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 Micronesia is hereby further amended by the addition of a new chapter 7 to be entitled "Impeachment and Removal."

2. Section 2. Title 3 of the Code of the Federated States of Micronesia is hereby further amended by the addition of a new section 701 of chapter 7 to read as follows:

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

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

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

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

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

3. Section 3. Title 3 of the Code of the Federated States of Micronesia is hereby further amended by the addition of a new section 702..."
Section 702. Resolution; Probability; Notification.

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

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

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

(c) Shall provide or state the location of documentary evidence of each alleged instance of treason, bribery, or conduct involving corruption in office for which Congress has made a finding of probability.

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

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

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

(5) If Congress passes an impeachment resolution, the Speaker shall notify the accused official and present him with a copy of the resolution."
Section 4. Title 3 of the Code of the Federated States of Micronesia is hereby further amended by the addition of a new section 703 of chapter 7 to read as follows:

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

Section 5. Title 3 of the Code of the Federated States of Micronesia is hereby further amended by the addition of a new section 704 of chapter 7 to read as follows:

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

Section 6. Title 3 of the Code of the Federated States of Micronesia is hereby further amended by the addition of a new section 705 of chapter 7 to read as follows:

"Section 705. Impeached official's counsel. Persons holding public office may not serve as an impeached official's counsel or assist the official in impeachment proceedings."
For purposes of this section, testifying as a witness on the
official's behalf shall not be considered to be assisting
the official."

Section 7. Title 3 of the Code of the Federated States of Micron-
esia is hereby further amended by the addition of a new section 706
of chapter 7 to read as follows:

"Section 706. Trial.

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

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

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

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

"Section 707. Vote.

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

(2) Whether the deliberations of Congress are public
shall be determined by a majority vote of the Members present.

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

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

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

(6) The Speaker shall promptly inform the President, the Vice-President, the Chief Justice of the Supreme Court, the Attorney General, the Governors of each State, and the public of the Congress' judgment and its consequences. If one of these persons is the impeached official and another person is lawfully acting in his place, the Speaker shall inform the person who is so acting of the Congress' judgment and its consequences."
Section 9. Title 3 of the Code of the Federated States of Micronesia is hereby further amended by the addition of a new section 708 of chapter 7 to read as follows:

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

Section 10. 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: May 28, 1987

Introduced by Leo A. Falcam