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A BILL FOR AN ACT

To further amend title 3 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 2-36 and 4-84, by adding a new chapter 7 for the purpose of setting forth the procedures for removal of the President, Vice-President, and Justices of the Supreme Court of the Federated States of Micronesia, and for other purposes.

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

1 Section 1. Title 3 of the Code of the Federated States of Micro-
2 nesia is hereby further amended by the addition of a new chapter 7 to
3 be entitled "Impeachment and Removal."

4 Section 2. Title 3 of the Code of the Federated States of Micro-
5 nesia is hereby further amended by the addition of a new section 701
6 of chapter 7 to read as follows:

7 "Section 701. Definitions. For the purposes of this chapter,
8 unless otherwise required by the context:

9 (1) 'Bribery' means any act prohibited by section 531
10 of title 11 of the Code of the Federated States of Micronesia.

11 (2) 'Conduct involving corruption in office' means any
12 act prohibited by either chapter 5 or chapter 13 of title
13 11 of the Code of the Federated States of Micronesia; PROVIDED,
14 however, that any action prohibited by section 531 of title
15 11 of the Code of the Federated States of Micronesia shall be
16 considered bribery rather than conduct involving corruption
17 in office.

18 (3) 'Official' means the President of the Federated
19 States of Micronesia, the Vice-President of the Federated
20 States of Micronesia, or a Justice of the Supreme Court of
21 the Federated States of Micronesia.

22 (4) 'Treason' means any act prohibited by chapter 4 of
23 title 11 of the Code of the Federated States of Micronesia."

24 Section 3. Title 3 of the Code of the Federated States of Micro-
25 nesia is hereby further amended by the addition of a new section 702

1 of chapter 7 to read as follows:

2 "Section 702. Resolution; Probability; Notification.

3 (1) Impeachment proceedings must be initiated by a
4 resolution of Congress. An impeachment resolution:

5 (a) Shall state that the Congress has found that
6 it is probable that the accused official committed an act of
7 treason, bribery, or conduct involving corruption in office;

8 (b) Shall plainly describe each alleged instance
9 of treason, bribery, or conduct involving corruption in
10 office for which the Congress has made a finding of
11 probability; and

12 (c) Shall provide or state the location of documen-
13 tary evidence of each alleged instance of treason, bribery,
14 or conduct involving corruption in office for which Congress
15 has made a finding of probability.

16 (2) For purposes of this section, it is probable that
17 an act occurred if it is more likely than not that the act
18 occurred.

19 (3) A finding of probability in an impeachment
20 resolution shall not be subject to judicial review.

21 (4) An affirmative vote of two-thirds of the Members
22 of Congress is required to pass an impeachment resolution.

23 (5) If Congress passes an impeachment resolution, the
24 Speaker shall notify the accused official and present him
25 with a copy of the resolution."

1 Section 4. Title 3 of the Code of the Federated States of
2 Micronesia is hereby further amended by the addition of a new section
3 703 of chapter 7 to read as follows:

4 "Section 703. Impeached official's status. Upon receipt
5 of an impeachment resolution pursuant to section 702 of this
6 chapter, an official shall not exercise the powers and duties
7 of office, shall not receive Government compensation or
8 benefits, and shall not use Government property."

9 Section 5. Title 3 of the Code of the Federated States of Micro-
10 nesia is hereby further amended by the addition of a new section 704 of
11 chapter 7 to read as follows:

12 "Section 704. Prosecutor. The Speaker shall appoint and
13 employ an impartial, competent person who is not holding a
14 National Government public office or National Government
15 employment to prosecute a resolution of impeachment before
16 the Congress. The Legislative Counsel of the Congress of
17 the Federated States of Micronesia and his staff shall
18 advise the Speaker and the Congress during proceedings
19 pursuant to this chapter."

20 Section 6. Title 3 of the Code of the Federated States of Micro-
21 nesia is hereby further amended by the addition of a new section 705
22 of chapter 7 to read as follows:

23 "Section 705. Impeached official's counsel. Persons holding
24 public office may not serve as an impeached official's
25 counsel or assist the official in impeachment proceedings.

1 For purposes of this section, testifying as a witness on the
2 official's behalf shall not be considered to be assisting
3 the official."

4 Section 7. Title 3 of the Code of the Federated States of Micro-
5 nesia is hereby further amended by the addition of a new section 706
6 of chapter 7 to read as follows:

7 "Section 706. Trial.

8 (1) An impeached official has the right to counsel, to
9 confront a witness, and to compel a witness to testify.

10 (2) The Speaker or a Member of Congress designated by
11 the Speaker shall conduct the trial of an impeached official.

12 (3) To the extent consistent with law, trial on the
13 impeachment resolution is pursuant to the Supreme Court of
14 the Federated States of Micronesia's rules of criminal
15 procedure and evidence, except that the Congress may, by
16 rule, provide for other or different rules."

17 Section 8. Title 3 of the Code of the Federated States of Micro-
18 nesia is hereby further amended by the addition of a new section 707 of
19 chapter 7 to read as follows:

20 "Section 707. Vote.

21 (1) The Congress shall listen to the evidence presented
22 by the prosecutor and the impeached official, and at the
23 conclusion of proceedings meet to consider the evidence and
24 reach a judgment.

25 (2) Whether the deliberations of Congress are public

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1 shall be determined by a majority vote of the Members present.

2 (3) The vote on the judgment shall be public and by
3 call of the roll.

4 (4) Proof beyond a reasonable doubt is necessary to
5 establish a judgment of guilty.

6 (5) The Congress shall express its vote by a written
7 judgment, certified by the Speaker and the Clerk, which shall
8 plainly state a judgment of guilty or not guilty. A two-
9 thirds vote of the Members of Congress is required for a
10 judgement of guilty. If the Congress reaches a judgment
11 of guilty, the judgment shall express the consequences of
12 the judgment for the impeached official which may include
13 removal from office. An impeached official who by virtue
14 of Congress' judgment resumes his Government duties shall
15 be entitled to receive compensation deferred pursuant to
16 section 703 of this chapter unless found guilty in the
17 judgment.

18 (6) The Speaker shall promptly inform the President,
19 the Vice-President, the Chief Justice of the Supreme Court,
20 the Attorney General, the Governors of each State, and the
21 public of the Congress' judgment and its consequences. If
22 one of these persons is the impeached official and another
23 person is lawfully acting in his place, the Speaker shall
24 inform the person who is so acting of the Congress' judgment
25 and its consequences."

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1 Section 9. Title 3 of the Code of the Federated States of
2 Micronesia is hereby further amended by the addition of a new section
3 708 of chapter 7 to read as follows:

4 "Section 708. Review. When the President or Vice-President
5 is removed from office, the Supreme Court shall review the
6 decision. When a Justice of the Supreme Court is removed,
7 the decision shall be reviewed by a special tribunal composed
8 of one State court judge from each State appointed by the
9 State chief executive. The special tribunal shall meet at
10 the call of the President."

11 Section 10. This act shall become law upon approval by the
12 President of the Federated States of Micronesia or upon its becoming
13 law without such approval.

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15 Date: May 28, 1987

Introduced by: Leo A. Falcam
Leo A. Falcam