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:

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

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

"Section 901. Definitions.

For the purposes of this chapter, 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 Micronesia.

(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.”

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

“Section 902.Statement of financial affairs.

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

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

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


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

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

   (b) Each bank or credit union in which a candidate 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 a candidate, during the reporting period, held any office or directorship, or an ownership interest of ten percent or more.

(g) The candidate’s assets and the liabilities during the reporting period.

(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'."

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

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

Section 6. The Code of the Federated States of Micronesia is
hereby amended by enacting a new chapter 10 of title 9 to been
titled: “Campaign Contributions.”

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

“Section 1001. Definition. As used in this chapter:

(1) The term "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
Section 8. The Code of the Federated States of Micronesia is hereby amended by enacting a new section 1002 of chapter 10 of title 9 to read as follows:

"Section 1002. 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 9. The Code of the Federated States of Micronesia is hereby amended by enacting a new section 1003 of chapter 10 of title 9 to read as follows:

“Section 1003. 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 10. The Code of the Federated States of Micronesia is hereby amended by enacting a new section 1004 of chapter 10 of title 9 to read as follows:

“Section 1004. 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 contribution 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 of the period covered by the report;

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

“Section 1005. 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.

(2) 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.”

Section 12. Effective Date. 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: 12/4/09

Introduced by: /s/ Joe N. Suka

Joe N. Suka
(by request)