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A BILL FOR AN ACT

To amend the Code of the Federated States of Micronesia by enacting a new title 13 thereof for the purpose of establishing a law on public official financial disclosures, and 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 title 13 thereof to be entitled  
3 "Public Officials--Campaigns and Financial Disclosures".

4           Section 2. The Code of the Federated States of  
5 Micronesia is hereby amended by enacting a new chapter 1 of  
6 title 13 to be entitled "General Provisions".

7           Section 3. The Code of the Federated States of  
8 Micronesia is hereby amended by enacting a new section 101  
9 of chapter 1 of title 13 to read as follows:

10           "Section 101. Definitions.

11           For the purposes of this title, the following terms shall be  
12           given the meanings described herein:

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

16                   (2) 'Business' shall include every occupation,  
17                   profession, sole proprietorship, partnership, corporation,  
18                   association and other for-profit undertaking that engages in  
19                   business or commerce within the Federated States of

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1       Micronesia.

2               (3) 'Candidate' shall mean any person who seeks  
3       election or nomination for election to the Congress of the  
4       Federated States of Micronesia. A person seeks nomination  
5       or election when he or she first

6                       (a) Receives contributions or makes  
7       expenditures to promote his or her candidacy for  
8       office;

9                       (b) Announces publicly that he or she is a  
10       candidate for office;

11                      (c) Initiates a nomination petition under section  
12       202 of title 9 of the Code of the Federated States of  
13       Micronesia; or

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

17                      (4) 'Candidate's committee' means any person (except a  
18       candidate) or group of persons that receives contributions  
19       or makes expenditures to support or promote the nomination  
20       or election of any candidate.

21                      (5) 'Contribution' shall mean any loan, gift, donation,  
22       payment, or anything of value, including personal or  
23       professional services, provided, other than for compensation  
24       at full market value, to or for the benefit of a candidate  
25       or a candidate's committee in furtherance of the candidate's

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1 campaign to be nominated or elected to office. The term  
2 'contribution' does not include

3 (a) The providing of personal services of the sort  
4 commonly performed by volunteers in election campaigns, or  
5 incidental expenses incurred by such volunteers in providing  
6 such services in an amount not to exceed \$25 in connection  
7 with any campaign;

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

11 (c) Ordinary home hospitality;

12 (d) Any news item, report or editorial that is  
13 published or broadcast by any news medium that is in the  
14 business of being a news medium and is not controlled by the  
15 candidate or a candidate's committee; or

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

18 (6) 'Director' shall mean the National Election  
19 Director of the Federated States of Micronesia.

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

24 (8) 'Immediate family' shall mean, with reference to a  
25 natural person, that person's spouse, dependent children,

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1       and other relatives living in the household of the person.

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

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

17           (11) 'Public Official' shall include all members of the  
18       Congress of the Federated States of Micronesia, the  
19       President and Vice President, the Chief Justice and  
20       Associate Justices of the Supreme Court, the Secretaries of  
21       all Executive Departments, the Assistant Secretaries of all  
22       Executive Departments, the Public Auditor and all members of  
23       the Board of Directors of the Development Bank of the  
24       Federated States of Micronesia.'

25       Section 4. The Code of the Federated States of Micronesia is

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1 hereby further amended by enacting a new section 102 of chapter 1 of  
2 title 13 to read as follows:

3 "Section 102. Rules.

4 The Director shall issue such rules, not inconsistent with  
5 the provisions of this title, as are necessary and  
6 appropriate to accomplish the purposes of this title."

7 Section 5. The Code of the Federated States of Micronesia is  
8 hereby further amended by enacting a new section 103 of chapter 1 of  
9 title 13 to read as follows:

10 "Section 103. Enforcement.

11 The Director shall have the authority to issue orders  
12 requiring compliance with the provisions of this title and  
13 to seek, in the National Courts, temporary and permanent  
14 restraining orders against any person who is in violation of  
15 this title.

16 Section 6. The Code of the Federated States of Micronesia is  
17 hereby further amended by enacting a new chapter 2 of title 13 to be  
18 entitled "Public Official and Candidate Disclosures".

19 Section 7. The Code of the Federated States of Micronesia is  
20 hereby further amended by enacting a new section 201 of chapter 2  
21 of title 13 to read as follows:

22 "Section 201. Public Official and Candidate Financial  
23 Disclosure.

24 (1) Every public official shall after January 1 and  
25 before April 15 of each year file with the Director a

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1 statement of financial affairs for the preceding calendar  
2 year.

3 (2) Every candidate shall within two weeks of becoming  
4 a candidate file with the Director a statement of financial  
5 affairs covering the period from January 1 of the preceding  
6 calendar year to the date of his becoming a candidate.

7 (3) Every person who becomes a public official by being  
8 appointed to fill a vacant position shall, within 30 days of  
9 being appointed, file with the Director a statement of  
10 financial affairs covering the period from January 1 of the  
11 preceding calendar year to the date of appointment.

12 (4) No person shall be required to file more than one  
13 statement of financial affairs in any calendar year.

14 (5) Each statement of financial affairs shall include a  
15 certification, signed by the reporting public official or  
16 candidate, that the information contained therein is  
17 'complete and correct'."

18 Section 8. The Code of the Federated States of Micronesia is  
19 hereby further amended by enacting a new section 202 of chapter 2 of  
20 title 13 to read as follows:

21 "Section 202. Contents of Statement of Financial Affairs.

22 (1) The statement of financial affairs required by  
23 section 201 of this title shall disclose, for the reporting  
24 person and each member of his or her immediate family, the  
25 following:

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1                   (a) The occupation, name of employer and business  
2                   address;

3                   (b) Each bank or credit union in which any such  
4                   person or persons owned an interest in an account or  
5                   accounts that, in the aggregate, exceeded one thousand  
6                   dollars at any time during the reporting period, and the  
7                   highest aggregated balance of the accounts during that  
8                   period;

9                   (c) The name of each creditor to whom five  
10                   hundred dollars or more was owed at any time during the  
11                   reporting period, the highest amount owed during the  
12                   reporting period, and the amount owed at the time of  
13                   reporting;

14                   (d) The name of every business, government entity  
15                   and other person from whom compensation was received in any  
16                   form having a total value of five hundred dollars or more  
17                   during the reporting period; the value of the compensation;  
18                   and the consideration given or performed in exchange for the  
19                   compensation;

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

24                   (f) The name of every business in which the  
25                   reporting person or persons, during the reporting period,

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1 held any office or directorship, or an ownership interest of  
2 ten percent or more, and, with respect to each such  
3 business,

4 (i) if such business during the reporting  
5 period received compensation in any form having a value  
6 exceeding, in the aggregate, \$1,000 from the National  
7 Government of the Federated States of Micronesia and the  
8 branches, departments, and agencies thereof, the names of  
9 the branches, departments and agencies from which such  
10 compensation was received, the amount of the compensation,  
11 and the consideration given or performed in return for such  
12 compensation;

13 (ii) if during the reporting period such  
14 business received compensation in any form having a value  
15 exceeding, in the aggregate, \$1,000 in return for providing  
16 goods or services as a subcontractor, lessor or vendor to  
17 any other person in connection with that other person's  
18 performance of any contracts with the National Government or  
19 any branch, department or agency thereof, the name of the  
20 person from which the compensation was received, the amount  
21 of the compensation, an identification of the contract with  
22 respect to which such goods and services were provided, and  
23 a description of the goods and services provided in return  
24 for the compensation;  
25 provided that it is not required that such information be

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1 reported with respect to any corporation of which the  
2 reporting person or a member of his immediate family is an  
3 officer or director by virtue of appointment by the  
4 President of the Federated States of Micronesia or the  
5 governor or any state thereof.

6 (2) Where an amount is required to be reported under  
7 subsection (1) of this section, it shall be sufficient to  
8 state that the amount is 'less than \$1,000', 'at least  
9 \$1,000, but less than \$5,000', 'at least \$5,000, but less  
10 than \$10,000', 'at least \$10,000, but less than \$25,000',  
11 'at least \$25,000, but less than \$100,000', or 'more than  
12 \$100,000'.

13 (3) For the purpose of determining whether any  
14 compensation, debt or ownership interest must be reported  
15 under subsection (1) of this section, the compensation,  
16 debts and ownership interests of the reporting person and  
17 his immediate family shall be aggregated."

18 Section 9. The Code of the Federated states of Micronesia is  
19 hereby further amended by enacting a new section 203 of chapter 2  
20 of title 13 to read as follows:

21 "Section 203. Civil and Criminal Penalties.

22 (1) Any person who fails to file a properly completed  
23 statement of financial affairs within the time prescribed by  
24 section 201 of this title shall be subject to a civil  
25 penalty of ten dollars for each day that such delinquency

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1 continues.

2 (2) Any person who files a statement of financial  
3 affairs that is in any respect incomplete or incorrect shall  
4 be subject to a civil penalty in an amount not to exceed  
5 \$1,000 per violation.

6 (3) Any person who, with an intent to deceive or to  
7 avoid any reporting requirement under this section, (a)  
8 files a statement of financial affairs that is in any  
9 respect incomplete or incorrect, (b) transfers any  
10 compensation, gift, debt or ownership interest to another  
11 person, or (c) causes any compensation, gift, debt or  
12 ownership interest to appear, inaccurately, to be the asset  
13 or liability of another person, shall be guilty of a crime  
14 punishable by a fine not to exceed \$10,000 per violation and  
15 imprisonment for a period not to exceed six months per  
16 violation."

17 Section 10. The Code of the Federated States of Micronesia is  
18 hereby amended by enacting a new chapter 3 of title 13 to be  
19 entitled "Campaign Contributions and Reporting".

20 Section 11. The Code of the Federated States of  
21 Micronesia is hereby amended by enacting a new section 301  
22 of chapter 3 of title 13 to read as follows:

23 "Section 301. Candidate's Committees.

24 (1) No person or group of persons, with the exception  
25 of a candidate, shall be permitted, on behalf of a

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1 candidate's campaign, to accept contributions or make  
2 expenditures from such contributions unless acting as a  
3 candidate's committee subject to the provisions of this  
4 title, provided that no person shall be subject to this  
5 section solely by virtue of making expenditures on behalf of  
6 a candidate from that person's own resources without  
7 contribution from any other person.

8 (2) Each candidate's committee, before receiving any  
9 contribution or making any expenditure in connection with  
10 the candidate's campaign, shall file with the Director a  
11 notice of intent to form a candidate's committee. Such  
12 notice shall (a) state the name under which the candidate's  
13 committee will conduct its activities, (b) identify the  
14 candidate on whose behalf the committee will act, (c)  
15 identify the person who will serve as treasurer of the  
16 committee, (d) provide a mailing address and telephone  
17 number of the treasurer, and (e) bear the signature of the  
18 candidate certifying his approval that the committee receive  
19 contributions and make expenditures in connection with his  
20 campaign. Notice shall be given to the Director within five  
21 days if the treasurer is replaced or his address or phone  
22 number is changed.

23 (3) No candidate's committee shall be permitted to  
24 receive contributions or make expenditures at any time that  
25 there is a vacancy in the position of treasurer of the

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1       committee.

2           (4) The Director may order that the name of the  
3       candidate's committee be changed if he determines that there  
4       is a significant possibility that the name proposed by the  
5       committee will create confusion among the public as to the  
6       identity of the candidate on whose behalf the committee will  
7       be acting."

8       Section 12. The Code of the Federated States of Micronesia is  
9       hereby amended by enacting a new section 302 of chapter 3 of title  
10      13 to read as follows:

11       "Section 302. Receipt and Use of Contributions.

12           (1) All monetary contributions received by a candidate  
13       or a candidate's committee shall be deposited by the  
14       candidate or the treasurer of the candidate's committee in a  
15       depository account established for that purpose with a bank  
16       located within the Federated States of Micronesia. Such  
17       deposits shall be made within five business days of receipt.  
18       Contributions received by a candidate's committee may be  
19       maintained in the same account as those received by the  
20       candidate, or in a separate account.

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

25           (3) A maximum of \$100 in aggregate contributions from

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1 persons whose identities are not known to the candidate or  
2 the treasurer of a candidate's committee may be deposited,  
3 used or expended in connection with any campaign. Any  
4 contributions in excess of that amount, which are not  
5 identifiable to any donor, shall escheat to the National  
6 Government of the Federated States of Micronesia for deposit  
7 in the General Fund.

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

13 (5) Any extension of credit; loan of money, loan of  
14 goods or equipment; or loan guarantee, provided to a  
15 candidate or candidate's committee and involving an  
16 indebtedness of more than twenty-five dollars, shall be  
17 reflected in a writing identifying the lender and the  
18 borrower, setting forth the amount of the loan or guarantee  
19 and stating the terms of repayment.

20 (6) Any surplus contribution funds remaining after the  
21 date of the election shall be applied first to any debts of  
22 the candidate or the candidate's committee incurred in  
23 connection with the election. After the payment of all such  
24 debts, any remaining funds shall be returned to contributors  
25 in amounts to be determined by the candidate, provided that

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1       no contributor may receive any payment in excess of the  
2       amount that he contributed."

3       Section 13. The Code of the Federated States of Micronesia is  
4 hereby amended by enacting a new section 303 of chapter 3 of title  
5 13 to read as follows:

6       "Section 303. Campaign Record Keeping and Finance  
7       Reporting.

8       (1) The candidate shall maintain books of account  
9       accurately reflecting all contributions received and  
10       expenditures made from contributed funds. Both monetary and  
11       non-monetary contributions shall be recorded. Each  
12       contribution shall be separately recorded including the date  
13       of the contribution, the identity of the contributor, the  
14       nature of the contribution and either the amount of the  
15       contribution in the case of a cash contribution, or an  
16       estimate of the fair market value of the contribution in the  
17       case of a non-monetary contribution. The books of account  
18       shall also include a record of the aggregate value of  
19       contributions made by each contributor. Each expenditure  
20       shall be separately recorded including the date of the  
21       expenditure, the nature of the expenditure and the identity  
22       of the person to whom the expenditure was made. All  
23       contributions and expenditures shall be recorded in the  
24       books of account within five business days of occurrence  
25       except that, all contributions and expenditures within the

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1 last ten days before the date of the election shall be  
2 recorded within one business day of occurrence.

3 (2) The candidate may designate the treasurer of a  
4 candidate's committee to maintain the books of account or to  
5 prepare and file the reports required by this section. Such  
6 designation shall be in writing, signed by the candidate and  
7 the treasurer, which writing shall be filed with the  
8 Director. In the event of such designation, both the  
9 candidate and the designee shall be responsible, under this  
10 title, for the completeness and accuracy of such books of  
11 account and reports.

12 (3) In the event that contributions are received or  
13 expenditures made by both the candidate and one or more  
14 candidate's committees, all such contributions and  
15 expenditures shall be recorded, on a consolidated basis, in  
16 the books of account maintained by the candidate or his  
17 designee and all contributions shall be reported as required  
18 by subsection (6) hereof on a consolidated basis.

19 (4) The candidate or his designee shall preserve books  
20 of account, bills, receipts, deposit slips and other  
21 financial records reflecting contributions and expenditures  
22 for a period of not less than three years following the date  
23 of the transaction.

24 (5) Books of account maintained by a candidate or his  
25 designee shall be made available for inspection by the

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1 Director at any time upon twenty-four hours' notice. Such  
2 books of account shall be made available for public  
3 inspection by appointment for at least two consecutive hours  
4 during each business day during the last twenty days before  
5 the election. The candidate or his designee shall designate  
6 the location of inspection, provided that such location  
7 shall be accessible to as many voters as is reasonably  
8 practical taking into consideration the geography of the  
9 election district.

10 (6) Each candidate or his designee shall file with the  
11 Director contribution reports on (a) the thirtieth day  
12 immediately preceding the date of the election, (b) the  
13 tenth day immediately preceding the election, and (c) the  
14 fifteenth day immediately following the election. Such  
15 reports shall be available for public inspection and copying  
16 at such times and locations as may be designated by the  
17 Director. The report filed thirty days prior to the  
18 election shall reflect all contributions received as of the  
19 end of the fifth business day preceding the date of filing.  
20 Subsequent reports shall reflect contributions received  
21 between the closing date of the previous report and the end  
22 of the third business day preceding the date of filing.

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

25 (a) The balance of funds on hand at the beginning

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1       of the period covered by the report;

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

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

8               (d) The aggregate value of all contributions  
9 received from each such person at any time during the  
10 campaign;

11              (e) The name and address of each person who has  
12 extended credit, or loaned money or other assets to the  
13 candidate or a candidate's committee for use in  
14 furtherance of the candidate's candidacy for office, the  
15 original amount of the debt or the value of the asset  
16 loaned, and the remaining balance of the debt or asset  
17 loan; and

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

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

24              (9) For the purposes of subsections (1) and (6) of this  
25 section, funds received from the charging of an admission

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1       fee, or from the sale of food or merchandise at a fund  
2       raising event may be recorded in the books of account and  
3       reflected in contribution reports as a lump sum without  
4       identification of the persons who paid such funds, except  
5       that fees or payments by any person exceeding, in the  
6       aggregate, twenty-five dollars shall be individually  
7       reported, including identification of the person making  
8       the payment.

9       (10) Any person who makes one or more independent  
10      expenditures having a value, individually or in the  
11      aggregate, in excess of twenty-five dollars shall, within  
12      five business days of the expenditure, file a report with  
13      the Director providing (a) the name and address of the  
14      person making the expenditures, (b) the nature of the  
15      expenditures, (c) the dates and values, individually and in  
16      the aggregate, of the expenditures, and (d) the name of the  
17      candidate on whose behalf such expenditures were made. Any  
18      person required to file an initial report under this  
19      subsection shall file subsequent reports on the following  
20      schedule if additional independent expenditures are made:  
21      (i) the thirtieth day immediately preceding the date of the  
22      election, (ii) the tenth day immediately preceding the  
23      election, and (iii) the fifteenth day immediately following  
24      the election.

25      (11) No person shall make any contribution to a

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1 candidate or candidate's committee on behalf of any other  
2 person, or while acting as the intermediary or agent of  
3 another person, without disclosing to the recipient both his  
4 name and address and the name and address of the person on  
5 whose behalf he is acting. No person shall, on behalf of  
6 another person, make any independent expenditure that is  
7 required to be reported under subsection (10) of this  
8 section without setting forth in such report the name and  
9 address of the person on whose behalf the expenditure was  
10 made. A person who receives the contributed amount from  
11 another person or receives any payment or other  
12 consideration for making a contribution or expenditure shall  
13 be deemed to have acted on behalf of the person providing  
14 the payment or consideration."

15 Section 14. The Code of the Federated States of Micronesia is  
16 hereby amended by enacting a new section 304 of chapter 3 of title  
17 13 to read as follows:

18 "Section 304. Civil and Criminal Penalties.

19 (1) Any person who receives any contribution in  
20 violation of section 301 of this title shall be subject to a  
21 civil penalty in an amount not to exceed \$1,000 per  
22 violation.

23 (2) Any person who acts in violation of section 302 of  
24 this title shall be subject to a civil penalty in an amount  
25 not to exceed \$5,000 per violation.

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1           (3) Any person who fails to maintain books of account  
2           as required by section 303 hereof shall be subject to a  
3           civil penalty in an amount not to exceed \$20,000.

4           (4) Any person who makes any incorrect or incomplete  
5           entry in the books of account required by section 303(1), or  
6           provides incorrect or incomplete information in any report  
7           required under subsection 303(6) or 303(10) hereof shall be  
8           subject to a civil penalty in an amount not to exceed \$5,000  
9           per violation.

10           (5) In addition to any civil penalty that may be  
11           assessable under this section, any person who knowingly  
12           makes any incorrect or incomplete entry in the books of  
13           account required by section 303(1) or knowingly submits to  
14           the Director incomplete or incorrect information in a report  
15           required by subsection 303(6) or 303(10) hereof shall be  
16           guilty of a crime punishable by imprisonment for not more  
17           than six months and a fine in an amount not to exceed  
18           \$20,000 per violation.

19           (6) Any person who fails to file any report required by  
20           subsection 303(6) or of 303(10) shall be subject to a civil  
21           penalty not to exceed \$1,000 for each day of delinquency."

22           Section 15. The Code of the Federated States of Micronesia is  
23 hereby amended by enacting a new chapter 4 of title 13 to be  
24 entitled "Campaign Contribution Limits".

25           Section 16. The Code of the Federated States of Micronesia is

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1 hereby amended by enacting a new section 401 of chapter 4 of title  
2 13 to read as follows:

3 "Section 401. Contribution Limits.

4 (1) Contributions shall not be made by any person, for  
5 the benefit of any candidate, in an amount exceeding, in the  
6 aggregate, \$5,000 in connection with any campaign. For the  
7 purposes of this section, the aggregate contributions of a  
8 person shall include his contributions directly to the  
9 candidate and any candidate's committee, his independent  
10 expenditures, and any contributions made on his behalf by  
11 any agent, intermediary or other person. The limit  
12 established by this subsection does not apply to  
13 expenditures made by a candidate solely from his own  
14 resources without contribution by any other person.

15 (3) For the purposes of this section, any contribution  
16 made by a person that is a business shall be attributed both  
17 to the business and to any person who is the chief executive  
18 officer, president or chairman of the board of the business,  
19 or owns or has beneficial control of a greater than 30%  
20 interest in the business. Any contribution by any other  
21 person that is not a natural person shall be attributed to  
22 that person and to such entity's president, executive  
23 director and any other person who has the ability to direct  
24 the entity's political contributions.

25 (2) For the purposes of this section, contributions by

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1       all members of a person's immediate family shall be  
2       attributed both to that person and to each member of the  
3       immediate family."

4       Section 17. The Code of the Federated States of Micronesia is  
5 hereby amended by enacting a new section 402 of chapter 4 of title  
6 13 to read as follows:

7       "Section 402. Civil Penalties.  
8       Any person who makes or receives any contribution in  
9       violation of section 401 of this title shall be subject to a  
10       civil penalty not to exceed \$10,000 per violation."

11       Section 18. 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: 7/11/07

Introduced by: /s/ Isaac V. Figir  
Isaac V. Figir

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