NINTH CONGRESS OF THE FEDERATED STATES OF MICRONESIA
FOURTH REGULAR SESSION, 1996

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

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

(3) The ballot envelope and the affidavit shall then be enclosed and sealed in the covering reply envelope and shall be postmarked and mailed at to reach the national election commissioner of the State issuing the absentee ballot not later than the day of the election, and must be received by the national election commissioner of the State issuing the absentee ballot not later than three days after the election. A registered voter
casting his ballot through section 702 of this title
must also include in the covering reply envelope any
additional materials required by any rules or
regulations promulgated in accordance with section
702. Absentee ballots received by the national
election commissioner by any means other than the
mails or later than three days after the election
shall be handled in the manner as provided under
subsection (2) of section 705 of this title.

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

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

"Section 705. Disposition of ballots.

(1) Upon the receipt of the envelope marked
'Absentee ballot' enclosed within the period
prescribed in section 704 of this title from any
person voting under the provisions of this title,
the national election commissioner, or his
appointee, shall open it, remove the ballot
envelope, and examine the statement as to its proper
execution, the person's qualifications to register
as an elector, and to vote. If the national
election commissioner determines that the person is qualified to vote by absentee ballot, the ballot envelope shall be deposited unopened in a container retained for that purpose. The container shall be securely sealed except for an opening sufficient to permit deposit of ballot envelopes and shall be marked with the name and official title of the National election commissioner or his appointee, and the words, 'This container holds absentee ballots and must be opened only pursuant to law.' The national election commissioner or his appointee shall safely keep each container in his office until the day of election and at such time he shall publicly open the container, extract and segregate the ballot envelopes, and deliver such envelopes to the counting and tabulation committee.

(2) In case the statement is found to be insufficient or in case the signatures do not correspond, or in case the ballot was not mailed, but delivered to the national election commissioner in any other manner, or in case the ballot was received by the national election commissioner more than three days after the election, or in case the voter has not complied with the other requirements of section 704 of this title or is not a duly
qualified elector or the ballot envelope is open or has been opened and resealed, the ballot envelope shall not be opened and the national election commissioner or his appointee shall mark across its face 'Rejected', giving the reason therefor, and shall preserve the same in the manner provided by law.

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

(4) If upon receiving the ballot envelope from the national election commissioner or his appointee it is found that the voter has already voted, the election inspectors shall immediately cancel the ballot envelope and write 'Rejected' across its face, giving the reason therefor, and shall preserve the same in the manner provided by law."
Section 4. This act shall become law upon approval by the President of the Federated States of Micronesia or upon its becoming law without such approval.

Date: 1/1/96

Introduced by: Jack Fritz