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:

Section 1. The Code of the Federated States of Micronesia is hereby amended by enacting a new title 13 thereof to be entitled “Public Officials--Campaigns and Financial Disclosures”.

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

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

"Section 101. Definitions.

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

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

(2) 'Business' shall include every occupation, profession, sole proprietorship, partnership, corporation, association and other for-profit undertaking that engages in business or commerce within the Federated States of
(3) 'Candidate' shall mean any person who seeks election or nomination for election to the Congress of the Federated States of Micronesia. A person seeks nomination or election when he or she first

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

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

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

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

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

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

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

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

(c) Ordinary home hospitality;

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

(e) Any sign or poster displayed on a person’s own property.

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

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

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

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

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

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

Section 4. The Code of the Federated States of Micronesia is
hereby further amended by enacting a new section 102 of chapter 1 of title 13 to read as follows:

"Section 102. Rules.
The Director shall issue such rules, not inconsistent with the provisions of this title, as are necessary and appropriate to accomplish the purposes of this title."

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

"Section 103. Enforcement.
The Director shall have the authority to issue orders requiring compliance with the provisions of this title and to seek, in the National Courts, temporary and permanent restraining orders against any person who is in violation of this title.

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

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


(1) Every public official shall after January 1 and before April 15 of each year file with the Director a
statement of financial affairs for the preceding calendar year.

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

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

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

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

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


(1) The statement of financial affairs required by section 201 of this title shall disclose, for the reporting person and each member of his or her immediate family, the following:
(a) The occupation, name of employer and business address;

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

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

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

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

(f) The name of every business in which the reporting person or persons, during the reporting period,
held any office or directorship, or an ownership interest of
ten percent or more, and, with respect to each such
business,

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

(ii) if during the reporting period such
business received compensation in any form having a value
exceeding, in the aggregate, $1,000 in return for providing
goods or services as a subcontractor, lessor or vendor to
any other person in connection with that other person’s
performance of any contracts with the National Government or
any branch, department or agency thereof, the name of the
person from which the compensation was received, the amount
of the compensation, an identification of the contract with
respect to which such goods and services were provided, and
a description of the goods and services provided in return
for the compensation;

provided that it is not required that such information be
reported with respect to any corporation of which the
reporting person or a member of his immediate family is an
officer or director by virtue of appointment by the
President of the Federated States of Micronesia or the
governor or any state thereof.

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

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

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

“Section 203. Civil and Criminal Penalties.

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

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

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

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

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

“Section 301. Candidate’s Committees.

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

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

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

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

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

“Section 302. Receipt and Use of Contributions.

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

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

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

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

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

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

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

“Section 303. Campaign Record Keeping and Finance
Reporting.

(1) The candidate shall maintain books of account
accurately reflecting all contributions received and
expenditures made from contributed funds. Both monetary and
non-monetary contributions shall be recorded. Each
collection shall be separately recorded including the date
of the contribution, the identity of the contributor, the
nature of the contribution and either the amount of the
contribution in the case of a cash contribution, or an
estimate of the fair market value of the contribution in the
case of a non-monetary contribution. The books of account
shall also include a record of the aggregate value of
contributions made by each contributor. Each expenditure
shall be separately recorded including the date of the
expenditure, the nature of the expenditure and the identity
of the person to whom the expenditure was made. All
contributions and expenditures shall be recorded in the
books of account within five business days of occurrence
except that, all contributions and expenditures within the
last ten days before the date of the election shall be recorded within one business day of occurrence.

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

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

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

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

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

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

(a) The balance of funds on hand at the beginning
(b) The name and address of each person who has made one or more contributions during the period;

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

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

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

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

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

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

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

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

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

“Section 304. Civil and Criminal Penalties.

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

(2) Any person who acts in violation of section 302 of this title shall be subject to a civil penalty in an amount not to exceed $5,000 per violation.
(3) Any person who fails to maintain books of account as required by section 303 hereof shall be subject to a civil penalty in an amount not to exceed $20,000.

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

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

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

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

Section 16. The Code of the Federated States of Micronesia is
hereby amended by enacting a new section 401 of chapter 4 of title 13 to read as follows:

“Section 401. Contribution Limits.

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

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

(2) For the purposes of this section, contributions by
all members of a person’s immediate family shall be
attributed both to that person and to each member of the
immediate family.”

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

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

Section 18. 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: 7/11/07 Introduced by: /s/ Isaac V. Figir
Isaac V. Figir