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:

Section 1. This act shall be known and may be cited as

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

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


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

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

(3) The Director shall be independent of administrative control except that he shall report at least once each year to the Justices of the Supreme Court of the Federated States of Micronesia. The 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:
(i) in promulgating and interpreting any such rule or regulation, the Director may also consult with individuals to whom the rule or regulation may apply, if the Director determines that such consultation would promote the efficient and fair application of the ethical standards described in chapters 6, 7 and/or 8 of title 52 of the Code of the Federated States of Micronesia;

(b) monitoring and investigating compliance with the standards described in chapters 6, 7, and/or 8 of title 52 of the Code of the Federated States of Micronesia;

(c) conducting reviews of financial statements and other investigations regarding compliance with chapters 6, 7, and/or 8 of title 52 of the Code of the Federated States of Micronesia;

(d) taking action in accordance with chapter 8 of this title when the Director has reason to believe that an individual may have violated the standards set in chapters 6, 7, and/or 8 of this title;

(e) delivering notices to individuals who
have failed to file timely reports. Such notices:

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

(b) shall be delivered to the individual personally by the Director or his designee,

provided that:

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

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

(g) cooperating with the Attorney General in developing an effective system for reporting
allegations of violations of the laws pertaining
to National Governmental officials' ethics;

(h) providing information to National
Governmental officials to promote their
understanding of their obligations under chapters
6, 7, and 8 of title 52 of the Code of the
Federated States of Micronesia."

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

"Section 502. Administrative Provisions and
Subpoena Power.

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

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

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

(2) The Director may by subpoena summon
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.
(c) Any officer to whom such subpoena or subpoena duces tecum is directed shall forthwith serve or execute the same upon delivery thereof to him.

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

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

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

Section 6. Title 52 of the Code of the Federated
States of Micronesia is hereby amended by enacting a new section 504 of the new chapter 5 to read as follows:

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

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

"Section 217. Allotment of funds -- Allottees.

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

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

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

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

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

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

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

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

(B) Unless specifically prohibited by law, whenever the President of the Federated States of Micronesia, the
Speaker of the Congress of the Federated States of Micronesia, the Chief Justice of the Supreme Court of the Federated States of Micronesia or the Governor of a State is named as the allottee, such official may designate as the allottee another officer who is subject to his supervision and control."

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

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

For any purchase of supplies and personal property involving less than $1,000, including the cost of shipping, the Secretary of Finance or his designee shall approve such purchase upon certification of the availability of funds for such purchase and upon satisfaction of the requirements under section 218 of this chapter pertaining to documentary evidence; PROVIDED, however, that the head officer of each branch of the National Government shall have the authority to prescribe a more restrictive rule which shall be binding upon that branch with the full force and effect of the law. For purposes of this section, the Office of the Public Auditor and the Office of National Government Ethics shall be considered a
separate branches of the National Government. For purposes of this section, the agencies, boards, authorities, commissions and corporations of the National Government shall be considered part of the executive branch."

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

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

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

(1) Within twenty days of the transmittal by the President to Congress of the nomination of an individual to a position, appointment to which requires the advice and consent of Congress, such individual shall file a report containing the information described in section 602(a). Such individual shall, not later than the date of the first hearing to consider the nomination of such individual, make current the report filed pursuant to this paragraph by filing a supplemental report containing the information required by section 602(a) with respect to all changes that have occurred between the end of the previous
calendar year and five days before the date of such hearing. Nothing in this Act shall prevent Congress or any Congressional committee from requesting, as a condition of confirmation, any additional financial information from any Presidential nominee.

(2) Within thirty days of nomination as a candidate for Congress, as defined in section 202 of title 9 of the Code of the Federated States of Micronesia, an individual shall file a report containing the information described in section 602(a) of this title and information that makes the report current as of the date that his nomination as a candidate for Congress was filed.

(3) Any individual who is an officer or employee described in subsection (e) during any calendar year and performs the duties and positions of his office for a period in excess of sixty days in that calendar year shall file on or before May 15 of the succeeding year a report containing the information described in section 602(a).

(4) Any individual who occupies a position described in subsection (e) shall, on or before the sixtieth day after termination of employment in such position, file a report containing the information described in section 602(a) covering the preceding calendar year in
which such termination occurs up to the date the
individual left such office or position, unless such
individual has accepted employment in another position
described in subsection (e).

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

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

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

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

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

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

(7) The Director of the Office of National Government
Ethics may grant a waiver of the requirement to file
the report containing the information described in
section 602(a) to an individual who is not reasonably
expected to perform the duties of his office or
position for more than sixty days in a calendar year.
except that if such an individual performs the duties
of his office or position for more than sixty days in a
calendar year, such a report shall be filed within
thirty days of the sixtieth day."
Section 9. Title 52 of the Code of the Federated States of
Micronesia is hereby amended by enacting a new section 602 of the
new chapter 6 to read as follows:
"Section 602. Contents of reports.

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

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

(b) An officer's or employee's statement
regarding each source of income or investment
shall include whether the income or investment has
a value of at least two hundred and fifty dollars but does not exceed one thousand dollars, whether it is in excess of one thousand dollars but does not exceed ten thousand dollars, or whether it exceeds ten thousand dollars.

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

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

If a legal description as required by registration
or recording laws is not reasonably available,
then the statement must contain a description that
contains, at a minimum, the political subdivisions
within which the property is located, its
approximate size, and its approximate value.

(e) An officer's or employee's statement
regarding liabilities shall include the identity
and category of value of the total liabilities
owed to any creditor (other than a spouse, parent,
child, brother, or sister of the reporting
individual or the reporting individual's spouse),
if the liability exceeds five thousand dollars at
any time during the preceding calendar year,
excluding:

(i) any mortgage secured by real property
which is a personal residence of the reporting
individual or his spouse, as long as the total
amount of all loans secured by that property
does not exceed the value of the property that
secures the loan or loans;
(ii) any loan secured by the reporting
individual's personal motor vehicle, household
furniture, or appliances, as long as the loan

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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
than the National Government.

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

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

Section 10. Title 52 of the Code of the Federated States of Micronesia is hereby amended by enacting a new chapter 7
entitled "Ethical Standards and Conflict of Interest Provisions for High National Government Officials."

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

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

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

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

(3) An official described in section 601(e) of
this title shall not assist any person or business or
act in a representative capacity before any unit of
the National Government for compensation in addition
to the compensation that he receives from the National
Government.

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

Section 12. Title 52 of the Code of the Federated States
of Micronesia is hereby amended by enacting a new section 702 of
the new chapter 7 to read as follows:

"Section 702. Restraints on Votes, Deliberations, and
Discussions.

(1) Subject to the provisions of section 702(b)
of this title, an official described in section 601(e)
of this title shall not participate in, vote on,
influence, or attempt to influence an official
decision if the public official has a private
pecuniary interest in or a potential private financial
benefit from the matter under consideration by the
governmental entity of which the official is a member;
provided that a public official may participate in,
vote on, or influence or attempt to influence an
official decision if the only pecuniary interest or
potential benefit that may accrue to the official
accrues to him as a member of a large profession,
broad-based occupation, or large class, to no greater
extent than the pecuniary interest or potential
benefit could reasonably be expected to accrue to all
other members of the large profession, broad-based
occupation, or large class.

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

Section 13. Title 52 of the Code of the Federated States
of Micronesia is hereby amended by enacting a new section 703 of
the new chapter 7 to read as follows:

"Section 703. Negotiating for Employment

Outside of the National Government.

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

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

"Section 704. Post-Employment Restrictions.

(1) No person who was formerly the President,
the Vice-President, a Member of Congress, or an
officer of the National Government whose position
required the advice and consent of Congress shall, for
a period of one year after his termination from such
position, assist or represent any person or entity in
any business transaction involving the National
Government, if the former official participated
substantially in the subject matter of the
transaction when he held such position."

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

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

"Section 801. Penalties.

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

(2) When the Director of the Office of National
Government Ethics determines that a violation of a
standard set forth in chapters 6, 7, or 8 of this
title has occurred, he may:
(a) order corrective action, such as
divestiture or recusal, which the Director
deems necessary, and/or

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

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

(4) Nothing in this title shall be construed as
precluding appropriate authorities from removing an
individual from his office due to a violation
of chapters 6, 7, or 8 of this title or from
prosecuting any individual for violation of any
criminal law."

Section 17. 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: 6/3/97

Introduced by: Josimo P. George