A BILL FOR AN ACT

To further amend title 9 of the Code of the Federated States of Micronesia, as amended, by further amending section 105, as amended by Public Law No. 8-97, to clarify and modify the procedures for filling vacancies in Congress, and for other purposes.

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

1 Section 1. Section 105 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 105. Vacancies, - declaration, filling, Special election, timeframes.

[(1) After the election of the President and Vice President, vacancies shall be declared by the Speaker of Congress for the seats to which the President and Vice President were originally elected as Members-at-large of the Congress of the Federated States of Micronesia. Upon notification by the Speaker, the national election commissioner of the affected State shall schedule a special election to occur fifty days after receipt of notification. A candidate for the special election must submit a petition for candidacy within twenty days after the national election commissioner schedules the special election. After all candidates are registered, the National Election Director shall cause the ballots to be produced. Absentee ballots are
to be available from the National Election Director up to five days before the election date.

1. **Occurrence, declaration and notification.**

(a) A vacancy occurs under the following circumstances:

   (i) a member has been elected to the office of President or Vice President of the Federated States of Micronesia, has died, has come under judgment of mental incompetency or insanity, or has resigned or been expelled from Congress;

   (ii) a member-elect elected in a special election has died, has come under judgment of mental incompetency or insanity, or has withdrawn by giving notice to the Speaker;

   (iii) Congress, in judging the election or qualifications of a member-elect, declines to seat anyone; or

   (iv) Congress, in judging the qualifications of an appointee, declines to seat him or her.

(b) The Speaker shall declare a vacancy upon ascertaining that the vacancy has occurred and shall give prompt notice thereof to the national election commissioner or the chief executive of the affected State, as appropriate.

2. **Filling vacancies.** Any other vacancy in the Congress shall be filled for the unexpired term by special election, except that an unexpired term of one year or less as of the date the vacancy occurred, shall be filled by
appointment by the chief executive of the affected State. An appointee shall possess the qualifications required by section 201 of this title and shall serve only for the unexpired term.

(3) Scheduling a special election. The national election commissioner of the affected State shall schedule a special election only after declaration by the Speaker of a vacancy to be filled by special election, PROVIDED, however, that the national election commissioner shall schedule a special election in advance of such declaration when all of the following circumstances exist:

(a) a member-elect to a new Congress, not yet organized, has died, has come under judgment of mental incompetency or insanity, or has withdrawn by giving notice to the national election commissioner of the affected State;

(b) there is no pending challenge to the member-elect's election under chapter 9 of this title and the time for filing a challenge has passed.

(4) Timeframes. Notwithstanding any other provision of this title, the applicable timeframes for special elections shall be as follows:

(a) The national election commissioner of the affected State, after consulting with the National Election Director, shall schedule the election to occur not less than thirty days, nor more than ninety days, after receipt of
notification of a vacancy or after determining that the circumstances under subsection (3)(a)-(3)(c) exist.

(b) To have his or her name placed on the ballot for the special election, a candidate must submit a nomination petition by the deadline set by the national election commissioner, which deadline shall be not less than ten days nor more than twenty days after the national election commissioner first gives public notice of the election.

(c) Absentee ballot envelopes must be received by the national election commissioner no later than the established closing hour of the polls on the day of the election except as provided in section 702 of this title.

(d) All other timeframes shall be as specified in or as established pursuant to regulations.

(5) Regulations. The President shall issue regulations implementing the provisions of this chapter.

(6) Public notice of election. The national election
commissioner shall publish written notice of the special
election and the timeframes therefor in convenient public
places, including at the office of governor, the legislature,
the courthouses, municipal offices and post offices of the
affected State. The national election commissioner shall
also cause the notice to be broadcast, on at least two
separate days, over radio and television, where available.
Written notices and broadcasts shall be published in English
and the local languages of the State."

Section 2. Regulations implementing provisions of this act shall
be issued no later than one-hundred twenty (120) days of this act
becoming law.

Section 3. 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: _____________  Introduced by: __________________________
Jack Fritz