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NINTH CONGRESS OF THE FEDERATED STATES OF MICRONESIA

FOURTH REGULAR SESSION, 1996

C.B. NO. 9-286

A BILL FOR AN ACT

To further amend title 9 of the Code of the Federated States of Micronesia, as amended, by amending section 108, as amended by Public Law No. 5-70, and by amending section 704, as amended by Public Laws Nos. 5-70 and 8-97, and by amending section 705, as amended by Public Law No. 8-97, for the purpose of improving absentee ballot procedures by requiring a person voting through absentee ballots to submit a certified affidavit, requiring return of an absentee ballot to the national election commissioner through mail only, requiring receipt of an absentee ballot by the national election commissioner no later than three days after the day of the election, requiring certification of the affidavit, and invalidating an absentee ballot that does not meet statutory requirements, and for other purposes.

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

1       Section 1.   Section 108 of title 9 of the Code of the  
2 Federated States of Micronesia, as amended by Public Law No. 5-  
3 70, is hereby further amended to read as follows:

4               "Section 108.   Affidavits to be sworn.

5               The affidavits required pursuant to this title shall  
6               be sworn to before any officer or person authorized  
7               by law to administer oaths ~~#####~~  
8               ~~#####~~  
9               ~~#####~~."

10       Section 2.   Section 704 of title 9 of the Code of the  
11 Federated States of Micronesia, as amended by Public Laws Nos.  
12 5-70 and 8-97, is hereby further amended to read as follows:

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

15               (1)   The national election commissioner of each  
16               State or the board of election, as the case may be,  
17               shall, at least 30 days prior to an election,  
18               provide to any person who may be entitled to vote by  
19               absentee ballot, and who requests the same, an  
20               official ballot, a ballot envelope, an affidavit  
21               prescribed by the national election commissioner,  
22               and a covering reply envelope. If a request for an  
23               absentee ballot is made 30 days or less prior to an  
24               election, the national election commissioner or  
25               board shall provide   the materials to the person making

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1 the request as soon as is practicable. The absentee  
2 voter shall mark the ballot in the usual manner  
3 provided by law and in such manner that no person can see  
4 or know how the ballot is marked except as provided in  
5 section 702 of this title. The absentee voter shall  
6 then deposit the ballot in the envelope and securely  
7 seal the same.

8 (2) The absentee voter shall then complete and  
9 execute the affidavit in the presence of a notary  
10 public licensed to practice in the jurisdiction  
11 wherein the affidavit is executed. The notary shall  
12 thereupon attest to and certify the authenticity of  
13 the affidavit in a space provided for such purpose  
14 on the face of the affidavit.

15 (3) The ballot envelope and the affidavit  
16 shall then be enclosed and sealed in the covering  
17 reply envelope and shall be postmarked and mailed ~~or~~  
18 ~~delivered~~ to reach the national election  
19 commissioner of the State issuing the absentee  
20 ballot not later than the ~~established date of the election~~  
21 ~~of the polls on the~~ day of the election, and must be  
22 received by the national election commissioner of  
23 the State issuing the absentee ballot not later than  
24 three days after the election ~~as provided in~~  
25 ~~section 702 of this title.~~ A registered voter

1        casting his ballot through section 702 of this title  
2        must also include in the covering reply envelope any  
3        additional materials required by any rules or  
4        regulations promulgated in accordance with section  
5        702. Absentee ballots received by the national  
6        election commissioner by any means other than the  
7        mails or later than three days after the election  
8        shall be handled in the manner as provided under  
9        subsection (2) of section 705 of this title.

10                (~~4~~) It is unlawful for persons having voted  
11        an absentee ballot to cast a ballot at the polls on  
12        election day."

13        Section 3. Section 705 of title 9 of the Code of the  
14        Federated States of Micronesia, as amended by Public Law No.  
15        8-97, is hereby further amended to read as follows:

16                "Section 705. Disposition of ballots.

17                (1) Upon the receipt of the envelope marked  
18        'Absentee ballot' enclosed within the period  
19        prescribed in section 704 of this title from any  
20        person voting under the provisions of this title,  
21        the national election commissioner, or his  
22        appointee, shall open it, remove the ballot  
23        envelope, and examine the statement as to its proper  
24        execution, the person's qualifications to register  
25        as an elector, and to vote. If the national

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

17 (2) In case the statement is found to be  
18 insufficient or in case the signatures do not  
19 correspond, or in case the ballot was not mailed,  
20 but delivered to the national election commissioner  
21 in any other manner, or in case the ballot was  
22 received by the national election commissioner more  
23 than three days after the election, or in case the  
24 voter has not complied with the other requirements  
25 of section 704 of this title or is not a duly

1 qualified elector or the ballot envelope is open or  
2 has been opened and resealed, the ballot envelope  
3 shall not be opened and the national election  
4 commissioner or his appointee shall mark across its  
5 face 'Rejected', giving the reason therefor, and  
6 shall preserve the same in the manner provided by  
7 law.

8 (3) If the ballot is received after the time fixed  
9 in section 704 of this title, the ballot envelope  
10 shall be endorsed by the national election  
11 commissioner or his appointee for the period of time  
12 required for the preservation of ballots used at  
13 such election, and shall then, without being opened,  
14 be destroyed in accordance with applicable law.

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

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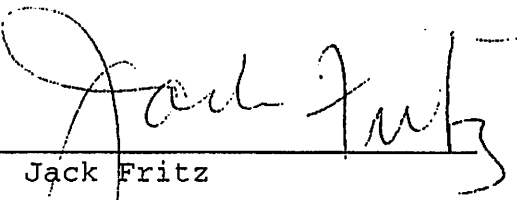
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1 Section 4. This act shall become law upon approval by  
2 the President of the Federated States of Micronesia or upon its  
3 becoming law without such approval.

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5 Date: 11/11/96

Introduced by:   
Jack Fritz

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