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A BILL FOR AN ACT

To require certain National public officials to disclose and divest their financial interests; to create an ethics commission to administer this act; and for other purposes.

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

1 Section 1. Definitions.

2 (1) "Public official" means, for purposes of this act, an official
3 of the National Government who holds any of the following positions:

- 4 (a) President of the Federated States of Micronesia;
- 5 (b) Vice President of the Federated States of Micronesia;
- 6 (c) Member of the Congress of the Federated States of Micronesia;
- 7 (d) Secretary of a department;
- 8 (e) Attorney General;
- 9 (f) Chief Justice and Justice of the Supreme Court;
- 10 (g) Division chiefs;
- 11 (h) Heads of executive offices; and
- 12 (i) Legislative counsel of the Congress of the Federated States of
13 Micronesia;

14 (2) "Financial interest" means an interest held by an individual, his
15 spouse, or minor children which is:

- 16 (a) An ownership interest in a business;
- 17 (b) A creditor interest in an insolvent business;
- 18 (c) A loan or other debt or interest; and
- 19 (d) A directorship or officership in a business;

20 (3) "Business" means any corporation, partnership, sole proprietorship,
21 firm, enterprise, franchise, association, organization, self-employed individual,
22 holding company, joint stock company, receivership, trust, or any legal entity
23 through which business is conducted for profit;

24 (4) "Commission" means the National Government Ethics Commission.

25 Section 2. Financial disclosure.

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1 (1) Every public official shall within 30 days of the effective date
2 of this act, or within 30 days after commencement of his public office, file
3 with the Commission a statement of his financial interests for the preceding
4 calendar year.

5 (2) Every public official shall file a statement of financial
6 interests for the preceding calendar year with the Commission on or before
7 December 1 of each year that the public official holds such a position.

8 (3) A candidate for elective public office shall file a statement
9 of financial interests for the preceding calendar year with the Commission with-
10 in 10 days of filing his legal declaration of candidacy for election as a public
11 official; PROVIDED, that this subsection shall not apply to a person who has
12 filed a statement pursuant to subsection (2). A declaration of candidacy to
13 appear on the ballot shall not be considered legal unless a statement of financial
14 interests is timely filed in proper form. If proper form is not followed, the
15 name of the candidate shall not appear on the ballot.

16 (4) If the candidate files his legal declaration of candidacy or
17 petition to appear on the ballot for election prior to January 1 of the year in
18 which the election is held, the candidate shall also file a statement for the
19 year preceding the year in which the election is held.

20 (5) Each candidate for public office nominated by a public official
21 or governmental body and subject to confirmation by a public official or governmental
22 body shall file a statement of financial interests for the preceding calendar year
23 with the Commission and with the official or body that is vested with the power of
24 confirmation at least 10 days before the official or body shall approve or reject
25 the nomination.

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1 (6) No public employee shall be allowed to take the oath of office
2 or enter or continue upon his duties unless he has filed a statement of financial
3 interests with the Commission as required by this act. Any public official or
4 candidate for public office who fails to file or falsely files a statement is
5 guilty of a National offense and may be fined not more than \$1,000 or be
6 imprisoned for not more than one year, or both.

7 (7) The statement of financial interests shall be filed on a form
8 prescribed by the Commission and shall be signed under penalty of perjury by
9 the person required to file the statement.

10 (8) The statement shall include the following information for the
11 preceding calendar year with regard to the person required to file the statement
12 and the members of his immediate family:

13 (a) The names of all businesses with which he is associated;

14 (b) The category or type and amount of all sources of income in
15 excess of \$1,000. It shall be sufficient to report whether the amount is: less
16 than \$2,500; \$2,500-\$5,000; \$5,000-\$10,000; \$10,000-\$25,000; or more than \$25,000;

17 (c) The name and the amount of stock in excess of \$1,000 at fair
18 market value held in a business by the person; and

19 (d) The name, address, and type of security given of each creditor
20 to whom the value of \$5,000 or more was owed and still outstanding; PROVIDED, that
21 debts arising out of retail installment transactions need not be included.

22 Section 3. Financial divestiture.

23 (1) Every public official who has a financial interest within the
24 meaning of this act shall, within 60 days after the commencement of his public
25 office, or within 60 days of the effective date of this act, divest himself of that

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1 interest for the duration of his public office. Financial interests shall be
2 placed in "blind trust" or in any other system which will ensure that those
3 interests cannot be managed by the public official while in office. Any business
4 interest which involves the ownership and management of a business must be divested
5 in a manner that will ensure the separation of ownership and management from the
6 public official during his tenure in office. Divestiture shall be made subject to
7 the approval of the Commission. The Commission shall regulate procedures for the
8 proper divestiture of financial interests.

9 (2) Divestiture shall be a condition of continuing in public office.
10 With respect to Congress Members or public officials removable only by impeachment
11 who are serving at the time this act becomes law, the failure to divest shall be
12 deemed an offense justifying removal from office.

13 Section 4. National Government Ethics Commission.

14 (1) There is created a National Government Ethics Commission consisting
15 of five members and including public officials, public employees, and other citizens.
16 Appointments to the Commission shall be made by the President of the Federated
17 States of Micronesia with the advice and consent of Congress of the Federated
18 States of Micronesia. Any vacancy occurring on the Commission shall be filled within
19 30 days in the manner in which that position was originally filled.

20 (2) Members of the Commission shall serve for two year staggered terms.

21 (3) The Commission shall elect a chairman and vice chairman; in the
22 absence of the chairman or in the event of a vacancy in that position, the vice
23 chairman shall serve as chairman.

24 (4) The Commission shall have the authority to appoint an executive
25 director and such additional personnel as it requires to perform its duties. The

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1 executive director shall serve at the pleasure of the Commission.

2 (5) Any action by the Commission shall require the affirmative vote
3 of three of its members and four members shall constitute a quorum.

4 (6) The chairman or any four members of the Commission may call a meet-
5 ing provided that adequate advance notice of the meeting is given.

6 (7) Members of the Commission shall be compensated at a rate of \$30 per
7 Commission meeting attended and shall receive reimbursement for their actual and
8 necessary expenses.

9 Section 5. Duties of the Commission. The Commission shall:

10 (1) Prescribe and publish after notice and opportunity for public comment,
11 rules and regulations to carry out the provisions of this act.

12 (2) Prescribe forms for statements required by this act, and furnish such
13 forms to persons required to file such statements.

14 (3) Prepare and publish a manual or guidelines setting forth recommended
15 uniform methods of reporting and divesting for use by persons required to file and
16 divest under this act.

17 (4) Accept and file any information voluntarily supplied that exceeds the
18 requirements of this act.

19 (5) Preserve the statements filed with it for six years from the date of
20 receipt.

21 (6) Make statements and reports filed with the Commission available for
22 public inspection and copying at a reasonable cost during regular office hours.

23 (7) Compile and maintain a current list and summary of all statements filed

24 (8) Prepare and publish reports as it may deem appropriate.

25 (9) Audit statements and reports filed with the Commission.

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1 (10) On its own initiative or upon request, issue and publish advisory
2 opinions on the requirements of this act for those who wish to use the opinion to
3 guide their own conduct.

4 (11) Prepare an annual report to the Congress and the President of the
5 Federated States of Micronesia, and the public, summarizing the activities of the
6 Commission and recommending any changes in the act.

7 Section 6. Investigations by the Commission.

8 (1) Upon a complaint signed under penalty of perjury by any person or
9 upon its own motion, the Commission shall investigate any alleged violation of this
10 act. All Commission proceedings and records relating to an investigation shall be
11 confidential until a final determination is made by the Commission. The executive
12 director shall notify any person under investigation by the Commission of the
13 investigation and of the nature of the alleged violation and shall continue to
14 provide information to the complainant and the person under investigation concerning
15 action taken by the Commission together with the reasons for such action or nonaction.

16 (2) If, after investigation, the Commission finds that probable cause
17 exists for believing the allegation of the complaint, after adequate notice to the
18 accused, the Commission shall conduct a hearing on the matter. Such hearings shall
19 be in closed session unless the accused petitions for a public hearing.

20 (3) The Commission shall have the same power to compel the attendance of
21 witnesses and to issue subpoenas as is granted legislative committees.

22 (4) Any person whose activities are under investigation shall be entitled
23 to be represented by counsel of his own choosing and shall have an opportunity to
24 examine all records to be used at the hearing.

25 (5) The Commission shall keep a record of its investigations, inquiries,

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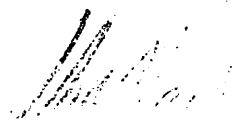
1 and proceedings; all records and transcripts of any investigations or inquiries
2 under this section shall be confidential until a final determination is made by
3 the Commission.

4 (6) The Commission shall report any finding of misconduct along with
5 such information and documents as it deems appropriate to the appropriate law
6 enforcement authorities.

7 Section 7. Authorization for appropriation. The sum of \$5,000 is authorized
8 to be appropriated from the General Fund of the Federated States of Micronesia for the
9 purpose of defraying operational and contingent expenses of the Federated States
10 of Micronesia Ethics Commission.

11 Section 8. Effective date. This act shall become law upon approval by the
12 President of the Federated States of Micronesia or upon its becoming law without
13 such approval.

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15 Date: June 5 1981

Introduced by: 
John Hagielgam

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