
A BILL FOR AN ACT

To amend the Code of the Federated States of Micronesia by enacting new chapters 9 and 10 for the purpose of establishing a law on financial disclosures for candidates in national elections, on political campaign financing and financial reporting, and for other purposes.

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

1 Section 1.The Code of the Federated States of Micronesia is
2 hereby amended by enacting a new chapter 9 of title 9 to be
3 entitled "Financial Affairs Disclosures".

4 Section 2.The Code of the Federated States of Micronesia is
5 hereby amended by enacting a new section 901 to read as follows:

6 "Section 901. Definitions.

7 For the purposes of this chapter, the following terms
8 shall be given the meanings described herein:

9 (1) 'Beneficial control' shall mean the ability of a
10 person to buy, sell, encumber or direct the use of an
11 asset that is owned by another person.

12 (2) 'Business' shall include every occupation,
13 profession, sole proprietorship, partnership,
14 corporation, association and other for-profit
15 undertaking that engages in business or commerce within
16 the Federated States of Micronesia.

17 (3) 'Candidate' shall mean any person who seeks
18 election or nomination for election to the Congress of
19 the Federated States of Micronesia. A person seeks

1 nomination or election when he or she first

2 (a) Receives contributions or makes expenditures
3 to promote his or her candidacy for office;

4 (b) Announces publicly that he or she is a
5 candidate for office;

6 (c) Initiates a nomination petition under section
7 202 of title 9 of the Code of the Federated States of
8 Micronesia; or

9 (d) Gives his or her consent to any other person
10 to take any of the actions identified in parts (a)
11 through (c) of this subsection.

12 (4) 'Candidate's committee' means any person (except a
13 candidate) or group of persons that receives
14 contributions or makes expenditures to support or
15 promote the nomination or election of any candidate.

16 (5) 'Contribution' shall mean any loan, gift,
17 donation, payment, or anything of value, including
18 personal or professional services, provided, other than
19 for compensation at full market value, to or for the
20 benefit of a candidate or a candidate's committee in
21 furtherance of the candidate's campaign to be nominated
22 or elected to office. The term 'contribution' does not
23 include

24 (a) The providing of personal services of the
25 sort commonly performed by volunteers in election

1 campaigns, or incidental expenses incurred by such
2 volunteers in providing such services in an amount not
3 to exceed \$25 in connection with any campaign;

4 (b) Any contribution which is returned to the
5 giver within five business days of being received by the
6 candidate or a candidate's committee;

7 (c) Ordinary home hospitality;

8 (d) Any news item, report or editorial that is
9 published or broadcast by any news medium that is in the
10 business of being a news medium and is not controlled by
11 the candidate or a candidate's committee; or

12 (e) Any sign or poster displayed on a person's
13 own property.

14 (6) 'Director' shall mean the National Election
15 Director of the Federated States of Micronesia.

16 (7) 'Fund raising event' shall mean any gathering of
17 five or more persons at or from which a candidate or
18 candidate's committee receives funds for use in
19 furtherance of the candidate's candidacy for office.

20 (8) 'Immediate family' shall mean, with reference to a
21 natural person, that person's spouse, dependent
22 children, and other relatives living in the household of
23 the person.

24 (9) 'Independent expenditure' shall mean the
25 expenditure of money, the providing of goods or services

1 other than for compensation at fair market value, or the
2 incurring or guarantee of credit in furtherance of a
3 candidate's candidacy for office, which expenditure is
4 made or provided in a form other than as a contribution
5 directly to a candidate or a candidate's committee,
6 except that such term shall not include the providing of
7 personal services of the sort commonly performed by
8 volunteers in election campaigns, or incidental expenses
9 incurred by such volunteers in providing such services
10 in an amount not to exceed \$25 in connection with any
11 campaign.

12 (10) 'Person' includes any individual and any
13 corporation, partnership, joint venture, association,
14 committee, or other legal, political or business
15 entity."

16 Section 3. The Code of the Federated States of Micronesia is
17 hereby amended by enacting a new section 902 to read as follows:

18 "Section 902. Statement of financial affairs.

19 (1) Every candidate shall within two weeks of becoming
20 a candidate file with the Director a statement of
21 financial affairs covering a one-year period preceding
22 the date of his becoming a candidate.

23 (2) Each statement of financial affairs shall include
24 a certification, signed by the reporting candidate, that
25 the information contained therein is complete and

1 correct.”

2 Section 4. The Code of the Federated States of Micronesia is
3 hereby amended by enacting a new section 903 to read as follows:

4 “Section 903. Contents of Statement of Financial
5 Affairs.

6 (1) The statement of financial affairs required by
7 section 902 of this title shall disclose the following:

8 (a) The occupation, name of employer and business
9 address;

10 (b) Each bank or credit union in which a
11 candidate owned an interest in an account or accounts
12 that, in the aggregate, exceeded one thousand dollars at
13 any time during the reporting period, and the highest
14 aggregated balance of the accounts during that period;

15 (c) The name of each creditor to whom five
16 hundred dollars or more was owed at any time during the
17 reporting period, the highest amount owed during the
18 reporting period, and the amount owed at the time of
19 reporting;

20 (d) The name of every business, government entity
21 and other person from whom compensation was received in
22 any form having a total value of five hundred dollars or
23 more during the reporting period; the value of the
24 compensation; and the consideration given or performed
25 in exchange for the compensation;

1 (e) The name of every person from whom a gift or
2 gifts were received having a total value of five hundred
3 or more dollars during the reporting period, and the
4 value of such gift(s);

5 (f) The name of every business in which a
6 candidate, during the reporting period, held any office
7 or directorship, or an ownership interest of ten percent
8 or more.

9 (g) The candidate's assets and the liabilities
10 during the reporting period.

11 (2) Where an amount is required to be reported under
12 subsection (1) of this section, it shall be sufficient
13 to state that the amount is 'less than \$1,000', 'at
14 least \$1,000, but less than \$5,000', 'at least \$5,000,
15 but less than \$10,000', 'at least \$10,000, but less than
16 \$25,000', 'at least \$25,000, but less than \$100,000', or
17 'more than \$100,000'."

18 Section 5. The Code of the Federated States of Micronesia is
19 hereby amended by enacting a new section 904 to read as follows:

20 "Section 904. Disqualification. The Director may
21 disqualify any candidate for failing to comply with any
22 provision of this chapter. The disqualification is
23 without prejudice to criminal or criminal penalty that
24 may attach pursuant to section 111, chapter 1."

25 Section 6. The Code of the Federated States of Micronesia is

1 hereby amended by enacting a new chapter 10 of title 9 to be
2 titled: "Campaign Contributions."

3 Section 7. The Code of the Federated State of Micronesia is
4 hereby amended by enacting a new section 1001 to read as follows:

5 "Section 1001. Definition. As used in this chapter:

6 (1) The term "contribution" shall mean any loan, gift,
7 donation, payment, or anything of value, including
8 personal or professional services, provided, other than
9 for compensation at full market value, to or for the
10 benefit of a candidate or a candidate's committee in
11 furtherance of the candidate's campaign to be nominated
12 or elected to office. The term 'contribution' does not
13 include

14 (a) The providing of personal services of the
15 sort commonly performed by volunteers in election
16 campaigns, or incidental expenses incurred by such
17 volunteers in providing such services in an amount not
18 to exceed \$25 in connection with any campaign;

19 (b) Any contribution which is returned to the
20 giver within five business days of being received by the
21 candidate or a candidate's committee;

22 (c) Ordinary home hospitality;

23 (d) Any news item, report or editorial that is
24 published or broadcast by any news medium that is in the
25 business of being a news medium and is not controlled by

1 the candidate or a candidate's committee; or

2 (e) Any sign or poster displayed on a person's
3 own property."

4 Section 8. The Code of the Federated States of Micronesia is
5 hereby amended by enacting a new section 1002 of chapter 10 of
6 title 9 to read as follows:

7 "Section 1002. Candidate's Committees.

8 (1) No person or group of persons, with the exception
9 of a candidate, shall be permitted, on behalf of a
10 candidate's campaign, to accept contributions or make
11 expenditures from such contributions unless acting as a
12 candidate's committee subject to the provisions of this
13 title, provided that no person shall be subject to this
14 section solely by virtue of making expenditures on
15 behalf of a candidate from that person's own resources
16 without contribution from any other person.

17 (2) Each candidate's committee, before receiving any
18 contribution or making any expenditure in connection
19 with the candidate's campaign, shall file with the
20 Director a notice of intent to form a candidate's
21 committee. Such notice shall (a) state the name under
22 which the candidate's committee will conduct its
23 activities, (b) identify the candidate on whose behalf
24 the committee will act, (c) identify the person who will
25 serve as treasurer of the committee, (d) provide a

1 mailing address and telephone number of the treasurer,
2 and (e) bear the signature of the candidate certifying
3 his approval that the committee receive contributions
4 and make expenditures in connection with his campaign.
5 Notice shall be given to the Director within five days
6 if the treasurer is replaced or his address or phone
7 number is changed.

8 (3) No candidate's committee shall be permitted to
9 receive contributions or make expenditures at any time
10 that there is a vacancy in the position of treasurer of
11 the committee.

12 (4) The Director may order that the name of the
13 candidate's committee be changed if he determines that
14 there is a significant possibility that the name
15 proposed by the committee will create confusion among
16 the public as to the identity of the candidate on whose
17 behalf the committee will be acting."

18 Section 9. The Code of the Federated States of Micronesia is
19 hereby amended by enacting a new section 1003 of chapter 10 of
20 title 9 to read as follows:

21 "Section 1003. Receipt and Use of Contributions.

22 (1) All monetary contributions received by a candidate
23 or a candidate's committee shall be deposited by the
24 candidate or the treasurer of the candidate's committee
25 in a depository account established for that purpose

1 with a bank located within the Federated States of
2 Micronesia. Such deposits shall be made within five
3 business days of receipt. Contributions received by a
4 candidate's committee may be maintained in the same
5 account as those received by the candidate, or in a
6 separate account.

7 (2) Except as provided in this section, no expenditure
8 shall be made from a depository account created under
9 subsection (1) hereof for any purpose other than the
10 election campaign for which the funds were contributed.

11 (3) A maximum of \$100 in aggregate contributions from
12 persons whose identities are not known to the candidate
13 or the treasurer of a candidate's committee may be
14 deposited, used or expended in connection with any
15 campaign. Any contributions in excess of that amount,
16 which are not identifiable to any donor, shall escheat
17 to the National Government of the Federated States of
18 Micronesia for deposit in the General Fund.

19 (4) No cash contribution in excess of twenty-five
20 dollars may be accepted unless a receipt, signed by the
21 contributor and either the candidate or the treasurer of
22 a candidate's committee, is prepared and retained as
23 part of the campaign financial records.

24 (5) Any extension of credit; loan of money, loan of
25 goods or equipment; or loan guarantee, provided to a

1 candidate or candidate's committee and involving an
2 indebtedness of more than twenty-five dollars, shall be
3 reflected in a writing identifying the lender and the
4 borrower, setting forth the amount of the loan or
5 guarantee and stating the terms of repayment.

6 (6) Any surplus contribution funds remaining after the
7 date of the election shall be applied first to any debts
8 of the candidate or the candidate's committee incurred
9 in connection with the election. After the payment of
10 all such debts, any remaining funds shall be returned to
11 contributors in amounts to be determined by the
12 candidate, provided that no contributor may receive any
13 payment in excess of the amount that he contributed."

14 Section 10. The Code of the Federated States of Micronesia is
15 hereby amended by enacting a new section 1004 of chapter 10 of
16 title 9 to read as follows:

17 "Section 1004. Campaign Record Keeping and Finance
18 Reporting.

19 (1) The candidate shall maintain books of account
20 accurately reflecting all contributions received and
21 expenditures made from contributed funds. Both monetary
22 and non-monetary contributions shall be recorded. Each
23 contribution shall be separately recorded including the
24 date of the contribution, the identity of the
25 contributor, the nature of the contribution and either

1 the amount of the contribution in the case of a cash
2 contribution, or an estimate of the fair market value of
3 the contribution in the case of a non-monetary
4 contribution. The books of account shall also include a
5 record of the aggregate value of contributions made by
6 each contributor. Each expenditure shall be separately
7 recorded including the date of the expenditure, the
8 nature of the expenditure and the identity of the person
9 to whom the expenditure was made. All contributions and
10 expenditures shall be recorded in the books of account
11 within five business days of occurrence except that, all
12 contributions and expenditures within the last ten days
13 before the date of the election shall be recorded within
14 one business day of occurrence.

15 (2) The candidate may designate the treasurer of a
16 candidate's committee to maintain the books of account
17 or to prepare and file the reports required by this
18 section. Such designation shall be in writing, signed by
19 the candidate and the treasurer, which writing shall be
20 filed with the Director. In the event of such
21 designation, both the candidate and the designee shall
22 be responsible, under this title, for the completeness
23 and accuracy of such books of account and reports.

24 (3) In the event that contributions are received or
25 expenditures made by both the candidate and one or more

1 candidate's committees, all such contributions and
2 expenditures shall be recorded, on a consolidated basis,
3 in the books of account maintained by the candidate or
4 his designee and all contributions shall be reported as
5 required by subsection (6) hereof on a consolidated
6 basis.

7 (4) The candidate or his designee shall preserve books
8 of account, bills, receipts, deposit slips and other
9 financial records reflecting contributions and
10 expenditures for a period of not less than three years
11 following the date of the transaction.

12 (5) Books of account maintained by a candidate or his
13 designee shall be made available for inspection by the
14 Director at any time upon twenty-four hours' notice.
15 Such books of account shall be made available for public
16 inspection by appointment for at least two consecutive
17 hours during each business day during the last twenty
18 days before the election. The candidate or his designee
19 shall designate the location of inspection, provided
20 that such location shall be accessible to as many voters
21 as is reasonably practical taking into consideration the
22 geography of the election district.

23 (6) Each candidate or his designee shall file with the
24 Director contribution reports on (a) the thirtieth day
25 immediately preceding the date of the election, (b) the

1 tenth day immediately preceding the election, and (c)
2 the fifteenth day immediately following the election.
3 Such reports shall be available for public inspection
4 and copying at such times and locations as may be
5 designated by the Director. The report filed thirty days
6 prior to the election shall reflect all contributions
7 received as of the end of the fifth business day
8 preceding the date of filing.

9 Subsequent reports shall reflect contributions received
10 between the closing date of the previous report and the
11 end of the third business day preceding the date of
12 filing.

13 (7) The reports filed pursuant to subsection (6) of
14 this section shall include the following information:

15 (a) The balance of funds on hand at the beginning
16 of the period covered by the report;

17 (b) The name and address of each person who has
18 made one or more contributions during the period;

19 (c) The money value and date of such
20 contributions; provided that contributions from any
21 person totaling, in the aggregate, less than fifty
22 dollars, may be reported as a lump sum;

23 (d) The aggregate value of all contributions
24 received from each such person at any time during the
25 campaign;

1 (e) The name and address of each person who has
2 extended credit, or loaned money or other assets to the
3 candidate or a candidate's committee for use in
4 furtherance of the candidate's candidacy for office, the
5 original amount of the debt or the value of the asset
6 loaned, and the remaining balance of the debt or asset
7 loan; and

8 (f) The balance of the funds on hand at the close
9 of the period covered by the report.

10 (8) Reports filed under subsection (6) of this section
11 shall be signed by the candidate and his designee, if
12 any, who prepared the report, certifying that the
13 information contained therein is complete and correct.

14 (9) For the purposes of subsections (1) and (6) of
15 this section, funds received from the charging of an
16 admission fee, or from the sale of food or merchandise
17 at a fund raising event may be recorded in the books of
18 account and reflected in contribution reports as a lump
19 sum without identification of the persons who paid such
20 funds, except that fees or payments by any person
21 exceeding, in the aggregate, twenty-five dollars shall
22 be individually reported, including identification of
23 the person making the payment.

24 (10) Any person who makes one or more independent
25 expenditures having a value, individually or in the

1 aggregate, in excess of twenty-five dollars shall,
2 within five business days of the expenditure, file a
3 report with the Director providing (a) the name and
4 address of the person making the expenditures, (b) the
5 nature of the expenditures, (c) the dates and values,
6 individually and in the aggregate, of the expenditures,
7 and (d) the name of the candidate on whose behalf such
8 expenditures were made. Any person required to file an
9 initial report under this subsection shall file
10 subsequent reports on the following schedule if
11 additional independent expenditures are made:

12 (i) the thirtieth day immediately preceding
13 the date of the election,

14 (ii) the tenth day immediately preceding the
15 election, and

16 (iii) the fifteenth day immediately following
17 the election.

18 (11) No person shall make any contribution to a
19 candidate or candidate's committee on behalf of any
20 other person, or while acting as the intermediary or
21 agent of another person, without disclosing to the
22 recipient both his name and address and the name and
23 address of the person on whose behalf he is acting. No
24 person shall, on behalf of another person, make any
25 independent expenditure that is required to be reported

1 under subsection (10) of this section without setting
2 forth in such report the name and address of the person
3 on whose behalf the expenditure was made. A person who
4 receives the contributed amount from another person or
5 receives any payment or other consideration for making a
6 contribution or expenditure shall be deemed to have
7 acted on behalf of the person providing the payment or
8 consideration."

9 Section 11. The Code of the Federated States of Micronesia is
10 hereby amended by enacting a new section 1005 of chapter 10 of
11 title 9 to read as follows:

12 "Section 1005. Contribution Limits.

13 (1) Contributions shall not be made by any person, for
14 the benefit of any candidate, in an amount exceeding, in
15 the aggregate, \$5,000 in connection with any campaign.
16 For the purposes of this section, the aggregate
17 contributions of a person shall include his
18 contributions directly to the candidate and any
19 candidate's committee, his independent expenditures, and
20 any contributions made on his behalf by any agent,
21 intermediary or other person. The limit established by
22 this subsection does not apply to expenditures made by a
23 candidate solely from his own resources without
24 contribution by any other person.

25 (2) For the purposes of this section, any contribution

1 made by a person that is a business shall be attributed
2 both to the business and to any person who is the chief
3 executive officer, president or chairman of the board of
4 the business, or owns or has beneficial control of a
5 greater than 30% interest in the business. Any
6 contribution by any other person that is not a natural
7 person shall be attributed to that person and to such
8 entity's president, executive director and any other
9 person who has the ability to direct the entity's
10 political contributions."

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

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15 Date: 12/4/09

Introduced by: /s/ Joe N. Suka

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Joe N. Suka
(by request)

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