

A BILL FOR AN ACT

To further amend title 52 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 5-21, 6-114, 7-16, 7-90, 7-121, 8-53, and 8-133, by adding new chapters 5, 6, 7, and 8, and to further amend title 55 of the Code of the Federated States of Micronesia, by further amending section 215, as amended by Public Law No. 9-174, for the purpose of establishing ethical standards, including financial disclosure requirements and enforcement mechanisms, for certain high officials of the Federated States of Micronesia, and for other purposes.

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

1 Section 1. This act shall be known and may be cited as
2 "The Federated States of Micronesia Ethics in National
3 Government Act of 1997."

4 Section 2. Title 52 of the Code of the Federated States of
5 Micronesia is hereby further amended by enacting a new chapter 5
6 entitled "Office of National Government Ethics".

7 Section 3. Title 52 of the Code of the Federated States of
8 Micronesia is hereby amended by enacting a new section 501 of the
9 new chapter 5 to read as follows:

10 "Section 501. Establishment, composition, and duties
11 of Office of National Government Ethics.

12 (1) The Office of National Government Ethics is
13 hereby established.

14 (2) The Director of the Office of National
15 Government Ethics (hereinafter 'the Director' shall be
16 the head of the Office of National Government Ethics
17 and shall be appointed by the Justices of the Supreme
18 Court of the Federated States of Micronesia. The term
19 of service of the Director shall be five years. A
20 Director may not serve more than one term.

21 (3) The Director shall be independent of
22 administrative control except that he shall report at
23 least once each year to the Justices of the Supreme
24 Court of the Federated States of Micronesia. The
25 Director may be removed for cause by a 2/3 vote of the

Justices of the Supreme Court of the Federated States of Micronesia. If that occurs, or if the Director resigns or dies during his term of office, the Chief Justice of the Supreme Court of the Federated States of Micronesia shall appoint an Acting Director until a successor is confirmed.

(4) To the extent that appropriations are available for the Office of National Government Ethics, the Director may:

(a) appoint officers and employees of the Office of National Government Ethics, and

(b) contract for financial and administrative services for the Office of National Government Ethics.

(5) The responsibilities of the Director shall include:

(a) promulgating, in consultation with the Attorney General, any rule or regulation that would promote effective implementation of statutory provisions regarding financial disclosure and ethical standards described in chapters 6, 7 and/or 8 of title 52 of the Code of the Federated States of Micronesia, and interpreting the application of any such rule or regulation;

- 1 (i) in promulgating and interpreting
2 any such rule or regulation, the Director
3 may also consult with individuals to whom
4 the rule or regulation may apply, if the
5 Director determines that such consultation
6 would promote the efficient and fair
7 application of the ethical standards
8 described in chapters 6, 7 and/or 8 of
9 title 52 of the Code of the Federated
10 States of Micronesia;
11 (b) monitoring and investigating
12 compliance with the standards described in
13 chapters 6, 7, and/or 8 of title 52 of the Code
14 of the Federated States of Micronesia;
15 (c) conducting reviews of financial
16 statements and other investigations regarding
17 compliance with chapters 6, 7, and/or 8 of title
18 52 of the Code of the Federated States of
19 Micronesia;
20 (d) taking action in accordance with
21 chapter 8 of this title when the Director has
22 reason to believe that an individual may have
23 violated the standards set in chapters 6, 7,
24 and/or 8 of this title;
25 (e) delivering notices to individuals who

1 have failed to file timely reports. Such
2 notices:

3 (i) shall inform the individual that a
4 \$200 penalty has been assessed against him
5 in accordance with section 801(a) of this
6 title and that additional penalties may be
7 assessed for continuing failure to file;

8 (b) shall be delivered to the individual
9 personally by the Director or his designee,
10 provided that:

11 (i) if the individual refuses to
12 accept delivery of the notice or cannot be
13 found through reasonable diligence, the
14 Director or his designee may deliver the
15 notice to the office of the National
16 Government in which the individual is
17 employed or, if the individual is no longer
18 employed by the National Government, to any
19 place where he resides;

20 (f) evaluating the effectiveness of
21 chapters 5, 6, 7, and 8 of title 52 of the Code
22 of the Federated States of Micronesia and
23 recommending any appropriate amendments;

24 (g) cooperating with the Attorney General
25 in developing an effective system for reporting

1 allegations of violations of the laws pertaining
2 to National Governmental officials' ethics;
3 (h) providing information to National
4 Governmental officials to promote their
5 understanding of heir obligations under chapters
6 6, 7, and 8 of title 52 of the Code of the
7 Federated States of Micronesia."

8 Section 4. Title 52 of the Code of the Federated
9 States of Micronesia is hereby amended by enacting a new section
10 502 of the new chapter 5 to read as follows:

11 "Section 502. Administrative Provisions and
12 Subpoena Power.

13 (1) Upon the request of the Director, each
14 employee of the National Government is directed to:

15 (a) make its services, personnel, and
16 facilities available to the Director to the
17 greatest practicable extent for the performance
18 of functions under this Act; and

19 (b) except when prohibited by law, furnish
20 to the Director all information and records in
21 its possession which the Director may determine
22 to be necessary for the performance of his
23 duties.

24 (2) The Director may by subpoena summon
25 persons to appear at a reasonable time before him.

and administer oaths to such persons. He may
question such persons, under oath, regarding any
reasonable and relevant matters necessary for the
due execution of the duties vested in the Director
by this title.

(a) The Director may issue subpoenas
duces tecum within a reasonable time requiring
the production of books, records, documents,
or other relevant financial papers or objects
necessary for the performance of his duties.

(b) Any subpoena or subpoena duces tecum
issued under the authority of the Director
shall run in the name of the Federated States
of Micronesia and shall be addressed to the
chief or other officer of the Division of
Security and Investigation of the Office of
the Attorney General of the National
Government of the Federated States of
Micronesia. The subpoena or subpoena duces
tecum shall be signed by the Director or his
designee and shall identify the witness to be
served or the books, records, documents, or
other relevant financial papers or objects to
be produced together with a reference to any
account subject to inspection and audit.

1 (c) Any officer to whom such subpoena or
2 subpoena duces tecum is directed shall
3 forthwith serve or execute the same upon
4 delivery thereof to him.

5 (d) Any person who willfully fails or
6 refuses to appear upon receiving service of a
7 subpoena, or who willfully fails or refuses to
8 produce any books, records, documents, or
9 other relevant financial papers or objects
10 designated in a subpoena duces tecum properly
11 issued by the Director, upon conviction
12 thereof, shall be fined not more than \$1,000,
13 or imprisoned for no more than one year, or
14 both."

15 Section 5. Title 52 of the Code of the Federated States
16 of Micronesia is hereby amended by enacting a new section
17 503 of the new chapter 5 to read as follows:

18 "Section 503. Salary. The Director shall
19 receive an annual salary of \$26,000. Such salary shall
20 not be reduced or increased during his term of office.
21 In the event of the removal of the Director or of a
22 vacancy in the office, the successor shall be entitled
23 to the salary attendant to the office as of the date of
24 succession."

25 Section 6. Title 52 of the Code of the Federated

1 States of Micronesia is hereby amended by enacting a new section
2 504 of the new chapter 5 to read as follows:

3 "Section 504. Benefits. At the time he is
4 confirmed, the Director shall be entitled to all
5 benefits, other than those covered by chapter 3 of
6 title 52 of this Code, as are available to all
7 regular Government prime contract employees under
8 the same terms and conditions that apply to members
9 of the National Public Service System."

10 Section 8. Section 217 of title 55 of the Code of the
11 Federated States of Micronesia, as renumbered by Public Law No.
12 9-074, is hereby further amended to read as follows:

13 "Section 217. Allotment of funds -- Allottees.

14 (1) Unless otherwise specifically required by
15 law, funds shall be allotted as follows:

16 (a) The President of the Federated States
17 of Micronesia, or his designee(s), shall be the
18 allottee of all funds appropriated for the
19 operations or activities of the executive branch
20 of the Federated States of Micronesia
21 Government.

22 (b) The Speaker of the Congress of the
23 Federated States of Micronesia, or his
24 designee(s), shall be the allottee of all funds
25 appropriated for the operations or activities of

1 the Congress.

2 (c) The Chief Justice of the Supreme Court
3 of the Federated States of Micronesia, or his
4 designee(s), shall be the allottee of all funds
5 appropriated for the operations or activities of
6 the judicial branch of the Federated States of
7 Micronesia Government.

8 (d) The Public Auditor shall be the
9 allottee of all funds appropriated to the Public
10 Auditor.

11 (e) The Director of the Office of National
12 Government Ethics shall be the allottee of all
13 funds appropriated to the Office of National
14 Government Ethics.

15 (56) The Governor of a State, or his
16 designee(s), shall be the allottee of all funds
17 appropriated to the State.

18 (67) The President of the Federated States
19 of Micronesia, or his designee(s), shall be the
20 allottee of any funds appropriated for any
21 activity, entity, or person not included within
22 the provisions of paragraphs (1) through (56) of
23 this subsection.

24 (B) Unless specifically prohibited by law, whenever
25 the President of the Federated States of Micronesia, the

1 Speaker of the Congress of the Federated States of
2 Micronesia, the Chief Justice of the Supreme Court of the
3 Federated States of Micronesia or the Governor of a State
4 is named as the allottee, such official may designate as
5 the allottee another officer who is subject to his
6 supervision and control."

7 Section 9. Section 224C of title 55 of the Code of the
8 Federated States of Micronesia is hereby amended to read as
9 follows:

10 "Section 224C. Purchases of supplies and personal
11 property involving less than \$1,000.

12 For any purchase of supplies and personal property
13 involving less than \$1,000, including the cost of
14 shipping, the Secretary of Finance or his designee
15 shall approve such purchase upon certification of the
16 availability of funds for such purchase and upon
17 satisfaction of the requirements under section 218 of
18 this chapter pertaining to documentary evidence;
19 PROVIDED, however, that the head officer of each
20 branch of the National Government shall have the
21 authority to prescribe a more restrictive rule which
22 shall be binding upon that branch with the full force
23 and effect of the law. For purposes of this section,
24 the Office of the Public Auditor and the Office of
25 National Government Ethics shall be considered a

1 separate branches of the National Government. For
2 purposes of this section, the agencies, boards,
3 authorities, commissions and corporations of the
4 National Government shall be considered part of the
5 executive branch."

6 Section 10. Title 52 of the Code of the Federated States
7 of Micronesia is hereby amended by enacting a new chapter 6
8 entitled "Financial Disclosure Requirements".

9 Section 11. Title 52 of the Code of the Federated States
10 of Micronesia is hereby amended by enacting a new section 601 of
11 the new chapter 6 to read as follows:

12 "Section 601. Persons required to file Financial
13 Disclosure Reports.

14 (1) Within twenty days of the transmittal by the
15 President to Congress of the nomination of an
16 individual to a position, appointment to which requires
17 the advice and consent of Congress, such individual
18 shall file a report containing the information
19 described in section 602(a). Such individual shall,
20 not later than the date of the first hearing to
21 consider the nomination of such individual, make
22 current the report filed pursuant to this paragraph by
23 filing a supplemental report containing the information
24 required by section 602(a) with respect to all changes
25 that have occurred between the end of the previous

1 calendar year and five days before the date of such
2 hearing. Nothing in this Act shall prevent Congress or
3 any Congressional committee from requesting, as a
4 condition of confirmation, any additional financial
5 information from any Presidential nominee.
6 (2) Within thirty days of nomination as a candidate
7 for Congress, as defined in section 202 of title 9 of
8 the Code of the Federated States of Micronesia, an
9 individual shall file a report containing the
10 information described in section 602(a) of this title
11 and information that makes the report current as of the
12 date that his nomination as a candidate for Congress
13 was filed.
14 (3) Any individual who is an officer or employee
15 described in subsection (e) during any calendar year
16 and performs the duties and positions of his office for
17 a period in excess of sixty days in that calendar year
18 shall file on or before May 15 of the succeeding year a
19 report containing the information described in section
20 602(a).
21 (4) Any individual who occupies a position described
22 in subsection (e) shall, on or before the sixtieth day
23 after termination of employment in such position, file
24 a report containing the information described in
25 section 602(a) covering the preceding calendar year in

1 which such termination occurs up to the date the
2 individual left such office or position, unless such
3 individual has accepted employment in another position
4 described in subsection (e).

5 (5) The officers and employees referred to in
6 subsections (c) and (d) are:

7 (a) The President of the Federated States of
8 Micronesia;

9 (b) The Vice President of the Federated States of
10 Micronesia;

11 (c) Members of the Congress of the Federated
12 States of Micronesia;

13 (d) Any individual who occupies a position
14 appointment to which requires the advice and
15 consent of Congress.

16 (6) Reasonable extensions of time for filing any
17 report may be granted under procedures prescribed by
18 the Director of the Office of National Government
19 Ethics, but the total of such extensions shall not
20 exceed ninety days.

21 (7) The Director of the Office of National Government
22 Ethics may grant a waiver of the requirement to file
23 the report containing the information described in
24 section 602(a) to an individual who is not reasonably
25 expected to perform the duties of his office or

1 position for more than sixty days in a calendar year,
2 except that if such an individual performs the duties
3 of his office or position for more than sixty days in a
4 calendar year, such a report shall be filed within
5 thirty days of the sixtieth day."

6 Section 9. Title 52 of the Code of the Federated States of
7 Micronesia is hereby amended by enacting a new section 602 of the
8 new chapter 6 to read as follows:

9 "Section 602. Contents of reports.

10 (1) Each report filed shall contain the officer's or
11 employee's liabilities, investments, interests in real
12 property, transactions, positions, agreements, and
13 income, including gifts, existing during the preceding
14 calendar year, in accordance with the guidelines set
15 forth below.

16 (a) An officer's or employee's statement
17 regarding income or investments shall include the
18 name and address of each source of income or each
19 source of an investment aggregating two hundred
20 and fifty dollars or more in value, and a general
21 description of the business activity, if any, of
22 each source.

23 (b) An officer's or employee's statement
24 regarding each source of income or investment
25 shall include whether the income or investment has

1 a value of at least two hundred and fifty dollars
2 but does not exceed one thousand dollars, whether
3 it is in excess of one thousand dollars but does
4 not exceed ten thousand dollars, or whether it
5 exceeds ten thousand dollars.

6 (c) An officer's or employee's statement
7 regarding each source of income shall include a
8 description of the consideration, if any, for
9 which the income was received, the identity of
10 each source of income, and a brief statement of
11 the nature of the services rendered, in any, by
12 the reporting individual for each source of
13 income. Notwithstanding the requirements of this
14 paragraph, no individual shall be required to
15 include in the report any information which is
16 considered confidential as a result of a
17 privileged relationship, established by law,
18 between such individual and another person.

19 (d) An officer's or employee's statement
20 regarding each interest in real property shall
21 contain the legal description of the real property
22 that is required by the registration or recording
23 laws of the jurisdiction where the real property
24 is located. If such a legal description is not in
25 English, the officer or employee shall provide a

1 translation of the legal description into English.
2 If a legal description as required by registration
3 or recording laws is not reasonably available,
4 then the statement must contain a description that
5 contains, at a minimum, the political subdivisions
6 within which the property is located, its
7 approximate size, and its approximate value.
8 (e) An officer's or employee's statement
9 regarding liabilities shall include the identity
10 and category of value of the total liabilities
11 owed to any creditor (other than a spouse, parent,
12 child, brother, or sister of the reporting
13 individual or the reporting individual's spouse),
14 if the liability exceeds five thousand dollars at
15 any time during the preceding calendar year,
16 excluding:
17 (i) any mortgage secured by real property
18 which is a personal residence of the reporting
19 individual or his spouse, as long as the total
20 amount of all loans secured by that property
21 does not exceed the value of the property that
22 secures the loan or loans;
23 (ii) any loan secured by the reporting
24 individual's personal motor vehicle, household
25 furniture, or appliances, as long as the loan

1 does not exceed the value of the item or items
2 which secure it; and
3 (iii) any revolving charge card debt which
4 does not exceed ten thousand dollars during
5 the period of time covered by the report.
6 (f) Except as provided in this paragraph, an
7 officer's or employee's statement must include a
8 brief description, the date, and the category of
9 value of any purchase, sale, or exchange of real
10 property in any amount (other than real property
11 used solely as the personal residence of the
12 reporting individual or his spouse) or of any
13 form of security that exceeds one thousand
14 dollars.
15 (g) An officer's or employee's statement must
16 include all the positions he held on or before
17 the date of filing during the current calendar
18 year (and, for the first report filed by an
19 individual, during the two-year period preceding
20 such calendar year) as an officer, director,
21 trustee, partner, proprietor, representative,
22 consultant, or employee of any corporation (or
23 any other form of business enterprise), of any
24 nonprofit organization, of any educational
25 institution, or of any other institution other

1 than the National Government.

2 (h) An officer's or employee's statement must
3 include a description of the date, parties to,
4 and terms of any agreement or arrangement with
5 respect to the officer's or employee's future
6 employment, a leave of absence during the period
7 of the reporting individual's National Government
8 service, a continuation of payments by a former
9 employer other than the National Government, and
10 any continuing participation by the reporting
11 individual in any benefit plan maintained by a
12 former employer other than the National
13 Government.

14 (i) All Financial Disclosure Reports must be
15 signed by the reporting individual and must be
16 filed in the Office of National Government
17 Ethics. All such reports shall be public records
18 available for inspection at reasonable times in
19 the Office of National Government Ethics. Any
20 member of the public may obtain a copy or copies
21 of any such report by reimbursing the Office of
22 National Government Ethics for the fair cost of
23 reproduction."

24 Section 10. Title 52 of the Code of the Federated States
25 of Micronesia is hereby amended by enacting a new chapter 7

1 entitled "Ethical Standards and Conflict of Interest Provisions
2 for High National Government Officials."

3 Section 11. Title 52 of the Code of the Federated States
4 of Micronesia is hereby amended by enacting a new section 701 of
5 the new chapter 7 to read as follows:

6 "Section 701. Use of Office or Employees of Public
7 Office.

8 (1) An official described in section 601(e) of
9 this title shall not use or attempt to use his office,
10 staff, or employees to conduct his private business or
11 activities for his private financial gain.

12 (2) An official described in section 601(e) of
13 this title shall not acquire financial interests in
14 any business which he has reason to believe may be
15 directly involved in official action to be taken by
16 him; provided that if the only pecuniary interest or
17 potential benefit that may reasonably be anticipated
18 to accrue to the official would accrue to him as a
19 member of a large profession, broad-based occupation,
20 or large class, to no greater extent than the
21 pecuniary interest or potential benefit could
22 reasonably be expected to accrue to all other members
23 of the large profession, broad-based occupation, or
24 large class.

25 (3) An official described in section 601(e) of

1 this title shall not assist any person or business or
2 act in a representative capacity before any unit of
3 the National Government for compensation in addition
4 to the compensation that he receives from the National
5 Government.

6 (4) An official described in section 601(e) of
7 this title shall not disclose or use confidential
8 information acquired through his public office for his
9 own private financial gain or for the private
10 financial gain of another person or entity."

11 Section 12. Title 52 of the Code of the Federated States
12 of Micronesia is hereby amended by enacting a new section 702 of
13 the new chapter 7 to read as follows:
14 "Section 702. Restraints on Votes, Deliberations, and
15 Discussions.

16 (1) Subject to the provisions of section 702(b)
17 of this title, an official described in section 601(e)
18 of this title shall not participate in, vote on,
19 influence, or attempt to influence an official
20 decision if the public official has a private
21 pecuniary interest in or a potential private financial
22 benefit from the matter under consideration by the
23 governmental entity of which the official is a member;
24 provided that a public official may participate in,
25 vote on, or influence or attempt to influence an

1 official decision if the only pecuniary interest or
2 potential benefit that may accrue to the official
3 accrues to him as a member of a large profession,
4 broad-based occupation, or large class, to no greater
5 extent than the pecuniary interest or potential
6 benefit could reasonably be expected to accrue to all
7 other members of the large profession, broad-based
8 occupation, or large class.

9 (2) If a Member of the Congress of the
10 Federated States of Micronesia is disqualified from
11 voting under section 702(a), and if Congress cannot
12 obtain a quorum without the Member who is
13 disqualified, then he may vote provided that he
14 discloses on the record the reasons why he would
15 otherwise be disqualified from voting under section
16 702(a). If more than one Member of Congress is
17 disqualified under section 702(a) for a particular
18 vote, and if Congress cannot obtain a quorum without
19 their participation, then a sufficient number of
20 Members to constitute a quorum may be brought back to
21 vote through random selection, provided that they
22 comply with the disclosure requirements set forth in
23 this paragraph."

24 Section 13. Title 52 of the Code of the Federated States
25 of Micronesia is hereby amended by enacting a new section 703 of

1 the new chapter 7 to read as follows:

2 "Section 703. Negotiating for Employment
3 Outside of the National Government.

4 (1) A person who holds a position described in
5 section 601(e) of this title may not participate
6 through discussion, decision, approval, disapproval,
7 recommendation, the rendering of advice, or otherwise
8 in a proceeding, application, or request for any other
9 determination the outcome of which will have an effect
10 on the financial interests of an individual or entity
11 with whom the official is discussing, negotiating for,
12 or has an agreement for employment outside the
13 National Government."

14 Section 14. Title 52 of the Code of the Federated States
15 of Micronesia is hereby amended by enacting a new section 704 of
16 the new chapter 7 to read as follows:

17 "Section 704. Post-Employment Restrictions.

18 (1) No person who was formerly the President,
19 the Vice-President, a Member of Congress, or an
20 officer of the National Government whose position
21 required the advice and consent of Congress shall, for
22 a period of one year after his termination from such
23 position, assist or represent any person or entity in
24 any business transaction involving the National
25 Government, if the former official participated

1 substantially in the subject matter of the
2 transaction when he held such position."

3 Section 15. Title 52 of the Code of the Federated States
4 of Micronesia is hereby amended by adding a new chapter 8
5 entitled "Penalties for Violations of Financial Disclosure Laws,
6 Ethical Standards, and Conflict of Interest Provisions."

7 Section 16. Title 52 of the Code of the Federated States
8 of Micronesia is hereby amended by enacting a new section 801 of
9 the new chapter 8 to read as follows:

10 "Section 801. Penalties.

11 (1) An official who fails to file a timely
12 report required by chapter 6 of this title shall be
13 assessed a civil penalty of two hundred dollars, in
14 addition to any other penalty that may be imposed. If
15 the individual fails to pay the two hundred dollar
16 penalty and/or fails to file a report required by
17 chapter 6 of this title within 30 days after service
18 of a notice in accordance with section 501(e)(5) of
19 this title, then the Director shall refer the matter
20 to the Attorney General for appropriate action
21 under subsections (2) and (3) of this section.

22 (2) When the Director of the Office of National
23 Government Ethics determines that a violation of a
24 standard set forth in chapters 6, 7, or 8 of this
25 title has occurred, he may:

1 (a) order corrective action, such as
2 divestiture or recusal, which the Director
3 deems necessary, and/or

4 (b) recommend appropriate action by the
5 Attorney General pursuant to section 801(c) of
6 this title.

7 (3) Upon the recommendation of the Director of
8 the Office of National Government Ethics, or in the
9 exercise of his own discretion, the Attorney General
10 may bring a civil action in any appropriate National
11 court against any individual for a violation of any
12 provision of chapters 6, 7, or 8 of this title. If
13 the court in which such action is brought finds that
14 the individual knowingly violated any provision of
15 chapters 6, 7, or 8, the court may assess against such
16 individual a civil penalty of not less than one
17 thousand dollars nor more than ten thousand dollars,
18 plus a partial or full amount of the compensation, if
19 any, that the individual received for the prohibited
20 conduct.

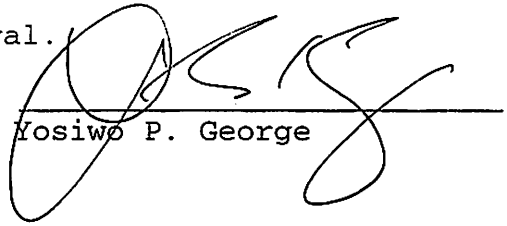
21 (4) Nothing in this title shall be construed as
22 precluding appropriate authorities from removing an
23 individual from his office due to a violation
24 of chapters 6, 7, or 8 of this title or from
25 prosecuting any individual for violation of any

1 criminal law."

2 Section 17. This act shall become law upon approval by the
3 President of the Federated States of Micronesia or upon
4 its.becoming law without such approval.

5 Date: 6/3/97

Introduced by:


Yosiwo P. George

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