriate baselines, as well as related seabed, subsoil, and water column, insular and continental shelves, and airspace over land and water.

## ARTICLE II SUPREMACY

**Section 1.** This Constitution is the supreme law of the State of Chuuk. An act of government in conflict with this Constitution is invalid to the extent of conflict.

## ARTICLE III DECLARATION OF RIGHTS

**Section 1.** No law may deny freedom of speech or press, or the right to assemble peaceably, join any association, or petition.

**Section 2.** No person may be deprived of life, liberty, or property without due process of law, be denied equal protection under the law, be denied the enjoyment of civil rights, or be discriminated against in the exercise of civil rights, on account of race, sex, religion, language, dialect, ancestry, national origin, or social status.

**Section 3.** The right of the people to be secure in their persons, houses, and possessions against unreasonable search, seizure, or invasion of privacy may not be violated. No warrant may be issued but upon probable cause, supported by affidavit, specifically describing the place to be searched and the persons or things to be seized.

**Section 4.** In all criminal prosecutions, the accused has the right to a speedy trial, to be informed of the nature and cause of the accusation, to confront opposing witnesses, to compel attendance of supporting witnesses, and to be assisted by defense counsel.

**Section 5.** No person may be compelled to give evidence that may be used against such person in a criminal case, or be twice put in jeopardy for the same offense.

**Section 6.** Excessive bail may not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.

**Section 7.** The writ of habeas corpus shall exist in the State of Chuuk. The writ may not be suspended, except by the Governor and only when the public safety requires it in case of war, rebellion, insurrection, or invasion. Consideration of the writ shall take precedence over all other business of the court, and, if the court determines that there is a proper basis, the writ shall be issued without delay.

**Section 8.** Capital punishment is prohibited.

**Section 9.** Neither slavery nor involuntary servitude, except as punishment for crime, may exist in the State of Chuuk.

**Section 10.** No bill of attainder, ex post facto law, or law impairing the obligations of contract may be enacted.

**Section 11.** No law may restrict the freedom of residents of the State of Chuuk to move and migrate within the State.

**Section 12.** There may be no imprisonment for debt.

**Section 13.** No soldier may, in time of peace or war, be quartered in any house without the owner's consent.

## ARTICLE IV TRADITIONAL RIGHTS

**Section 1.** Existing Chuukese custom and tradition shall be respected. The Legislature may prescribe by statute for their protection. If challenged as violative of Article III, protection of Chuukese custom and tradition shall be considered a compelling social purpose warranting such governmental action.

**Section 2.** Nothing in this Constitution takes away the role or function of a traditional leader as

recognized by Chuukese custom and tradition, or prevents a traditional leader from being recognized, honored, and given formal or functional roles in government.

**Section 3.** The Legislature may appropriate funds annually for a traditional leaders conference.

**Section 4.** Traditional rights over all reefs, tidelands, and other submerged lands, including their water columns, and successors rights thereto, are recognized. The Legislature may regulate their reasonable use.

## **ARTICLE V LEGISLATIVE**

**Section 1.** The legislative power of the State Government is vested in the Legislature, which consists of the Senate and the House of Representatives. This power extends to all rightful subjects of legislation not inconsistent with this Constitution or the Constitution of the Federated States of Micronesia.

**Section 2.** Membership in the Legislature is based on regional equality in the Senate and on population and geographical configuration in the House of Representatives. The Senate consists of 10 members, who shall be known as Senators, of which each Senatorial Region shall elect two. The House of Representatives consists of 28 members, who shall be known as Representatives. A Representative District shall have at least one member.

### **Section 3.**

(a) For purposes of representation in the Legislature, the State of Chuuk is divided into 5 Senatorial Regions, as follows:

- (1) Northern Namoneas, consisting of the islands of Weno, Fono, and Piis-Panewu;
- (2) Southern Namoneas, consisting of the islands of Tonoas, Etten, Fefen, Parem, Siis, Totiw, and Uman;
- (3) Faichuk, consisting of the islands of Udot, Eot, Ramanum, Fanapanges, Polle, Paata, Wonei, and Tol;
- (4) Mortlocks, consisting of the islands of Nema, Losap, Piis-Emmwar, Namoluk, Ettal, Moch, Kuttu, Ta, Satowan, Lukunoch, and Oneop; and
- (5) Northwest Islands, consisting of the islands of Nomwin, Fananu, Ruo, Murilo, Onoun, Makur, Onou, Unanu, Piherarh, Houk, Polowat, Tamatam, and Pollap.

(b) Representatives shall be elected as follows:

- (1) Northern Namoneas: Representative District 1, consisting of Weno, Fono, and Piis-Panewu, 5 members;

(2) Southern Namoneas: Representative District 2, consisting of Tonoas and Etten, 2 members; Representative District 3, consisting of Fefen, Parem, Siis, and Totiw, 3 members; Representative District 4, consisting of Uman, 2 members;

(3) Faichuk: Representative District 5, consisting of Udot, Eot, Ramanum, and Fanapanges, 2 members; Representative District 6, consisting of Polle, Paata, and Wonei, 2 members; Representative District 7, consisting of Tol, 3 members;

(4) Mortlocks: Representative District 8, consisting of Nema, Losap, and Piis-Emmwar, 2 members; Representative District 9, consisting of Namoluk, Ettal, Moch, and Kuttu, 2 members; Representative District 10, consisting of Ta, Satowan, Lukunoch, and Oneop, 2 members;

(5) Northwest Islands: Representative District 11, consisting of Nomwin, Fananu, Ruo, and Murilo, 1 member; Representative District 12, consisting of Onoun, Makur, Onou, Unanu, and Piherarh, 1 member; Representative District 13, consisting of Houk, Polowat, Tamatam, and Pollap, 1 member.

**Section 4.** Each Senator shall serve for a 4 year term. Each Representative shall serve for a 2 year term. The terms of all members of the Legislature shall begin at noon on the sixth Tuesday following the general election.

**Section 5.** Every 2 years when a new Legislature convenes, each house shall organize by the election of one of its members as presiding officer. For the Senate, such presiding officer shall be designated President of the Senate, and for the House of Representatives, such presiding officer shall be designated Speaker of the House of Representatives. Other officers may also be elected, as provided by the rules of each house. The President of the Senate shall preside when the Legislature meets in joint session.

**Section 6.** A vacancy in either house of the Legislature shall be filled for the unexpired term by a special election, but an unexpired term of less than one year shall be filled by appointment of the Governor.

#### **Section 7.**

(a) No person is eligible to serve as a Representative unless at least 25 years of age, or as a Senator unless at least 35 years of age, on the day of election; was a born Chuukese, has been a resident and registered voter of the Representative District or Senatorial Region from which elected for at least 5 years prior to the day of election, and is a citizen of the Federated States of Micronesia.

(b) No person convicted of a felony is eligible to serve as a member of the Legislature, even if pardoned. A member of the Legislature who has been convicted of a felony shall automatically be expelled from the Legislature, but is eligible to run again if the conviction is reversed on appeal.

(c) Each house is the sole judge of the elections and qualifications of its members.

**Section 8.**

(a) Except as limited by this Constitution, members of the Legislature shall receive annual salaries as prescribed by statute. No member may receive as salary and expense allowance a total amount greater than  $\frac{3}{4}$  of the equivalent to which the Governor is entitled by law.

(b) The expense allowance for each member of the Legislature may not exceed  $\frac{1}{5}$  of the member's annual salary.

(c) Upon request of the Governor or both of the presiding officers of the Legislature, the Election Commission shall submit the following question to the voters at the next general election: "Shall there be an increase in the salaries of the Governor, Lieutenant Governor, or members of the Legislature?" If a majority of the votes cast on this question is in the affirmative, the Legislature may provide for an increase not to exceed \$2,000 for each officer.

**Section 9.**

(a) A member of the Legislature may hold no other public office or public or private employment, except as a notary public, a member of an emergency organization for civil defense or disaster relief, or an employee or member of a constitutional convention or commission. A member of the Legislature may not receive any compensation or remuneration from any other governmental branch, agency, authority, or instrumentality, or from any organization whose income is derived from state funds.

(b) During a term of service and the year following the expiration of the term, a member of the Legislature may not be appointed to any office or employment which was created by the Legislature during such term.

(c) A member of the Legislature may not engage in any activity which conflicts with the proper discharge of the duties of a legislator.

**Section 10.** A member of the Legislature may not be held to answer before any other tribunal for any statement made or action taken in the exercise of the member's legislative functions. A member of the Legislature shall in all cases, except a felony or breach of peace, be privileged from arrest during attendance at, and in going to and returning from, sessions or committee meetings of the Legislature.

**Section 11.**

(a) The Legislature shall convene annually in a regular session, which may not exceed 60 working days as provided by law.

(b) A special session, which may not exceed 15 working days as provided by law, shall be convened at the call of the Governor, at the written order signed by a majority of all of the members of each house if the Legislature is not in session, or by a vote of a majority of the members present of each house if the Legislature is in session. No subjects of legislation may be considered at a special session called by the Governor other than those specified in the call or in any message by the Governor to the Legislature while in session.

(c) At the start of a regular or special session, each house shall appoint a committee to inform

the other house and the Governor formally that its house is prepared to transact business.

**Section 12.** The enacting clause of every bill shall be as follows: "Be it enacted by the Chuuk State Legislature:". No law may be enacted except by bill. Bills may originate in either house and may be amended or rejected by the other.

**Section 13.** Neither house may adjourn for more than 2 consecutive days, nor may either house adjourn sine die, without the concurrence of the other house.

#### **Section 14.**

(a) Every bill passed by the Legislature shall be certified by the presiding officers and clerks of both houses and shall be presented to the Governor. The Governor shall have 10 days to consider a bill presented when 10 or more days remain before adjournment sine die, and 30 days to consider a bill presented when less than 10 days remain before adjournment sine die or presented after adjournment sine die. If the Governor signs the bill within the time period required for consideration, it shall become a law. If the Governor disapproves, he shall so indicate and return the bill with objections to the originating house within the time period required for consideration. If the Governor takes no action and does not return the bill within such period, it shall become a law in like manner as if signed.

(b) When a bill is disapproved and returned by the Governor with objections, each house may proceed to consider it, with the originating house considering it first. If a bill is repassed by both houses by a 2/3 vote of the members present of each house, one reading required for each passage, it shall become a law.

(c) The Governor may veto any specific item or items in any bill which appropriates money for specific purposes by striking out the same, but may disapprove other bills only as a whole.

(d) If, upon receipt of a veto message from the Governor, the Legislature has adjourned sine die, the Legislature may reconsider the disapproved bill in the next regular or special session.

#### **Section 15.**

(a) A majority of the members of each house constitutes a quorum of that house for the transaction of business. However, a smaller number, not less than 3/4 of the number of members required for a quorum, may compel an absent member to attend sessions of the Legislature by ordering loss of salary and expense allowance, suspension, or both. Such action may be overturned only by a vote of 2/3 of all of the members of the house involved, but the house may not overturn a loss of salary or expense allowance for any session days which the member has failed to attend.

(b) Each house may punish a member for misconduct, disorderly behavior, or neglect of duty by censure or, upon a 2/3 vote of all of the members of the house, by suspension or expulsion.

#### **Section 16.**

(a) In order to become a law, a bill shall pass 2 readings in each house, on separate days. The final passage of a bill in each house shall be by majority roll call vote of all of the members of that house, which shall be entered upon the journal. Adoption of a resolution is by a majority

vote of the members present. Adoption of a joint resolution is by a majority vote of the members present in each house.

(b) Every legislative act shall have but one subject, which shall be expressed in its title. A provision not included in the subject expressed in the title is void. No law or section of a law may be amended or revised by reference to its title only, but in every instance the law or section shall be published in its entirety, as amended or revised.

(c) Every bill, when passed by the originating house, shall immediately be certified by the presiding officer and the clerk and sent to the other house for consideration. If amendments are adopted by the second house, and the originating house does not concur, a conference committee may be established to resolve the differences between them.

**Section 17.** Each house shall keep and publish a journal of its proceedings. The business of each house, and of its committee of the whole, shall be transacted publicly and not in secret session.

**Section 18.** Each house shall have and exercise all the authority and attributes inherent in legislative assemblies, and may institute and conduct investigations, issue subpoenas, and administer oaths.

### **Section 19.**

(a) The Governor, Lieutenant Governor, or a Justice of the Supreme Court shall be removed from office upon conviction of impeachment for not carrying out the duties and responsibilities of the office as mandated by this Constitution or by law, or for misfeasance or malfeasance in office.

(b) The House of Representatives has the sole power of impeachment. A resolution of impeachment requires a 2/3 vote of all of the members of the House of Representatives.

(c) The Senate has the sole power to try the impeachment. A conviction of impeachment requires a 2/3 vote of all of the members of the Senate. When the Governor has been impeached, the Chief Justice shall preside at the trial.

(d) Judgments in case of impeachment shall not extend beyond removal from office and disqualification to hold any office of trust, honor, or profit in the government. A person so convicted may nevertheless be liable and subject to indictment, trial, judgment, and punishment according to law.

(e) No officer may exercise the powers and duties of his office upon the adoption of a resolution of impeachment and until acquitted.

## **ARTICLE VI EXECUTIVE**

**Section 1.** The executive power of the State Government is vested in the Governor. The Governor shall faithfully execute and implement this Constitution and all state laws.

**Section 2.**

(a) The Governor may, except in cases of impeachment, grant pardons, reprieves, and commutations, but only after conviction and after receipt of a favorable recommendation by a board prescribed by statute. No pardon, reprieve, or commutation may be granted to a person for a crime committed while holding the office of Governor, Lieutenant Governor, Justice of the State Supreme Court, or member of the Legislature.

(b) The Governor may, with the advice and consent of a majority of all the members of the Senate, appoint the Chief Justice and Associate Justices of the State Supreme Court, the principal officers of the executive offices and departments in the State Government, and the principal advisors to the Governor. The principal officers and advisors serve during the current term of the appointing Governor unless sooner removed by the Governor.

**Section 3.** Unless acting in a temporary capacity as prescribed by statute, no unconfirmed person may hold an office or position requiring the advice and consent of the Senate beyond adjournment sine die of the Senate if in session when the appointment is made, or, if not in session, beyond adjournment sine die of the next session of the Senate. If the Senate has at least 10 working days to act on an appointment before adjournment sine die and fails to reject it, the appointment is deemed confirmed. A person whose appointment has been rejected may not again be appointed to the same position during the current term of the appointing Governor.

**Section 4.**

(a) The Governor shall make an annual report on the condition of the State of Chuuk during the Legislature's regular session, may make other reports as the Governor deems necessary, and may make recommendations to the Legislature.

(b) A resolution of the Legislature directed to the Governor shall be answered in writing within 30 days after it has been transmitted. If the Governor is requested to take action, the answer shall include a progress report or statement of the reason why the action is not feasible.

**Section 5.** No person is eligible to serve as Governor unless at least 35 years of age on the day of election, was a born Chuukese and is of Chuukese descent, has been a resident of the State of Chuuk for at least 25 years prior to the day of election, is a citizen of the Federated States of Micronesia, and has never been convicted of a felony.

**Section 6.** There shall be a Lieutenant Governor who shall have the same qualifications as the Governor. The Lieutenant Governor shall perform the duties assigned by the Governor and prescribed by statute.

**Section 7.** The Governor and Lieutenant Governor shall be elected jointly on a single ticket at a general election. The candidates for the 2 offices on the ticket receiving the majority of votes cast shall be elected. If a majority is not received, a runoff election between the candidates on the tickets receiving the two highest pluralities shall be held on the fourth Tuesday following the general election, as prescribed by statute.

**Section 8.** The Governor and Lieutenant Governor shall each serve for a 4 year term. The terms



of the Governor and Lieutenant Governor shall begin at noon on the sixth Tuesday following the general election. The Governor and Lieutenant Governor may not serve for more than 2 consecutive terms. A person who has served more than 3 years of a term to which another person was elected shall be deemed to have served the entire term for purposes of this section.

**Section 9.** Except as limited by this Constitution, the Governor and Lieutenant Governor shall each receive an annual salary as prescribed by statute. They may hold no other public office or public or private employment or occupation.

**Section 10.** The executive departments of Health, Education, Transportation, Marine Resources, and Agriculture may not be divided, combined, or eliminated. Other executive departments may be established by statute. The powers, functions, and responsibilities of all executive departments shall be prescribed by statute.

**Section 11.**

(a) If the Governor dies, resigns, suffers a major incapacity, or is removed from office with one year or less of the term remaining, the Lieutenant Governor becomes Governor. However, if any such event occurs with more than one year of the term remaining, the Lieutenant Governor becomes Acting Governor until a Governor is elected and takes office. The election shall be held on the fifth Wednesday after the event occurs. If the Lieutenant Governor dies, resigns, is removed from office, or succeeds the Governor, the Governor shall appoint a Lieutenant Governor with the advice and consent of 2/3 of all of the members of the Senate. The order of succession after the Lieutenant Governor shall be the President of the Senate and the Speaker of the House of Representatives.

(b) If the Governor is impeached or temporarily disabled, the Lieutenant Governor shall become Acting Governor until the Governor is acquitted or is no longer disabled. If the Lieutenant Governor is also impeached or temporarily disabled, the President of the Senate and the Speaker of the House of Representatives shall become Acting Governor, in that order, until the Lieutenant Governor is acquitted or is no longer disabled. The Legislature shall establish procedures to determine the existence and termination of a temporary disability, which shall include physical or mental incapacity, disappearance, kidnaping, and total inability to discharge the powers and duties of the office.

**Section 12.**

(a) If required to preserve public peace, health, or safety at a time of extreme emergency caused by civil disturbance, natural disaster, or immediate threat of war or insurrection, the Governor may declare a state of emergency and issue appropriate decrees. A decree may not involve the expenditure of unappropriated public funds unless approved by the Legislature.

(b) A declaration of emergency may not impair the power of the judiciary except that the declaration shall be free from judicial interference for 15 days after it is first issued. A declaration of emergency may impair civil rights to the extent actually required for the preservation of peace, health, or safety.

(c) Within 15 days after the declaration of emergency, the Legislature shall convene at the call of the Speaker of the House of Representatives and the President of the Senate or at the call of

the Governor to consider revocation, amendment, or extension of the declaration. Unless it expires by its own terms or is revoked or extended, a declaration of emergency is effective for 15 days.

## **ARTICLE VII JUDICIAL**

**Section 1.** The judicial power of the State Government is vested in the State Supreme Court, such inferior state courts as may be established by statute, and the municipal courts.

**Section 2.** The State Supreme Court is a court of record and consists of a trial division and an appellate division. It is the highest court in the State of Chuuk and consists of a Chief Justice and 4 Associate Justices, all of whom shall be members of both divisions. Upon request of the Chief Justice, the number of Associate Justices may be increased pursuant to statute.

**Section 3.**

(a) The trial division of the State Supreme Court has original and exclusive jurisdiction over disputes between municipalities and cases arising under this Constitution.

(b) Except for those matters which fall under the exclusive jurisdiction of the Supreme Court of the Federated States of Micronesia, the trial division of the State Supreme Court has concurrent original jurisdiction with other courts to try all civil, criminal, probate, juvenile, traffic, and land cases, disputes over waters in the State of Chuuk, cases involving state laws, and cases in which the State Government is a party.

(c) The trial division of the State Supreme Court has jurisdiction to review the actions of any state administrative agency, board, or commission, as may be provided by law.

(d) When jurisdiction is concurrent, the appropriate court may be prescribed by statute.

**Section 4.** The appellate division of the State Supreme Court has jurisdiction to review all decisions of the trial division, of inferior state courts, and of the municipal courts. Decisions of the appellate division of the State Supreme Court may be appealed to the Supreme Court of the Federated States of Micronesia, whose decisions are final.

**Section 5.**

(a) Matters before the trial division of the State Supreme Court may be heard by one Justice.

(b) At least 3 Justices shall hear all appeals in the appellate division. Only one Justice of the State Supreme Court may hear or decide an appeal in the appellate division. The other members of the appellate panel shall be temporary Justices appointed for the limited purpose of hearing the appeal. Decision shall be by concurrence of a majority of the Justices sitting on the appellate panel, but a single Justice may make necessary orders concerning any appeal for want to jurisdiction, concerning failure to take or prosecute the appeal in accordance with applicable law and procedure, or at the request of any party in the case. No Justice may hear or decide an appeal of a matter heard by such Justice in the trial division, and any party in a case may disqualify one or more of the Justices of the State Supreme Court sitting in the appellate

division. To complete an appellate panel, the Chief Justice may appoint as temporary Justices, for the limited purpose of hearing the appeal, a justice of the Supreme Court of the Federated States of Micronesia, a judge of a court of another state of the Federated States of Micronesia, or a qualified attorney in the State of Chuuk. If the Chief Justice is a member of the appellate panel, or is so removed or disqualified, the most senior Associate Justice who has not been removed or disqualified from the case shall appoint the temporary Justices.

**Section 6.** When a case in an inferior state court or municipal court involves a substantial question requiring the interpretation of this Constitution or state laws, the inferior state court or the municipal court shall, on application of a party, and may on its own motion, certify the question to the appellate division of the State Supreme Court. The appellate division may require the inferior state court or the municipal court to so certify the question. The appellate division may decide the case or remand it for further proceedings in accordance with its instructions.

**Section 7.** The Governor shall nominate and appoint, with the advice and consent of the Senate, the Chief Justice and Associate Justices of the State Supreme Court, who shall hold their offices during good behavior. The Legislature shall prescribe by statute for the appointment and removal of the judges of inferior state courts and municipal courts.

**Section 8.** If the Chief Justice is disabled, the most senior Associate Justice shall serve as Chief Justice. If an Associate Justice is disabled, the Chief Justice shall appoint a temporary Justice who shall have the same qualifications required for Justices under Section 9 of this Article. If the Chief Justice or an Associate Justice is disabled for more than 6 months, or if the office of the Chief Justice or an Associate Justice is vacant, a new Chief Justice or Associate Justice shall be appointed by the Governor, subject to the confirmation of the Senate. The Legislature may prescribe by statute for the determination of the disability of a Justice.

**Section 9.** No person is eligible to serve as the Chief Justice or as an Associate Justice unless at least 35 years of age, was a born Chuukese, has been a resident of the State of Chuuk for at least 25 years, is a citizen of the Federated States of Micronesia, and has never been convicted of a felony. Other qualifications may be prescribed by statute.

**Section 10.** Compensation of Justices and judges shall be prescribed by statute, but shall not be diminished during their terms of office unless there is a general reduction of all salaries prescribed by statute.

**Section 11.** The Chief Justice is the administrative head of the state judicial system, and with the approval of the Associate Justices may appoint an administrative director to supervise the administrative operation of the state judicial system. The Chief Justice may appoint and prescribe duties of other officers and employees of the state judicial system.

**Section 12.** The Chief Justice shall prepare and submit to the Governor an annual budget with supporting justifications for the entire state judicial system.

**Section 13.** The Chief Justice shall promulgate rules of evidence, and rules governing the administration of all state courts, the regulation of the judicial profession, and practice and procedure in civil and criminal matters. Judicial rules may be amended by statute.

**Section 14.** Court decisions shall be consistent with this Constitution, local traditions and customs, and the social and geographical configuration of the State of Chuuk.

## **ARTICLE VIII FINANCE**

**Section 1.** The government may not incur public indebtedness except as prescribed by statute.

**Section 2.** No public funds may be paid out of the treasury of the State of Chuuk except as prescribed by statute. The appropriation of public money or property and the use of public credit, directly or indirectly, may only be for a public purpose. No person may be made a direct recipient or beneficiary of public funds, unless pursuant to a public purpose, and no person may be made an allottee of public funds, unless pursuant to an executive capacity.

**Section 3.** No withdrawal, in draft or other form, may be made from any bank account of the State Government if the amount in the account, after deducting the aggregate amount of all obligations outstanding against the account, is not sufficient to cover such withdrawal.

**Section 4.** The Governor shall submit an annual budget to the Legislature at a time prescribed by statute. The budget shall contain a complete plan of proposed expenditures, anticipated revenues, and other monies available to the State Government for the next fiscal year, and any additional information which the Legislature may require. The Legislature may alter all or any portion of the proposed budget.

**Section 5.** No appropriation bills, except those recommended by the Governor for an urgent public purpose requiring immediate passage and those providing for the continuing operation of the State Government, may be considered until the budget has been enacted.

**Section 6.** Each fiscal year, the Legislature shall appropriate for the operation of the municipal governments at least 8 percent of the state operation funds, and shall appropriate to the municipalities for development projects at least 40 percent of the development funds that may be allocated.

**Section 7.** The State Government has the power to tax, and may delegate certain taxing powers to the municipal governments by statute. All taxes levied by the State Government shall be prescribed by statute.

**Section 8.** No government may levy a tax on real property.

**Section 9.**

(a) There shall be an independent Public Auditor appointed by the Governor and confirmed by the Senate. The Auditor shall serve for a 6 year term and until a successor is confirmed. The Auditor shall be a certified public accountant with auditing experience.

(b) The Auditor shall conduct audits of all financial transactions of all branches, departments,

offices, agencies and instrumentalities of the government, and of all accounts kept by or for them. The Auditor shall certify the accuracy of all financial statements issued by the State Government. The Auditor shall annually report findings and recommendations to the Legislature, the Governor, and the municipalities, and shall provide additional reports and information as may be required by law or as the Auditor deems appropriate.

(c) If the Auditor discovers that any public monies have been misused or misappropriated, the Auditor shall report such misuse or misappropriation to the appropriate prosecutor's office.

(d) The Auditor may be removed for cause by the vote of 2/3 of the members of the Senate. Upon the removal, resignation, or incapacity of the Auditor, the Chief Justice of the State Supreme court shall appoint within one month an Acting Public Auditor having the qualifications required for a full term. The Acting Public Auditor shall serve until a successor is confirmed. The Governor shall appoint and the Senate shall confirm a successor Auditor within 6 months.

## ARTICLE IX PUBLIC OFFICERS AND EMPLOYEES

**Section 1.** A governmental official is disqualified from ruling upon any matter in which the official has a personal or financial interest. Statutes and administrative rules shall be adopted elaborating upon and implementing this disqualification.

**Section 2.** No person may hold any public office or employment if convicted of an act to overthrow or attempt to overthrow, by force or violence, the government of the State of Chuuk or the Federated States of Micronesia; or of an assassination or attempted assassination of a public official, as prescribed by statute; or of aiding or abetting or conspiring to commit any of these crimes. The Legislature shall prescribe by statute the penalties for the commission of any of these crimes. Such penalties shall include, but are not limited to, banishment from the State and life imprisonment without the possibility of parole.

**Section 3.** There shall be an independent Public Service commission to administer a public service system based on merit principles, with such powers and duties as may be prescribed by statute.

### **Section 4.**

(a) There shall be an Independent Prosecutor with the power and duty to prevent, combat and eliminate corruption in government through investigation and prosecution. The Prosecutor may issue subpoenas and compel attendance of witnesses, administer oaths, and exercise other powers and duties as prescribed by statute.

(b) The Prosecutor shall be selected for a single 3 year term by a majority of all the mayors of the State of Chuuk, and may be removed for cause by the Governor with the consent of the Senate. No person is eligible to serve unless a law school graduate. The selection procedures and additional qualifications may be prescribed by statute.

### **Section 5.**

(a) A petition for recall of the Governor or Lieutenant Governor may be initiated by a majority of

all mayors in the State of Chuuk, or by registered voters equal in number to at least 15 percent of those who voted in the last general election for Governor and Lieutenant Governor.

(b) A petition for recall of a Senator or a Representative may be initiated by a majority of all mayors in the applicable Representative district or Senatorial Region, or by registered voters from such district or region equal in number to at least 20 percent of those who voted in the last general election in such district or region.

(c) A recall petition shall contain the name and office of the official who is the subject of the recall, and the grounds for the recall. The sufficiency of the signatures on a recall petition shall be validated by the Election Commission within 30 days after receipt of the petition. Validation may not extend to the grounds for recall stated on the petition. Upon validation of a petition, a recall election shall be held within 60 days after receipt of the petition.

(d) Upon validation of a petition, and until the recall is rejected by the voters, the official who is the subject of the recall may not discharge the powers and duties of the office.

(e) A Governor, Lieutenant Governor, or member of the Legislature is removed from office upon approval of the recall by a majority of the votes cast on the question. An official may not be recalled during the last 6 months of the term for which elected.

(f) An amount not to exceed that actually spent for the most recent general election for Governor, in the case of recall of a Governor or Lieutenant Governor, or for the Legislature in the applicable Representative District or Senatorial Region, in the case of recall of a member of the Legislature, is appropriated out of the general fund and allotted to the Election Commission for the conduct of the recall election. Expenditure of such funds shall be reported to the Legislature within 3 months of the election.

## ARTICLE X EDUCATION AND HEALTH

**Section 1.** Free compulsory public elementary and free public secondary education shall be provided in the State of Chuuk as prescribed by statute.

**Section 2.** The State Government shall provide for the establishment, management, and support of a statewide system of public schools which shall, within the limits of its resources, provide an education of quality and relevancy, free from sectarian control and available to all persons in the State of Chuuk.

**Section 3.** There shall be a governing Board of Education, consisting of 8 members, with each member appointed by the Governor with the advice and consent of the Senate. One of the members shall serve from each of the 5 Senatorial Regions, one from the public school system, one from the private system, and one who is known for knowledge and expertise in a field related to education. The members of the Board shall serve staggered terms, as prescribed by statute.

**Section 4.** A head of the Education Department shall be appointed by the Governor with the advice and consent of the Senate from among 3 candidates nominated by the Board of Education.

The Board shall have the power, as prescribed by statute, to formulate policy and to exercise control over the public school system through the head of the Education Department. The head of the Education Department shall serve as the executive director of the Board and may only be removed by the Board.

**Section 5.** The standard and conditions for the establishment of private schools shall be provided by law. Assistance may be provided to parochial schools for nonreligious purposes.

**Section 6.** The State Government shall provide for the protection and promotion of health, and shall ensure, within the limits of its resources, that no person is discriminated against in the distribution of medical care, or is refused medical care because of that person's inability to pay.

**Section 7.** The State Government shall provide for the establishment and administration of a comprehensive system of medical or health insurance which is mandatory for all employed residents of the State of Chuuk while present in the State. All revenues received under this system of medical or health insurance, and all other revenues received by the Health Department as payment for medicine and medical services, shall be separated from any general fund established by the Legislature and used only for medical purposes.

## ARTICLE XI GENERAL PROVISIONS

**Section 1.** The Legislature shall provide by law for the development and enforcement of standards of environmental quality, and for the establishment of an independent state agency vested with responsibility for environmental matters.

**Section 2.** The power to take an interest in land may only be exercised by the State Government for a specified purpose of general public interest, as prescribed by statute. Negotiations with the owner for voluntary lease, sale, or exchange shall be fully exhausted and just compensation shall be fully tendered before a taking may occur. The Legislature shall provide for access to the courts to ensure the good faith of the negotiations, the reasonable necessity of the acquisition, and the adequacy of the compensation tendered. Upon the termination of the public use for which an interest in land is involuntarily acquired, the State Government shall return and quit claim the land to the owner or the owner's successor.

**Section 3.** No person may monopolize or attempt to monopolize, or combine or conspire with any person to monopolize, any part of trade or commerce, if such action results in the restraint thereof. The Legislature shall prescribe by statute for the implementation of this section.

**Section 4.** The State Government shall establish and administer a mandatory retirement plan for all employed residents of the State of Chuuk. Other residents shall have the option to participate in the plan. The plan shall be based on age or length of service, and shall provide for optional retirement after certain minimum standards have been satisfied. The Legislature shall prescribe by statute for the funding of the plan, and may appropriate funds to provide retirement benefits on account of service prior to the initial effective date of the plan. The plan shall be established and fully effective within 4 years from the date of ratification of this Constitution.

**Section 5.** There shall be a Consumer Protection Agency in the State of Chuuk. The duties of such agency and the protection of consumers shall be prescribed by statute.

**Section 6.** Chuukese is the State language, but both Chuukese and English are official languages. In case of conflict, Chuukese shall prevail, except when the concept is foreign, has not been accepted into Chuukese, and has no equivalent translation in Chuukese.

**Section 7.** Toong is the State flower.

## ARTICLE XII SUFFRAGE AND ELECTIONS

**Section 1.** A general election shall be held every 2 years on the first Tuesday following the first Monday in March. If the general election date for the Congress of the Federated States of Micronesia is changed from March, or reasons such as natural disaster preclude the holding of an election on the date set, the election shall be held as prescribed by statute.

**Section 2.** A citizen of the Federated States of Micronesia who is a resident of the State of Chuuk and has attained the age of 18 may vote in the State. Voting shall be secret.

**Section 3.** The Legislature shall prescribe by statute a minimum period of voter residency; disqualifications for conviction of crime, mental incompetence, or insanity; and for the protection of voting in the State of Chuuk. Except as so provided, no resident entitled to vote may be denied the privilege to vote or be interfered with in voting.

**Section 4.** There shall be an independent Election Commission vested with powers, duties, and responsibilities, as prescribed by statute, for the administration of elections in the State of Chuuk, including voter registration and the conduct and certification of elections.

## ARTICLE XIII MUNICIPALITIES

**Section 1.** The two levels of government in the State of Chuuk are state and municipal. The chief executive of a municipality is the Mayor.

**Section 2.** The following are the municipalities in the State of Chuuk: Weno, Fono, Tonoas, Fefen, Parem, Siis, Uman, Udot, Eot, Ramanum, Fanapanges, Polle, Paata, Wonei, Tol, Nema, Losap, Piis-emmwar, Namoluk, Ettal, Moch, Kuttu, Ta, Satowan, Lukunoch, Oneop, Houk, Polowat, Tamatam, Pollap, Onoun, Makur, Onou, Unanu, Piherarh, Nomwin, Fananu, Ruo, and Murilo.

**Section 3.** The Legislature may prescribe the conditions and procedures for the admittance of a new municipality and of new territory as a municipality, but upon admission each new municipality shall enjoy the same powers and privileges, and shall be subject to the same obligations, as existing municipalities.

**Section 4.** The jurisdiction of a municipal government extends to the sea area within the



surrounding reefs of the islands which are included within the municipality.

**Section 5.** Each municipality shall adopt its own constitution within limits prescribed by this Constitution and by general law. A municipal constitution shall be democratic and may be traditional. The powers and functions of a municipality with respect to its local affairs and government are superior to statutory law. The Legislature shall provide enabling legislation to carry out the purpose of this section.

**Section 6.** A municipality existing on the effective date of this Constitution shall continue to exercise its powers and functions under existing law, pending adoption of its constitution.

**Section 7.** The State Government has the power to regulate inter-municipal commerce.

## ARTICLE XIV AMENDMENT

**Section 1.** An amendment to this Constitution may be proposed by a constitutional convention, popular initiative, or the Legislature, as provided in this section.

(a) At least every 10 years, the Legislature shall submit the following question to the voters; "Shall there be a convention to revise or amend the State Constitution?" If a majority of the votes cast upon this question is in the affirmative, a constitutional convention shall be convened within one year from the date of the vote, as prescribed by statute.

(b) An amendment may be proposed by a petition signed by 25 percent of all registered voters.

(c) An amendment may be proposed by the Legislature in the same manner required for passage of a bill, except that an amendment proposed by the Legislature is not subject to veto.

**Section 2.** A proposed amendment shall become effective if approved in the next general election by a majority of the votes cast on that amendment and if a majority of the registered voters have cast votes on the amendment.

**Section 3.** If conflicting constitutional amendments submitted at the same election are approved, the proposed amendment receiving the highest number of affirmative votes shall prevail to the extent of such conflict.

## ARTICLE XV TRANSITION

**Section 1.** This Constitution shall take effect on October 1, 1989.

**Section 2.** Until superseded by officers of the State Government under this Constitution, all officers of the chartered state government and its subdivisions, or under its laws, shall continue their functions and duties, and shall be governed in their performance by the Truk State Charter. Article V, VI, and VII of this Constitution shall not apply to such performance.

**Section 3.** The governor, legislature, and chief justice under the charter shall provide for a smooth and orderly transition to government under this Constitution.

**Section 4.** The Governor, Lieutenant Governor, and members of the First Legislature pursuant to this Constitution shall be elected at the first general election, which shall be held on the first Tuesday after the first Monday in March of 1990. They shall serve for 3 years until succeeded. The terms of the members of the First Legislature shall begin on the first Monday in May following the general election. Both houses shall convene at 10:00 a.m. on that day.

**Section 5.** The second general election shall be held on the same day as the national election in March of 1993.

**Section 6.** All gubernatorial appointments and senatorial confirmations provided for under this Constitution, or under statutes adopted in implementation thereof, shall be made by the respective officers elected in the first general election in 1990.

**Section 7.** The First Legislature elected under this Constitution may consider any bill disapproved by the governor under the Charter and not returned in time to be considered by its predecessor. The Senate shall, in such case, be deemed the originating house and shall consider the disapproved bill first.

**Section 8.** No amendment to this Constitution may be proposed until after the election and qualifications of the officers elected in the first general election in 1990.

**Section 9.** A statute in force in the State of Chuuk on the effective date of this Constitution continues in effect to the extent it is consistent with this Constitution, or until it is amended or repealed. A writ, action, suit, proceeding, civil or criminal liability, prosecution, judgment, sentence, order, decree, appeal, cause of action, defense, contract, claim, demand, title or right continues unaffected, except as modified in accordance with the provisions of this Constitution. The State Government under this Constitution is the legal successor to the chartered state government.

**Section 10.** No change in salary pursuant to this Constitution may take effect until after the general election held in March of 1990. Until prescribed by statute, these annual salaries shall apply: Governor --\$25,00; Lieutenant Governor --\$22,000; Chief Justice --\$23,000; and each Associate Justice --\$20,000.

**Section 11.**

(a) The Governor shall appoint and the Senate shall confirm a Public Auditor within one year of the effective date of this Constitution.

(b) The first Independent Prosecutor shall be selected within one year of the effective date of this Constitution.

(c) The State of Chuuk shall develop procedures for the participation of municipal government in the state budget appropriation process within one year of the effective date of this Constitution.

(d) All municipalities shall adopt their constitution within 3 years of the effective date of this Constitution.