

A BILL FOR AN ACT

To further amend ~~T~~title 21 of the Code of the Federated States of Micronesia, as amended, by enacting a new ~~C~~chapter 3 to establish the National Government's regulatory power over Telecommunication Operation in the Federated States of Micronesia, and by enacting new ~~S~~sections 232, 233 and 234 and by amending ~~S~~section 203 of ~~C~~chapter 2 thereof to ensure the transparency, financial accountability and reporting, and fair procurement practices of the Federated States of Micronesia Telecommunications Corporation, and for other purposes.

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

1 Section 1. Section 21 of the Code of the Federated States of  
2 Micronesia, as amended, is hereby further amended by enacting a  
3 new ~~C~~chapter 3 to establish the national government's powers and  
4 responsibilities over the telecommunication operation.

5 Section 2. Title 21 of the Code of the Federated States of  
6 Micronesia, as amended, is hereby further amended by enacting a  
7 new ~~S~~section 301 to read as follows:

8 "Section 301. Purpose. This Chapter is to ensure that  
9 telecommunication services in the Federated States of  
10 Micronesia are provided in an effective, efficient,  
11 transparent, and financially accountable manner. The  
12 Act requires the FSM Telecommunication Corporation ("the  
13 Corporation") to operate on the principles of  
14 transparency in its business operations, procurement,  
15 and reporting; and requires the Corporation to provide  
16 information on a timely basis as may be required by the  
17 National Government of the Federated States of  
18 Micronesia. The Act further requires the Corporation to

1 establish an open and competitive procurement process  
2 for the procurement of goods and services to ensure that  
3 customers pay the best price for goods and services;  
4 and, requires the Corporation to submit copies of the  
5 request for proposals, bidder responses, and other  
6 information to the National Government Department of  
7 Transportation, Communications and Infrastructure ("the  
8 Department"). The Act also requires the Department to  
9 review the service plans, rates, business relations,  
10 response to customer trouble calls, and establish  
11 standards for the reporting of telecommunications  
12 income, expenses, assets, and service levels; and to  
13 provide for a means by which customer complaints  
14 regarding pricing and quality of services may be  
15 reviewed. The Department is empowered to issue subpoenas  
16 and assess penalties for non compliance. The Department  
17 is directed to prepare an annual report that will be  
18 submitted to the President of the Federated States of  
19 Micronesia and Congress of the Federated States of  
20 Micronesia on the state of telecommunication services  
21 and ICT in the Federated States of Micronesia."

22 Section 3. Title 21 of the Code of the Federated States of  
23 Micronesia, as amended, is hereby further amended by enacting a  
24 new Section 302 to read as follows:

25 —"Section 302. Review of Telecommunication Services,

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1 Plans

2 and Operations. The National Government Department of  
3 Transportation, Communication, and Infrastructure shall  
4 have the power to review and approve the services,  
5 plans and operations of the Corporation to ensure that  
6 the services are provided in an effective, efficient,  
7 equitable and responsible manner. The Department shall  
8 have the power and authority to review the nature of  
9 consumer complaints, including how complaints are  
10 registered and responded to; the rates and fares charged  
11 by the Corporation, including the rationale and formulas  
12 used for the rate calculations; the impacts on different  
13 classes and location of consumers, including public  
14 services functions such as education, health, emergency  
15 preparedness and response; the technology  
16 infrastructure; the efficiency and effectiveness of the  
17 operations of the services; details of the financial  
18 statement; the value of its physical property; the  
19 amount and disposition of its income and all its  
20 financial transactions; its business relations with  
21 other persons, companies or corporations; and its  
22 compliance with all applicable laws."

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23 Section 4. Title 21 of the Code of the Federate States of  
24 Micronesia, as amended, is hereby further amended by enacting a  
25 new Section 303 to read as follows:

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1        ~~—~~"Section 303. Reporting and Information. The National  
2        Government Department of Transportation, Communication,  
3        and Infrastructure shall have the power to require the  
4        Corporation to maintain records and provide  
5        documentation relating to the plans, operations,  
6        business, procurements, and other business and finance  
7        transactions. The Department shall have the authority  
8        to compel the Corporation to produce information on a  
9        timely basis for its review. The Department requests  
10       the issuance of a subpoena duces tecum to achieve the  
11       purpose of this section; and the issuance of subpoenas  
12       shall be issued in accordance with established rules and  
13       procedures in the Federated States of Micronesia which  
14       address the process for issuance of a subpoena duces  
15       tecum of documents and witnesses and shall establish  
16       penalties for non compliance."

17       Section 5. Title 21 of the Code of the Federated States of  
18       Micronesia, as amended, is hereby further amended by enacting a  
19       new Section 304 to read as follows:

20       ~~—~~"Section 304. Annual Report on Telecommunications, ~~and~~  
21       Information and Communication Technology (ICT). The  
22       National Government Department of Transportation,  
23       Communication, and Infrastructure is directed to submit  
24       an annual report on the progress of telecommunications  
25       and ICT. The report shall be submitted to the President

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1 of the Federated States of Micronesia and Congress of  
2 the Federated States of Micronesia on November 30<sup>th</sup> of  
3 each year. The report shall provide a summary of the  
4 extent of services by customer class and coverage,  
5 customer complaints and resolution of problems, the  
6 finances, and other subjects identified in Sections 250  
7 and 251. The annual report shall also provide an  
8 ongoing assessment of the use of ICT in education,  
9 health, and government.”

10 Section 6. Title 21 of the Code of the Federated States of  
11 Micronesia, as amended, is hereby further amended by enacting a  
12 new Section 307 to read as follows:

13 “Section 307. Regulations. The Secretary of the  
14 National Government Department of Transportation,  
15 Communications and Infrastructure may, from time to  
16 time, promulgate such regulations as are reasonably  
17 necessary to implement the provisions of this chapter.”

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18 Section 7. Section 203 of Title 21 of the Code of the  
19 Federated States of Micronesia is hereby amended to read as  
20 follows:

21 “Section 203. Powers and Responsibilities of the  
22 Corporation. Subject to the provisions of Chapter 3,  
23 (t)he Corporation has the following powers and  
24 responsibilities: -responsibilities:  
25 Section 3. This act shall become law upon approval by

~~the President of the Federated States of Micronesia or upon its becoming law without such approval. \_\_\_\_\_ (1) to operate as the sole~~

~~Micronesia and between points in the Federated States of Micronesia and points outside thereof;~~

~~(2) to operate and manage such services on the basis of commercially accepted practices, treating all users of telecommunications services on equitable terms in accordance with its published tariffs, and requiring all users to pay for the services provided;~~

~~(3) to plan for the expansion and improvement of telecommunications facilities and services;~~

~~(4) to the extent practicable, to expand telecommunications services to areas and communities in the Federated States of Micronesia that are presently un-served or poorly served and to improve the quality, reliability and variety of services available to all users in a manner consistent with commercial reasonableness and with promoting economic development, the advancement of education and health care, and the preservation of the cultural identity of the people of the Federated States of Micronesia;~~

~~(5) to improve the telecommunications skills and promote the telecommunications training of-of Micronesian citizens who are employees of the Corporation;~~

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1       (6) to establish, publish, and implement a structure  
2       of tariffs and rates for telecommunications services  
3       calculated to ensure that, to the extent practicable,  
4       adequate and equitable charges are imposed for services  
5       and that the tariff structure promotes the increased use  
6       of telecommunications services;

7       (7) to invest all surplus revenues of the Corporation  
8       in the expansion and improvement of telecommunications  
9       facilities and services;

10       (8) to incur indebtedness for the purpose of expanding  
11       and improving telecommunications facilities, to the  
12       extent and on such terms as are deemed commercially  
13       reasonable by the Corporation;

14       (9) to provide on a reimbursable basis emergency  
15       telecommunications services to governments, individuals,  
16       and entities in the Federated States of Micronesia; and

17       (10) to represent the Federated States of Micronesia  
18       with regard to telecommunications matters in such  
19       international organizations and fora ~~and for a~~ in which  
20       the Federated States of Micronesia is represented,  
21       subject to the policy guidance of the Government of the  
22       Federated States of Micronesia.

23       Section 8. Title 21 of the Code of the Federated States of  
24       Micronesia, as amended, is hereby further amended by enacting a  
25       new Section 232 to read as follows:

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1 "Section 232. Transparency, Reporting, and Information.  
2 The Corporation shall operate on the principles of  
3 transparency as a public corporation. The Corporation  
4 shall operate on a policy of disclosure and  
5 transparency, and maintain and provide records and  
6 documentation of the Corporation's activities. The  
7 Corporation shall comply with orders for the production  
8 of information, unless there is clear, compelling, and  
9 well-documented justification submitted to the  
10 Department in writing for not disclosing information.  
11 Such documentation shall be submitted to the Department  
12 for a determination on whether such information should  
13 be confidential and to become a matter of record. The  
14 Corporation shall further maintain and the provide  
15 access to records that includes, but ~~is~~ not limited  
16 to, customer complaints; trouble calls, and response;  
17 studies; rate and consumer information and ~~and~~ rate  
18 projections; procurements; board agenda; documents  
19 provided by management, and minutes that document major  
20 decisions; and other matters as may be required by law  
21 and good business practice."

22 Section 9. Title 21 of the Code of the Federated States of  
23 Micronesia, as amended, is hereby further amended by enacting a  
24 new Section 233 to read as follows:

25 "Section 233. Procurement. The Corporation shall

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1 establish good business rules and practices for when a  
2 sole-source, request for proposal (RFP), or invitation  
3 to bid (IFB) is appropriate. Should the corporation  
4 determine that a sole--source is justified, a copy of  
5 the justification and contract shall be submitted to the  
6 Department of Transportation, Communication, and  
7 Infrastructure (hereinafter the "Department"). The  
8 Corporation shall establish an open and competitive  
9 bidding process that provides for purchases of goods and  
10 services that exceeds \$20,000 from any supplier in the  
11 fiscal year and shall provide full and complete copies  
12 of the RFP of competitive bid to the Department at the  
13 time of issuance. The Corporation shall also submit a  
14 copy of issuance. The Corporation shall also submit a  
15 copy of procurement documentation, including a copy of  
16 all proposals and a copy of the awarded contract or  
17 purchase order at the time of execution. The  
18 Corporation shall provide a Notice to the Public for  
19 such procurements and an annual listing of all  
20 procurements of goods or services that exceed \$10,000 to  
21 the Department."

22 Section 10. Chapter 2 of Title 21 of the Code of the  
23 Federated States of Micronesia, as amended, is hereby further  
24 amended by enacting a new Section 234 to read as follows:

25 "Section 234. Application. This Chapter shall not

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1 apply to the telecommunication of foreign governments,  
2 nor shall it apply to the FSM Government, State  
3 government, or any political subdivision."

4 Section 11. This Act shall become law upon approval by the  
5 President of the Federated States of Micronesia or upon becoming  
6 law without such approval.

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10 (2)  
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16 Date: 5/12/09 Introduced by: \_\_\_\_\_: /s/ Joe N. Suka

17 Joe N. Suka  
18 (by request)  
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