



OFFICE OF THE GOVERNOR
TERRITORY OF GUAM

OFFICE OF THE SPEAKER	
Date:	<u>July 15, 1996</u>
Time:	<u>2:20pm</u>
Received by:	<u>P. Roberts</u>
Print Name:	<u>P. Roberts</u>

JUL 15 1996

REFER TO
LEGISLATIVE SECRETARY


The Honorable Don Parkinson
Speaker
Twenty-Third Guam Legislature
Guam Legislature Temporary Building
155 Hesler Street
Agana, Guam 96910

Dear Mr. Speaker:

Enclosed please find a copy of Substitute Bill No. 58 (LS), "AN ACT TO PRESCRIBE STANDARDS OF CONDUCT FOR ELECTED OFFICERS, APPOINTED OFFICERS AND PUBLIC EMPLOYEES OF THE GOVERNMENT OF GUAM AND TO ESTABLISH AN ETHICS COMMISSION BY ADDING A NEW CHAPTER 15 TO TITLE 4, GUAM CODE ANNOTATED; AND TO AMEND 4 GCA §13101, RELATIVE TO FINANCIAL DISCLOSURE REQUIREMENTS", which was vetoed and thereafter overridden on July 8, 1996, which I have designated as **Public Law No. 23-105**.

A copy has also been delivered to the Office of the Legislative Secretary.

Very truly yours,


Madeleine Z. Bordallo
Acting Governor of Guam

Attachment
231251

OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGMENT RECEIPT	
Received by:	<u>[Signature]</u>
Time:	<u>2:47 pm.</u>
Date:	<u>15 JULY 1996</u>



OFFICE OF THE GOVERNOR
TERRITORY OF GUAM

JUL 15 1996

The Honorable Judith Won-Pat Borja
Legislative Secretary
Twenty-Third Guam Legislature
Guam Legislature Temporary Building
155 Hesler Street
Agana, Guam 96910

OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGMENT RECEIPT	
Received By	<i>J. Borja</i>
Time	<i>2:36 pm.</i>
Date	<i>15 JULY 1996</i>

Dear Madame Legislative Secretary:

Enclosed please find a copy of Substitute Bill No. 58 (LS), "AN ACT TO PRESCRIBE STANDARDS OF CONDUCT FOR ELECTED OFFICERS, APPOINTED OFFICERS AND PUBLIC EMPLOYEES OF THE GOVERNMENT OF GUAM AND TO ESTABLISH AN ETHICS COMMISSION BY ADDING A NEW CHAPTER 15 TO TITLE 4, GUAM CODE ANNOTATED; AND TO AMEND 4 GCA §13101, RELATIVE TO FINANCIAL DISCLOSURE REQUIREMENTS", which was vetoed and thereafter overridden on July 8, 1996, which I have designated as **Public Law No. 23-105.**

A copy has also been delivered to the Office of the Speaker.

Very truly yours,

Madeleine Z. Bordallo
Madeleine Z. Bordallo
Acting Governor of Guam

Attachment

231258

(Same as Dec. No. 231251)

For file purposes only

TWENTY-THIRD GUAM LEGISLATURE
1996 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Substitute Bill No. 58 (LS), "AN ACT TO PRESCRIBE STANDARDS OF CONDUCT FOR ELECTED OFFICERS, APPOINTED OFFICERS AND PUBLIC EMPLOYEES OF THE GOVERNMENT OF GUAM AND TO ESTABLISH AN ETHICS COMMISSION BY ADDING A NEW CHAPTER 15 TO TITLE 4, GUAM CODE ANNOTATED; AND TO AMEND 4 GCA §13101, RELATIVE TO FINANCIAL DISCLOSURE REQUIREMENTS," returned to the Legislature without approval of the Governor, was reconsidered by the Legislature and after such reconsideration, the Legislature did, on the 8th day of July, 1996, agree to pass said bill notwithstanding the objection of the Governor by a vote of twenty (20) members.



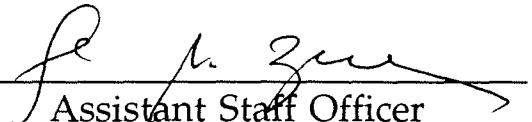
DON PARKINSON
Speaker

Attested:



JUDITH WON PAT-BORJA
Senator and Legislative Secretary

This Act was received by the Governor this 12th day of July,
1996, at 8:15 o'clock A.M.



Assistant Staff Officer
Governor's Office

TWENTY-THIRD GUAM LEGISLATURE
1995 (First) Regular Session

Bill No. 58 (LS)

As substituted by the Author

Introduced by:

T. S. Nelson
V. C. Pangelinan
T. C. Ada
A. C. Blaz
D. Parkinson
L. Leon Guerrero
J. T. San Agustin
J. Won Pat-Borja
M. C. Charfauros
S. L. Orsini
J. P. Aguon
A. L. G. Santos
H. A. Cristobal
A. R. Unpingco
F. P. Camacho
F. E. Santos
E. Barrett-Anderson
J. M. S. Brown
M. Forbes
A. C. Lamorena V
C. Leon Guerrero

AN ACT TO PRESCRIBE STANDARDS OF CONDUCT FOR ELECTED OFFICERS, APPOINTED OFFICERS AND PUBLIC EMPLOYEES OF THE GOVERNMENT OF GUAM AND TO ESTABLISH AN ETHICS COMMISSION BY ADDING A NEW CHAPTER 15 TO TITLE 4, GUAM CODE ANNOTATED; AND TO AMEND 4 GCA §13101, RELATIVE TO FINANCIAL DISCLOSURE REQUIREMENTS.

1 **Section 1.** A new Chapter 15 is added to Title 4 of the Guam Code
2 Annotated, to read:

3 **"CHAPTER 15**

4 **Standard of Conduct for Elected Officers,**

5 **Appointed Officers and**

6 **Public Employees of the Government of Guam**

7 **Article I**

8 **General Provisions**

9 **§15100. Construction.** This Chapter shall be liberally construed by
10 the courts of this Territory to promote the highest standards of ethical
11 conduct within the Territorial government.

12 **§15101. Applicability.** This Chapter shall apply to every employee
13 as defined herein.

14 **§15102. Definitions.** When used in this Chapter, these key words
15 shall have the indicated meaning:

16 (a) '**business**' includes any corporation, partnership, any
17 sole proprietorship, any trust or foundation, or any other
18 individual or organization carrying on any business whether or
19 not operated for profit;

20 (b) '**compensation**' means any money, thing of value or
21 economic benefit conferred on or received by any person subject
22 to this Chapter, in return for services rendered or to be rendered
23 by himself or another;

24 (c) '**controlling interest**' means any proprietary or
25 ownership interest in a business or other undertaking;

26 (d) '**employee**' means any nominated, appointed, or elected
27 officer or individual employed with a territorial agency as

1 defined herein, including members of boards or commissions, and
2 persons under personal services contracts;

3 (e) '**employment**' means any rendering of services for
4 compensation;

5 (f) '**financial interest**' means an interest held by an
6 individual, his or her spouse, or dependent children, which is:

7 (1) an ownership interest in a business;

8 (2) a creditor interest in an insolvent business;

9 (3) an employment, or prospective employment for
10 which negotiations have begun;

11 (4) an ownership interest in personal or real property;

12 (5) a loan or other debtor interest; or

13 (6) a directorship or officership in a business.

14 (g) '**judicial officers**' includes the Justices of the Supreme
15 Court, whether full- or part-time, and Judges of the Superior
16 Court, including Judges pro tem and referees;

17 (h) '**legislator**' means any duly elected members of the
18 Guam Legislature;

19 (i) '**official act**' or '**official action**' means a decision,
20 recommendation, approval, disapproval, or other action,
21 including inaction which involves the use of discretionary and
22 non-discretionary authority;

23 (j) '**official authority**' includes administrative, judicial or
24 legislative powers of decision, recommendation, approval,
25 disapproval, or other discretionary or non-discretionary action;
26 and

1 (k) 'territorial agency' or 'agency' shall mean every branch
2 of government, public corporations, all government of Guam
3 departments, bureaus, and line agencies, autonomous and semi-
4 autonomous agencies, instrumentalities, entities or sub-entities
5 thereof, the Mayor's Council, and Mayors' Offices.

6 **Article 2**

7 **Specified Standards**

8 **§15201. Gifts.** No employee shall solicit, accept, or receive,
9 directly or indirectly, any gift valued singly or in the aggregate from a
10 single source in excess of \$200, whether in the form of money, prize,
11 service, loan, travel, entertainment, hospitality, thing or promise, or in
12 any other form, when a reasonable person would infer that the gift is
13 intended to influence the employee in the performance of that
14 individual's official duties or is intended as a reward for any official
15 action on that individual's part.

16 **§15202. Reporting of gifts.** (a) Every employee shall file a gifts
17 disclosure statement with the Guam Ethics Commission on June 30 of
18 each year if all the following conditions are met:

19 (1) The employee, or spouse or dependent child of an
20 employee, received directly or indirectly from any source
21 any gift or gifts valued singly or in the aggregate from a
22 single source in excess of \$200, whether the gift is in the
23 form of money, services, goods, or in any other form;

24 (2) The source of the gift or gifts have interests that
25 may be affected by the official action or lack of action by the
26 employee; and

1 (3) The gift is not exempted by subsection (d) from
2 reporting requirements under this section.

3 (b) The report shall cover the period from January 1 of the
4 preceding calendar year through December 31 of the year of the
5 report.

6 (c) The gifts disclosure statement shall contain the
7 following information:

8 (1) A description of the gift;

9 (2) A good faith estimate of the value of the gift;

10 (3) The date the gift was received; and

11 (4) The name of the person, business entity, or
12 organization from whom, or on behalf of whom, the gift
13 was received.

14 (d) Excluded from the reporting requirements of this section
15 are the following:

16 (1) Gifts received by will or intestate succession;

17 (2) Gifts received by way of distribution of any inter
18 vivos or testamentary trust established by a spouse or
19 ancestor;

20 (3) Gifts from a spouse, fiancé, fiancée, any relative
21 within three degrees of consanguinity or the spouse, fiancé,
22 or fiancée of such a relative. A gift from any such person is a
23 reportable gift if the person is acting as an agent or
24 intermediary for any person not covered by this paragraph;

25 (4) Political campaign contributions that comply with
26 territorial law. This section shall not exempt the recipient of

1 campaign contributions from the reporting requirements of
2 the Election Code.

3 (5) Anything available to or distributed to the public
4 generally without regard to the official status of the
5 recipient;

6 (6) Gifts that within thirty days after receipt, are
7 returned to the giver or delivered to a public body or to a
8 bona fide educational or charitable organization without
9 the donation being claimed as a charitable contribution for
10 tax purposes; and

11 (7) Exchange of approximately equal value on
12 holidays, birthday, or special occasions.

13 (e) Failure of an employee to file a gifts disclosure
14 statement as required by this section shall be a violation of this
15 chapter.

16 **§15203. Confidential information.** No employee shall disclose
17 information which is considered a private document by existing law,
18 and which the employee acquires in the course of official duties, or use
19 the information for personal gain or for the benefit of someone else.

20 **§15204. Fair Treatment.** No employee shall use or attempt to use
21 an official position to secure or grant unwarranted privileges,
22 exemptions, advantages, contracts, or treatment, for himself or herself,
23 a spouse, children, or others, including but not limited to the following:

24 (a). seeking other employment or contract for services
25 by the use or attempted use of the individual's office or
26 position;

1 (b). accepting, receiving, or soliciting compensation
2 for the performance of official duties or responsibilities
3 except as provided by law;

4 (c). using government time, equipment, or other
5 facilities for private business purposes;

6 (d). soliciting, selling, or otherwise engaging in a
7 financial transaction with a subordinate or a person or
8 business whom the employee inspects or supervises in
9 official capacity.

10 (e) Nothing herein shall be construed to prohibit a
11 legislator from introducing bills and resolutions, serving on
12 committees or making statements or taking action in the
13 exercise of legislative functions. Every legislator shall file
14 with the Guam Ethics Commission a full and complete
15 public disclosure of the nature and extent of the legislator's
16 interest on any legislative transaction which primarily
17 affects only the legislator or legislators involved or their
18 spouses and not the community as a whole or a segment
19 thereof. Disclosure must be made at time of introduction of
20 such legislation, or when the legislator shall first have
21 knowledge of such legislation.

22 **§15205. Conflicts of interest.**

23 (a). No employee shall take any official action directly
24 affecting:

25 (1). business or other undertaking in which the
26 employee has a financial interest; or

1 (2). private undertaking in which the employee is
2 engaged as legal counsel, advisor, consultant,
3 representative, or other agency capacity.

4 A department head who is unable to be disqualified on
5 any matter described in item (1) or (2) of this Subsection may
6 be in violation of this Subsection even if the individual has
7 complied with the disclosure requirements of §15208; and a
8 person whose position on a board, commission or committee
9 is mandated by statute, resolution or executive order to
10 have particular qualifications shall only be prohibited from
11 taking official action that directly and specifically affects a
12 business or undertaking in which such person has a financial
13 interest; provided that the financial interest is related to the
14 member's particular qualifications.

15 (b). No employee shall acquire financial interests in any
16 business or other undertaking which the employee has reason to
17 believe may be directly involved in official action to be taken by the
18 employee.

19 (c). No employee shall assist any person or business or act
20 in a representative capacity before any territorial agency for any
21 compensation in any transaction involving the Territory.

22 (d). No employee shall assist any person or business or act
23 in a representative capacity for a fee or other compensation to
24 secure passage of a bill or to obtain a contract, claim, or other
25 transaction or proposal in which the employee has participated or
26 will participate as an employee, nor shall the employee assist any
27 person, or business, or act in a representative capacity for a fee or

1 other compensation on such bill, contract, claim, or other
2 transaction or proposal before the Legislature or territorial
3 agency of which the individual is an employee.

4 (e). No employee shall assist any person or business or act
5 in a representative capacity before a territorial agency for a fee or
6 other compensation, on any bill, contract, claim, or other
7 transaction or proposal involving official action by the agency if
8 the employee has official authority over that agency unless such
9 employee has complied with the disclosure requirements of
10 §15208.

11 (f) Nothing herein shall preclude an employee from having
12 outside business interests or employment so long as such interests
13 or employment do not interfere with performance of official
14 duties and is not otherwise in direct conflict with this Chapter.

15 **§15206. Contracts.**

16 (a). A territorial agency shall not enter into any contract
17 with an employee or with a business in which an employee has a
18 controlling interest, unless the contract has been awarded
19 through an open, public process. A territorial agency may,
20 however, enter into such contract without resort to competitive
21 bidding process when, in the opinion of the General Services
22 Agency or the procurement officer of that branch of government,
23 the property or services does not fall within the purview of
24 competitive bidding; provided that written justification for the
25 non-competitive award of such contract be made a matter of
26 public record and shall be filed with the Guam Ethics Commission
27 at least ten (10) days before such contract is entered into.

1 With regards to members of boards, commissions, and
2 committees, this Subsection shall apply only to contracts entered
3 into between a business in which a member has a controlling
4 interest and a territorial agency in which the board, commission,
5 or committee to which the individual is appointed has jurisdiction.

6 (b). A territorial agency shall not enter into a contract with
7 any person or business which is represented or assisted in a
8 material manner in the matter by a person who has been an
9 employee of that agency within the preceding twelve (12) months
10 and who participated while in territorial office or employment in
11 a material manner in the matter with which the contract is
12 directly concerned.

13 **§15207. Contracts voidable.** In addition to any other penalty
14 provided by law, any contract entered into by the Territory in violation
15 of this Chapter, is voidable by the Territory; provided that in any act to
16 void a contract pursuant to this Section, the interests of third parties
17 who may be damaged thereby, shall be taken into account, and the
18 action to void the transaction is initiated within ninety (90) days after
19 the determination of a violation under this Chapter. The Attorney
20 General shall have the authority to enforce this provision.

21 **§15208. Requirements of disclosure.**

22 (a) All financial disclosure reports required to be filed with
23 the Guam Election Commission pursuant to Chapter 13 of Title 4,
24 Guam Code Annotated, shall be reported to the Guam Ethics
25 Commission within three working days of filing with the Guam
26 Election Commission.

1 (b) The Guam Election Commission shall require additional
2 information on its financial disclosure reports, as may be
3 requested by the Ethics Commission in accordance with this
4 Section, and the Ethics Commission may request such information
5 directly of the employee if it is not forthcoming from the Election
6 Commission.

7 (c). Failure of an employee to file a disclosure of financial
8 interests as required by this Chapter shall be a violation of this
9 Chapter.

10 **§15209. Disclosure files; disposition.** (a) All financial disclosure
11 statements filed by an employee shall be maintained by the Guam Ethics
12 Commission during the term of office of the employee, and for a period
13 of three years thereafter. Upon the expiration of the three-year period,
14 the financial disclosure statement and all copies thereof shall be
15 destroyed.

16 (b) Nothing herein shall bar the Guam Ethics Commission
17 from retaining a financial disclosure statement or copy of a
18 financial disclosure statement that has become part of a charge
19 case or advisory opinion request, or is part of an ongoing
20 investigation.

21 **§15210. Restrictions on post employment.**

22 (a). No former employee shall disclose any information
23 which by law is not available to the public and which the employee
24 acquired in the course of official duties or use the information for
25 personal gain or the benefit of anyone.

26 (b). No former employee shall, within twelve (12) months
27 after termination from employment, assist any person or business,

1 or act in a representative capacity for a fee or other consideration,
2 on matters involving official action by the particular territorial
3 agency with which the employee had actually served.

4 (c). This Section shall prohibit any agency from contracting
5 with a former employee to act on a matter on behalf of the
6 Territory within the period of limitations stated herein, unless
7 exempted by law.

8 **§15211. Violation.**

9 (a). Any territorial action obtained in violation of this
10 chapter for employees is voidable in the same manner as voidable
11 contracts as provided for under §15207; and the Territory, by the
12 Attorney General, may pursue all legal and equitable remedies
13 available to it.

14 (b). The Territory, by the Attorney General, may recover
15 any fee, compensation, gift, or profit received by such person as a
16 result of a violation of these standards by an employee or former
17 employee. Action to recover under the Subsection (b) shall be
18 brought within two (2) years of such violation under this Chapter.

19 **ARTICLE 3**

20 **Guam Ethics Commission**

21 **§15301. Guam Ethics Commission established;**
22 **composition.** There shall be within the government of Guam, a
23 commission to be known as the Guam Ethics Commission. The
24 Commission shall consist of seven (7) members to be appointed by the
25 Governor from a panel of fifteen (15) persons who shall be nominated
26 by the Judicial Council. Each person nominated shall be a United States
27 citizen and a bona fide resident of Guam. No person who has ever been

1 convicted of a felony shall be eligible to serve on the Commission.
2 Members of the Commission shall not be an employee as defined herein
3 or have any member of their immediate family employed by the
4 Government of Guam. All appointments to the Ethics Commission
5 shall be confirmed by the Legislature.

6 The Chairman of the Commission shall be elected by the majority
7 of the Commission. The term of office of each member shall be four
8 years, provided that of the original members, two shall hold office for
9 two years, two shall hold office for three years and one shall hold office
10 for four years. The determination of these members' length of office
11 shall be by lot drawn by the members at their initial meeting. No person
12 shall be appointed consecutively to more than two terms as a member of
13 the Commission.

14 Members shall serve without compensation, except that they shall
15 receive a stipend of Fifty Dollars (\$50.00) per meeting not to exceed four
16 meetings per calendar month, and shall be compensated for all normal
17 expenses of travel, and for the cost of meals while in session.

18 Vacancies shall be filled for the remainder of the unexpired term
19 in the same manner as original appointments except that the Judicial
20 Council shall nominate for gubernatorial appointment two persons for
21 each vacancy. The Governor may remove or suspend any member of
22 the Commission for cause, upon the filing of a written finding with the
23 Commission and upon service of a copy of the written findings on the
24 member removed or suspended.

25 **ARTICLE 4**

26 **Administration and Enforcement**

1 **§15401. Duties of Commission; complaint, hearing,**
2 **determination.**

3 (a). The Commission shall have the following powers and
4 duties:

5 (1). It shall prescribe a form for the financial
6 disclosures required by §15208 and shall establish an orderly
7 procedure for implementing the requirements of that
8 Section.

9 (2). It shall render advisory opinions upon the request
10 of any employee or former employee as to whether the facts
11 and circumstances of a particular case constitutes or will
12 constitute a violation of the code of ethics. The opinion
13 rendered, until amended or revoked, shall be binding on the
14 Commission in any subsequent charges concerning the
15 employee or former employee who sought the opinion and
16 acted in reliance on it in good faith, unless material facts
17 were omitted or misstated by the employee or former
18 employee in the request for an advisory opinion.

19 (3). It shall initiate, receive and consider charges
20 concerning alleged violations of this Chapter, initiate or
21 make investigations, and hold hearings.

22 (4). It may subpoena witnesses, administer oaths, and
23 take testimony relating to matters before the Commission
24 and require the production for examination of any books,
25 papers or electronic records relative to any matter under
26 investigation or in question before the Commission. Before
27 the Commission shall exercise any of the powers authorized

1 herein with respect to any investigation or hearings, it shall
2 by formal resolution, supported by a vote of five or more
3 members of the Commission, define the nature and scope of
4 its inquiry.

5 (5). It may, from time to time, make, amend, and
6 repeal such rules and regulations, not inconsistent with this
7 Chapter as in the opinion of the Commission, seem
8 appropriate for the carrying out of this Chapter for the
9 efficient administration thereof, including every matter or
10 thing required to be done or which may be done with the
11 approval or consent or by order or under the direction or
12 supervision of or as prescribed by the Commission. The
13 rules and regulations, shall be adopted in conformance with
14 the Administrative Adjudication Law, and shall have the
15 force and effect of law.

16 (6). It shall have jurisdiction for purposes of
17 investigation and taking appropriate action on alleged
18 violations of this Chapter in all proceedings commenced
19 within three (3) years of an alleged violation of this Chapter
20 by an employee, or a former employee. Nothing herein shall
21 bar proceedings against a person who by fraud or other
22 device, prevents discovery of a violation of this Chapter. A
23 proceeding shall be deemed commenced by the signing of a
24 charge by five (5) or more members of the Commission.

25 (7). It shall distribute its publications without cost to
26 the public and shall initiate and maintain programs with the

1 purpose of educating the citizenry and employees on
2 matters of ethics in government employment.

3 (b). Charges concerning the violation of this Chapter shall
4 be in writing, signed by the person making the charge under oath,
5 except that any charge initiated by the Commission must be
6 signed by five (5) or more members of the Commission. The
7 Commission shall notify in writing every person against whom a
8 charge is received and afford him an opportunity to explain the
9 conduct alleged to be in violation of this Chapter. The
10 Commission may investigate, after compliance with this Section,
11 such charges and render an informal advisory opinion to the
12 alleged violator. The Commission shall investigate all charges on
13 a confidential basis, having available all the powers herein
14 provided, and proceedings at this stage shall not be public. If the
15 informal advisory opinion indicates a probable violation, the
16 person charged shall request a formal opinion or within a
17 reasonable time comply with the informal advisory opinion. If the
18 person charged fails to comply with such informal advisory
19 opinion or if a majority of the members of the Commission
20 determine that there is a probable cause for belief that a violation
21 of this Chapter might have occurred, a copy of the charge and a
22 further statement of the alleged violation shall be personally
23 served upon the alleged violator in accordance with the rules for
24 personal service found in Guam Rules of Civil Procedure. The
25 person so charged shall have twenty (20) days after service
26 thereof to respond in writing to the charge and statement.

1 (c). Any Commission member or any individual, including
2 the individual making the charge, who without permission of the
3 Commission, divulges information obtained from the
4 Commission or who reveals confidential actions of or what
5 happened in closed proceedings before the Commission
6 concerning the charge prior to the issuance of the complaint or
7 other final action by the Commission, except as permitted by this
8 Chapter, shall be guilty of a misdemeanor.

9 (d). If after twenty (20) days following personal service, a
10 majority of the members of the Commission conclude that there is
11 reason to believe that a violation of this Chapter has been
12 committed, then the Commission shall set a time and place for a
13 hearing, giving notice to the complainant and the alleged
14 violator. All parties shall have an opportunity (1) to be heard, (2)
15 to subpoena witnesses and require the production of any books,
16 papers, records, or electronic recordings relative to the
17 proceedings, (3) to be represented by counsel, and (4) to have the
18 right of cross-examination. All witnesses shall testify under oath
19 and the hearings shall be closed to the public unless the party
20 complained against requests an open hearing. The Commission
21 shall not be bound by the strict rules of evidence but the
22 Commission's findings must be based upon competent and
23 substantial evidence. All testimony and other evidence taken at
24 the hearing shall be recorded. Copies of transcripts of such record
25 shall be available only to the complainant and the alleged violator
26 at their own expense, and the fees therefor shall be deposited into
27 the General Fund.

1 (e). The Commission shall make its findings and render its
2 decision based on a preponderance of the evidence. A decision of
3 the Commission pertaining to the conduct of any employee shall
4 be in writing and signed by five (5) or more of the members of the
5 Commission. Deliberations of the Commission shall be closed to
6 the public and to all parties.

7 (f). The Commission shall cause to be published yearly
8 summaries of decisions, advisory opinions, and informal advisory
9 opinions. The Commission shall make sufficient deletions in the
10 summaries to prevent disclosing the identify of persons involved
11 in the decisions or opinions.

12 **§15402. Filing of false charges.** (a) Any person who knowingly
13 and intentionally files a false charge with the commission, or any
14 member of the commission who initiates action against any territorial
15 official, territorial employee, or any other person covered by this
16 chapter, knowing such charge to be false, shall be guilty of the crime of
17 perjury and subject to the penalty set forth in Title 9 of Guam Code
18 Annotated (Crimes and Corrections).

19 (b) Whoever is convicted in a court of competent jurisdiction
20 of the crime of perjury under this section, in addition to any other
21 punishment prescribed by law thereof, shall be required by court
22 order to reimburse the person against whom the false charge was
23 filed for all of the person's legal expenses and court costs incurred
24 in relation to that person's defense against the false complaint.

25 (c) If such charge is filed within six months prior to an
26 election in which the accused's name appears on the ballot, the
27 person filing the false complaint shall pay to the accused the

1 amount set out above, and shall also pay an equal amount to the
2 general fund of the Territory.

3 (d) This section shall not supersede or preclude any other
4 right or remedy at law available to the person falsely accused.

5 **§15403. Procedure.**

6 (a). When the Commission, after due hearings, believes that
7 there is cause for the possible filing of criminal charges, it shall
8 refer the complaint to the Attorney General's Office or
9 appropriate authority for its disposition.

10 (b). With respect to former employees, the Commission
11 may, with the consent of five (5) or more members of the
12 Commission, issue a public statement of its findings and
13 conclusions, and the Attorney General may exercise whatever
14 legal or equitable remedies are available to the Territory.

15 (c) When after due hearing, the Commission finds that the
16 violation committed by an employee is non-criminal in nature, the
17 Commission will remand the case to the agency where the
18 employee is employed with the recommendation that the agency
19 impose the corresponding punishment in accordance with the
20 agency's personnel rules and regulations.

21 **§15404. Disciplinary action for violation.** In addition to any
22 other powers the Civil Service Commission or other territorial agency
23 may have to discipline employees, the appropriate agency involved may
24 reprimand, put on probation, demote, suspend, or discharge any
25 employee found to have violated this Chapter.

1 **§15405. Cooperation.** The Guam Ethics Commission may
2 request and shall receive from every territorial agency cooperation and
3 assistance in the performance of its duties.

4 **§15406. Concurrent jurisdiction.** In addition to any provision
5 contained in this Chapter, the Legislature and the Judicial Branch may
6 each prescribe further rules of conduct covering its members and may
7 investigate and discipline its employees for any violation of this
8 Chapter, or its own Rules, or both.

9 **§15407. Staff.** The Guam Ethics Commission may employ such
10 persons as it deems necessary for the performance of its functions. They
11 shall submit an annual budget request to the Legislature for its required
12 operations.

13 **§15408. Prohibition from political activity.** Members of the ethics
14 commission and its staff shall not take an active part in political
15 management or in political campaigns during the term of office or
16 employment.

17 **§15409. Judicial Branch.** The Chief Justice of the Supreme Court
18 shall have jurisdiction and governance over all justices and judges of
19 the judicial branch in matters of ethics as covered in this Chapter 15.

20 **§15410. Repeal.** Those portions of the Guam Code Annotated
21 and the Government Code of Guam, which are in conflict with any
22 section of this Chapter, are hereby repealed.

23 **§15411. Severability.** If any part of this Chapter 15 shall, for any
24 reason, be adjudged by a court of competent jurisdiction to be invalid,
25 or invalid as applied to a class of cases, such judgment shall not affect,
26 impair, or invalidate the remainder thereof, and shall be confined in its

1 operation to the part thereof directly involved in the controversy in
2 which such judgment shall have been rendered.

3 **Section 2.** 4 GCA §13102(a) of the Public Official Financial Disclosure
4 Act is amended to read:

5 **"§13102. Definitions for Purpose of this Act.** (a) The term official
6 means any person elected to any public office in Guam and any person
7 appointed, with legislative concurrence or by the Legislature, to any
8 public office, to include but not limited to:

9 (1) the Governor, the Lieutenant Governor, members of the
10 Legislature, Judges of the Superior Court, Justices of the Supreme
11 Court, both full time and part time, village Mayors and Vice
12 Mayors, and elected members of the Territorial Board of
13 Education.;

14 (2) the directors and their deputies, the division chiefs, and
15 executive directors, regardless of specific titles by which the
16 foregoing persons are designated, of every territorial agency;

17 (3) the Executive Director of the Legislature, and the staff
18 or management assistants in the offices of the Governor and
19 Lieutenant Governor, other than persons employed in clerical,
20 secretarial or similar positions;

21 (4) the hearing officers of every territorial agency;

22 (5) members of every board or commission whose original
23 term of office is for a period exceeding one year and whose
24 functions are not solely advisory;

25 (6) the members of the Guam Ethics Commission and the
26 Executive Director of that Agency shall file the required reports
27 with the Legislative Secretary;

1 (7) The administrative director and deputy director of the
2 courts;

3 (8) The Suruhanu;

4 (9) The Public Auditor; and

5 (10) The President, Vice President and Assistant Vice
6 Presidents of the University of Guam and the Guam Community
7 College."

8 **Section 3.** The Ethics Commission shall convene its first session no
9 later than December 31, 1996.

10 **Section 4. Effective Date.** The effective date of this Act shall be thirty
11 (30) days after enactment.

Date: 7/8/96

VOTING SHEET

Bill No. VB 58

Resolution No. _____

Question: Notwithstanding the Governor's Veto

NAME	YEAS	NAYS	NOT VOTING/ ABSTAINED	ABSENT/ OUT DURING ROLL CALL
ADA, Thomas C.	✓			
AGUON, John P.	✓			
BARRETT-ANDERSON, Elizabeth	✓			
BLAZ, Anthony C.	✓			
BROWN, Joanne S.				✓
CAMACHO, Felix P.	✓			
CHARFAUROS, Mark C	✓			
CRISTOBAL, Hope A.	✓			
FORBES, -MARK	✓			
LAMORENA, Alberto C., V	✓			
LEON GUERRERO, Carlotta	✓			
LEON GUERRERO, Lou	✓			
NELSON, Ted S.	✓			
ORSINI, Sonny L.	✓			
PANGELINAN, Vicente C	✓			
PARKINSON, Don	✓	✗		
SAN AGUSTIN, Joe T.	✓	✗		
SANTOS, Angel L. G.	✓			
SANTOS, Francis E.	✓			
UNPINGCO, Antonio R.	✓			
WONPAT-BORJA, Judith	✓			

TOTAL

20
1849 9 + 0 - 1

CERTIFIED TRUE AND CORRECT:

Recording Secretary



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

MAY 01 1996

The Honorable Speaker
Twenty-Third Guam Legislature
Guam Legislature Temporary Building
155 Hesler Street
Agana, Guam 96910

OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGMENT RECEIPT	
Received By	<u>[Signature]</u>
Time	<u>11:00</u>
Date	<u>5/14/96</u>

Dear Speaker:

Enclosed please find Substitute Bill No. 58 (LS), "AN ACT TO PRESCRIBE STANDARDS OF CONDUCT FOR ELECTED OFFICERS, APPOINTED OFFICERS AND PUBLIC EMPLOYEES OF THE GOVERNMENT OF GUAM AND TO ESTABLISH AN ETHICS COMMISSION BY ADDING A NEW CHAPTER 15 TO TITLE 4, GUAM CODE ANNOTATED; AND TO AMEND 4 GCA §13101, RELATIVE TO FINANCIAL DISCLOSURE REQUIREMENTS", which I have **vetoed**.

Initially, I was very pleased to receive this ethics bill from the legislature. I know that many students at the University of Guam worked hard on the subject of ethics in government, and as part of their class projects, drafted a comprehensive ethics bill which was presented to and introduced in several legislatures, but to no avail. Finally, an ethics bill was passed.

I very much wanted to sign Bill No. 58 into law, in order to institute government-wide ethics laws prescribing clear standards of conduct and guidelines for behavior for all those working in government.

However, after study by legal minds, and consultation with my advisors, it was discovered that there are flaws in the legislation which are of such a serious nature that legal disputes and court cases will quickly arise. There are further provisions of the bill which will seriously discourage citizens from volunteering to participate in their government by serving on boards and commissions. Also, provisions were added whereby an employee could be subjected to discipline several times. An employee could be disciplined under the new Guam Ethics Commission, and also under any other rules of conduct prescribed by either the Legislature or the Judicial Branch for their respective employees, and even under the Personnel Rules and Regulations for the particular employee.

The following items are serious problems contained within this legislation which prevent me from signing the legislation until they are corrected or changed accordingly:

1. Bill No. 58 violates the requirement of separation of powers between the three branches of Guam's government.

(a) In what branch of government is the Guam Ethics Commission? Case law has decided that there are only 3 branches within the government of Guam. If a governmental body is created, such as a Guam Ethics Commission, it must be created within the Executive Branch, the Legislature, or the Judiciary. There is no 4th branch of Guam's government. Neither can there be a body which exists in a combination of branches. The Guam Ethics Commission must be placed within one of the existing 3 branches. As it is constituted in Bill No. 58, the Guam Ethics Commission is a "super branch" of government. It is a body with supervisory control over the Executive Branch, the Legislature, and the Judiciary. Since there are Organic Act impediments to creating a commission which oversees the Legislature and the Judiciary, then, by process of elimination, the Guam Ethics Commission can only exist in the Executive Branch.

b) The Governor's Organic Act appointment power for the Executive Branch cannot be limited by the Judicial Branch. As Bill No. 58 provides, the members of the Guam Ethics Commission are selected from a panel of persons who are pre-selected by the Guam Judicial Council. The Judicial Council is made up of 6 justices and judges, 1 member of the Legislature, and 1 member of the Executive Branch. Except for the Attorney General and the Legislature's Chairperson of the Committee on Judiciary and Criminal Justice, the Judicial Council consists mainly of members of the Judiciary. The Judiciary would then select a group of 15 persons from whom the Governor **must** select 7 persons to be members of the Guam Ethics Commission. This diminishes the Governor's Organic Act power to appoint all members of the Executive Branch of the government of Guam. The Organic Act states:

"The Governor **shall** have general supervision and control of all the departments, bureaus, agencies, and other instrumentalities of the executive branch of the government of Guam. . . He shall appoint, and may remove, all officers and employees of the executive branch of the government of Guam, except as otherwise

provided in this or any other Act of Congress, or under the laws of Guam, and shall commission all officers he may be authorized to appoint". See §1422 of Title 48, United States Code.

This section has been interpreted to mean that the laws of Guam cannot be in contradiction to the Organic Act, specifically the Governor's supervisory control of the Executive Branch.

2. **Bill No. 58 violates the Organic Act power of the Legislature to determine its own rules and regulations.** The Organic Act of Guam states, in §1423b of Title 48, United States Code:

"The legislature shall be the judge of the selection and qualification of its own members. It shall choose from its members its own officers, **determine its rules and procedure**, not inconsistent with this chapter, and keep a journal." (emphasis added.)

This language has a broad meaning. It does not merely mean that the Legislature makes rules concerning the holding of sessions or other such daily items, but also means that its members are subject to discipline as provided **only** by the Legislature. In other words, no body, outside of the Legislature, can discipline a member of the Legislature for matters relative to legislative behavior, unless the behavior is a crime and can be prosecuted as a crime. A Guam Ethics Commission which purports to cover all three branches of government relative to conflict of interest and other ethical but non-criminal matters and is appointed by the Governor is outside of the Legislative branch of government. Members of the Legislature would simply not be subject to the jurisdiction of such a body.

3. **Bill No. 58 provides for the Judiciary to participate in selecting a Guam Ethics Commission, from which the same Judiciary will be hearing court cases disputing the Guam Ethics Commission decisions.** Bill No. 58 provides that the Judicial Council, a judicial body, selects a 15 member panel, 7 of which will constitute the Guam Ethics Commission. Should any person be aggrieved by this body, the court case will be heard by the same Judiciary who participated in appointing the members who made the ethics decision. This would provide a conflict of interest or appearance of conflict of interest on the part of the judges. After all, the judges will have chosen those persons who made the initial ethics decision.

4. **Bill No. 58 subjects an employee to discipline by 2 different governmental bodies for the same behavior.** Section §15406, contained on P 20, Line 9, states that "concurrent jurisdiction" is provided to the Legislature and the Judiciary. An employee of either of these branches can then be disciplined by the Guam Ethics Commission, and then disciplined again by the Guam Legislature or the Judiciary. This is excessive and duplicative.
5. **Bill No. 58 seems to give permission for public employees to accept bribes up to the level of \$200.** Bill No. 58, §15201, on page 4, lines 8-15, indicates that public employees are given permission to take up to \$200 from anyone "when a reasonable person would infer that the gift is intended to influence the employee in the performance of that individual's official duties or is intended as a reward for any official action on that individual's part."

The present Guam Procurement Rules limit gifts to employees up to an amount of \$25. Also, gifts are not allowed which will influence an official in their official capacity. Bill No. 58 increases the amount of gifts that employees can receive, and the bill's language would allow, for example, a public health inspector to solicit and receive \$200 from every restaurant or public facility that is inspected.

6. **Bill No. 58 has a chilling effect on participation of Guam's people on boards or commissions of the government.** This legislation requires that members of boards and commissions file extensive financial reports of all their earnings with the Guam Election Commission concerning their financial status. It also requires a potential board or commission member to list down every stock they own. Members of boards and commissions are essentially "volunteers" for the government. They receive no salary, and many times spend long hours working on difficult problems in various agencies. In order to fill out such complicated financial reports, these volunteers, who many times are members of our private sector and have other obligations, would have to hire accountants to assemble financial information to fill out a complicated disclosure form for a non-paying volunteer position in the government. It is likely that many of these private sector persons would choose not to volunteer their services so readily under this circumstance. The government would be left without this important resource of experience, skills, and managerial policy making.

Although not required by the Legislature, the application form developed by the Governor's Office for appointments to boards or commissions already contains a short financial disclosure statement, where a prospective member of a board or commission fills out a listing what businesses that they have interests in, and the type or amount of interest. This is sufficient disclosure to meet the conflict of interest situations which some board or commission members may face.

7. **Bill No. 58 attempts to repeal laws already on the books which are "inconsistent", however, this is ineffective and confusing.** The rules of statutory construction disfavor "implied repeals". In other words, if a law is not referred to specifically in an attempted repeal, it is not repealed. If laws are in effect, and other laws are passed subsequently, the 2 sets of laws remain on the books and in effect simultaneously, unless inconsistent. This would have to be determined on a case-by-case basis in litigation and court cases. Two laws are generally construed as both being effective, or construed together, rather than a later-enacted law repealing a formerly enacted law.

Presently, there are existing laws relative to conflicts of interest and other wrongdoing in the area of procurement. Also, the Civil Service Commission is presently the body which investigates complaints of conflicts of interest concerning procurement.

8. **Bill No. 58 provides a mechanism for qualifying persons to be members of the Guam Ethics Commission which will result in a membership of persons who are not from Guam.** The bill provides that no person can be a member of the Guam Ethics Commission who either is, or has a member of their immediate family who is: a) an employee of the government, b) on contract with any branch of the government, or c) a member of a board or commission.

It is hard to imagine a group of persons from Guam, or who have made Guam their home, who have no member of their immediate family who is a government employee, has a contract of any sort with any branch of the government, or is a member of a board or commission.

This excessive requirement of lack of connection with their government implies that no person who has any sort of relationship with the government of Guam can act impartially on ethical matters within the government. This is simply not the case. There are many impartial and

very highly ethical persons who have some relationship, through themselves or through a relative, with their government.

9. **Bill No. 58 is duplicative and redundant. There are already laws on the books which cover a great deal of the same subject matter.** The procurement laws of Guam, Article 11 of Chapter 5, of Title 5, Guam Code Annotated, provides a detailed method of disclosure of information and conflict of interest resolution for all those employees, including board and commission members, who are "non-compensated" individuals performing personal services for any governmental body. Whether or not these laws would remain in effect if Bill No. 58 as drafted is enacted, is not clear. When comparing the provisions of Bill No. 58 with the procurement laws relative to ethics in public contracting, the procurement laws already on the books are more complete and clear than the provisions of Bill No. 58 on that subject.


Article 11 of Chapter 5 of Title 5, Guam Code Annotated, also provides that the Civil Service Commission is the "Ethics Commission" for the government. For procurement matters, Guam already has an Ethics Commission.

10. **Bill No. 58 lets the Legislature "off the hook" for conflicts of interest regarding legislation involving legislators' brothers, sisters, mother, father, or children.** Bill No. 58 includes a provision requiring legislators to disclose conflicts of interest when legislation is introduced which involves a legislator or the legislator's spouse. This provision, however, does **not** require a legislator to disclose interests in legislation which exist on the part of the legislator's brothers, sisters, mother, father, or children.
11. **Bill No. 58 does not integrate its provisions into existing law.** Specific mention should be made of existing law, either paralleling the provisions in Bill No. 58 with other provisions so that there are no conflicts, or repealing specific existing provisions, so that the public and those affected by the legislation will be aware of what provisions are in effect. This bill does not attempt to do that. This is technical work. Bill No. 58 was not given adequate attention in the technical area, so that the intent of the bill could be given effect.

I am submitting herewith another version of a government-wide ethics bill, and am requesting that this bill be introduced into the legislative process. I hope that a comprehensive study of how to integrate government-wide ethics laws into our limited form of territorial government will be undertaken by

legal advisors of the Legislature. I also hope that serious study of integrating already existing ethics laws into a new comprehensive system will also be undertaken, so that a practical, workable code of ethics and its enforcement will be the result.

Very truly yours,


Carl T. C. Gutierrez
Governor of Guam

Attachment

231128

1 **§15101. Applicability.** This Chapter shall apply to every
2 employee as defined herein.

3 **§15102. Definitions.** When used in this Chapter, these words shall
4 have the following meanings:

5 a) '**benefit**' occurs when an employee receives a benefit for
6 purposes of the disclosure requirement when a Territorial contract is award
7 to a business in which such employee has a financial interest.

8 b) '**blind trust**' means an independently managed trust in which
9 the employee-beneficiary is not given notice of alterations in, or other
10 dispositions of, the property subject to the trust.

11 c) '**business**' includes any corporation, partnership, sole
12 proprietorship, trust or foundation, or any other individual or organization
13 carrying on a business, whether or not operated for profit;

14 e) '**compensation**' means any money, thing of value, or economic
15 benefit conferred on or received by any person subject to this Chapter, in
16 return for services rendered or to be rendered by him or herself or
17 another;

18 f) '**confidential information**' means any information which is
19 available to an employee only because of the employee's status as an
20 employee of this territory and is not a matter of public knowledge or
21 available to the public on request;

22 g) '**controlling interest**' means any proprietary or ownership
23 interest in a business or other undertaking;

24 h) '**employee**' means any nominated, appointed, or elected officer or
25 individual employed with a territorial agency as defined herein, including
26 members of boards or commissions, and persons under personal services
27 contracts;

1 i) **'employment'** means any rendering of services for compensation;

2 j) **'financial interest'** means an interest held by an individual, his
3 or her spouse, or dependant children, which is:

4 1) an ownership interest in a business;

5 2) a creditor interest in an insolvent business;

6 3) an employment, or prospective employment for which
7 negotiations have begun;

8 4) an ownership interest in personal or real property;

9 5) a loan or other debtor interest; or

10 6) a directorship or officership in a business.

11 k) **'immediate family'** means a spouse, children, parents, brothers,
12 and sisters.

13 l) **'judicial officers'** include the Justices of the Supreme Court,
14 whether full-time or part-time, and Judges of the Superior Court, including
15 Judges pro-tem and referees;

16 m) **'legislator'** means any duly elected member of the Guam
17 Legislature;

18 n) **'official act'** or **'official action'** means a decision,
19 recommendation, approval, disapproval, or other action, including inaction,
20 which involves the use of discretionary and non-discretionary authority;

21 o) **'official authority'** includes administrative, judicial or legislative
22 powers of decision, recommendation, approval, disapproval, or other
23 discretionary or non-discretionary action; and

24 p) **'territorial agency'** or **'agency'** means a branch of government,
25 a public corporation, a government of Guam department, bureau, line
26 agency, autonomous or semi-autonomous agency, instrumentality, entity or
27 sub-entity thereof, the Mayors' Council, and each village Mayor's Office.

1 **§15202. Employee Disclosure Requirements. a) Disclosure**
2 **of Benefit Received from Contract.** Any employee who has, or
3 obtains any benefit from, any Territorial contract with a business in which
4 the employee has a financial interest shall report such benefit to the Guam
5 Ethics Commission; provided, however, that this Section shall not apply to a
6 contract with a business where the employee's interest in the business has
7 been placed in a disclosed blind trust.

8 **b) Failure to Disclose Benefit Received.** An employee who
9 knows or should have known of such benefit and fails to report such
10 benefit to the Guam Ethics Commissions in breach of the ethical standards
11 of this section.

12 **c) Disclosure Requirement.** The disclosure required under
13 the above sections shall be made to the Guam Ethics Commission within
14 Thirty (30) days after the employee has actual or constructive notice of a
15 benefit received or to be received. Such disclosure shall be made in written
16 report which sets forth:

17 1) The name of the employee and name of the business
18 involved;

19 2) The name of the government body with which the business
20 has a contract;

21 3) The dollar amount and nature of the contract: and

22 4) The nature and extent of the benefit received or to be
23 received.

24 This requirement applies regardless of whether such employee is subject to
25 the conflict of interest prohibition of this act.

26 **d) When Prohibition Against Gifts Not Applicable.**

27 1) Gifts received by will or interstate succession;

1 2) Gifts received by way of distribution of any inter vivos or
2 testamentary trust established by a spouse or ancestor;

3 3) Gifts from a spouse, fiance, fiancee, any relative within three
4 degrees of consanguinity or the spouse, fiance, fiancee of such a
5 relative. A gift from any such person is a reportable gift if the person
6 is acting as an agent or intermediary for any person not covered by
7 this paragraph.

8 4) Political campaign contributions that comply with territorial
9 law. This section shall not exempt the recipient of campaign
10 contributions from the reporting requirements of the Election Code.

11 5) Anything available to or distributed to the public generally
12 without regard to the official status of the recipient;

13 (6) Gifts that within Thirty (30) days after receipt, are returned
14 to the giver or delivered to a public body or to a bona fide
15 educational or charitable organization without the donation being
16 claimed as a charitable contribution for tax purposes.

17 7) Exchange of approximately equal value on holidays, birthday
18 or special occasions.

19 8) The solicitation or acceptance of anything of monetary value
20 from a friend, parent, spouse, child or other close relative when the
21 circumstances make it clear that the motivation for the transaction is
22 unrelated to any procurement or program requirement with the
23 territory and is based upon a personal or family relationship.

24 9) The participation in the activities of, or the acceptance of an
25 award for, a meritorious public contribution or achievement from a
26 charitable, religious, professional, social, or fraternal organization, or

1 from a nonprofit educational, recreational, public service, or civic
2 organization.

3 10) Acceptance only on current customary terms of finance of a
4 loan from a bank or other financial institution for proper and usual
5 activities of employees, such as home mortgage loans;

6 11) Acceptance of unsolicited advertising products or
7 promotional materials, such as pens, pencils, note pads, calendars, and
8 other items under nominal value.

9 12) The gift prohibition should not be construed to apply to
10 instances in which the interest of the territory are served by
11 Territorial participation in the widely attended luncheons, dinners,
12 and similar gatherings sponsored by industrial, technical, and
13 professional associations for the discussions of matters of mutual
14 interest of the territory and such organizations. However, payment
15 by the territory for attendance at such functions by employees is
16 encouraged.

17 **§15203. Confidential Information.** It shall be a breach of
18 ethical standards for any employee or former employee knowingly to use
19 confidential information for actual or anticipated personal gain, or for the
20 actual or anticipated person gain of any other persons.

21 **§15204. Fair Treatment.** No employee shall use or attempt to
22 use an official position to secure or grant unwarranted privileges,
23 exemptions, advantages, contracts, or treatment, for himself or herself, a
24 spouse, children, or others; including but not limited to the following:

25 a) seeking other employment or contract for services by the use or
26 attempted use of the individual's office or position;

1 b) accepting, receiving, or soliciting compensation for the performance
2 of official duties or responsibilities except as provided by law;

3 c) using government time, equipment, or other facilities for private
4 business purposes;

5 d) soliciting, selling, or otherwise engaging in a financial transaction
6 with a subordinate or a person or business whom inspects or supervises in
7 official capacity.

8 e) Nothing herein shall be construed to prohibit a legislator from
9 introducing bills and resolutions, serving on committees or making
10 statements or taking action in the exercise of legislative functions. Every
11 legislator shall file with the Guam Ethics Commission a full and complete
12 public disclosure of the nature and extent of the legislator's interest on any
13 legislative transaction which primarily affects only the legislator or
14 legislators involved or their immediate family as defined in this Chapter
15 and not the community as a whole or a segment thereof. Disclosure must
16 be made at time of introduction of such legislation, or when the legislator
17 shall first have knowledge of such legislation.

18 **§15205. Conflict of Interest.** a) It shall be a breach of ethical
19 standards for any employee to participate directly or indirectly when the
20 employee knows that:

21 1) The employee or any member of the employee's immediate
22 family has a financial interest pertaining to the action;

23 2) A business or organization in which the employee, or any
24 member of the employee's immediate family has a financial interest
25 pertaining to the official action;

26 3) Any other person, business or organization with whom the
27 employee or any member of the employee's immediate family is

1 negotiating or has an arrangement concerning prospective
2 employment is involved in the official action.

3 4) To assist any person or business or act in a representative
4 capacity before any territorial agency for any compensation in any
5 transaction involving the territory.

6 5) To assist any person or business or act in a representative
7 capacity for a fee or other compensation to secure passage of a bill or
8 to obtain a contract, claim, or other transaction or proposal in which
9 the employee has participated or will participate as an employee, nor
10 shall the employee assist any person, or business, or act in a
11 representative capacity for a fee or other compensation on such bill,
12 contract, claim, or other transaction or proposal before the Legislature
13 or territorial agency of which the individual is an employee;

14 6) No employee shall assist any person or business or act in a
15 representative capacity fore a territorial agency for a fee or other
16 compensation, on any bill, contract, claim, other transaction or
17 proposal involving official action by the agency if the employee has
18 official authority over that agency unless such employee has complied
19 with the disclosure requirements of this law.

20 7) Nothing herein shall preclude an employee from having
21 outside business interests or employment so long as such interests or
22 employment does not interfere with performance of official duties
23 and is not otherwise in direct conflict with this Chapter.

24 **b) Financial Interest in a Blind Trust.** Where an employee
25 or any member of the employee's immediate family holds a financial
26 interest in a blind trust, the employee shall not be deemed to have a
27 conflict of interest with regard to matters pertaining to that financial

1 interest, provided that disclosure of the existence of the blind trust has
2 been made to the Guam Ethics Commission.

3 c) **Disclosure of a Blind Trust.** Within Sixty (60) calendar
4 days of the creation of a blind trust or, the employee who has a financial
5 interest in a blind trust shall file a disclosure report with the Guam Ethics
6 Commission which shall contain the following:

- 7 1) A copy of the trust instrument;
- 8 2) the name and address of the trustee; and
- 9 3) a statement that the employee does not and will not receive
10 notice of changes in the trust property.

11 d) **Guam Ethics Commission Ruling on a Blind**
12 **Trust.** Within Thirty (30) days of the receipt of a disclosure report, the
13 Guam Ethics Commission shall determine in writing whether the particular
14 trust arrangement complies with their policy. Upon a determination that
15 they particular trust arrangement does not comply with the policy, such
16 employee may revise the trust arrangement and may submit a new
17 disclosure report to the Guam Ethics Commission.

18 e) **Discovery of Actual or Potential Conflict of Interest,**
19 **Disqualification, and Waiver.** Upon discovery of an actual or potential
20 conflict of interest, an employee shall promptly file a written statement of
21 disqualification and shall withdraw from future participation in the
22 transaction involved. The employee may, at the same time, apply to the
23 Guam Ethics Commission in accordance with this law, for an advisory
24 opinion as to what further participation, if any, the employee may have in
25 the transaction.

26 f) **Application for Waiver.** When an employee knows that he
27 or she has an actual or potential conflict of interest or when the Guam

1 Ethics Commission has determined that an actual conflict of interest exists,
2 such employee shall disqualify him or herself from the official action
3 involved and may apply to the Guam Ethics Commission for a waiver of the
4 conflict of interest.

5 g) **Grant or Denial of Waiver.** Under this Section, the Guam
6 Ethics Commission may grant a waiver of the conflict of interest prohibition
7 where the interest of the territory so requires or when the ethical conflict
8 is insubstantial or remote. Prior to granting or denying a waiver, the Guam
9 Ethics Commission shall make such investigation as it may deem
10 appropriate and which is not in violation of the employee's rights,
11 privileges, and immunities.

12 Factors to be considered by the Guam Ethics Commission when
13 determining whether to grant a waiver shall include:

14 1) the degree of involvement of the employee to the official
15 action;

16 2) The size and character of the financial interest of the
17 employee or a member of such employee's immediate family which
18 relates to the particular procurement;

19 3) the likelihood of the appearance of impropriety;

20 4) the availability of others, if any, with which a contract would
21 not present a conflict.

22 5) the extent to which the territory's interest will be affected by
23 a waiver.

24 **§ 15206. Contracts with Present or Former**
25 **Employees. a) Restrictions on former employees in matters**
26 **connected with their former duties.**

1 1) Permanent Disqualification of Former Employee Personally
2 Involved in a Particular Matter. It shall be a breach of the ethical
3 standards for any former employee knowingly to act as a principal, or as an
4 agent for anyone other than the territory, in connection with any:

5 i) judicial or other proceeding, application, request for ruling or other
6 determination;

7 ii) contract;

8 iii) claim or

9 iv) charge or controversy; in which the employee participated
10 personally and substantially through decision, approval, disapproval,
11 recommendation, rendering of advice, investigation, otherwise which an
12 employee, where the territory is a party or has a direct and substantial
13 interest.

14 2) One (1) year representation restriction regarding matters for which
15 a former employee was officially responsible. It shall be a breach of ethical
16 standards for any former employee, within after cessation of the former
17 employee's official responsibility, knowingly to act as principal, or as an
18 agent for anyone other than the territory, in connection with any

19 i) judicial or other proceeding, application, request for a ruling, or
20 other determination;

21 ii) contract;

22 iii) claim;

23 iv) charge or controversy; in matters which were within the former
24 employee's official responsibility, where the territory is a party or has a
25 direct or substantial interest.

26 **b) Disqualification of Business When An Employee has a**
27 **Financial Interest.** It shall be breach of ethical standards for a business

1 in which an employee has a financial interest knowingly to act as a
2 principal, or as an agent for anyone other than the territory in connection
3 with any:

4 1) judicial or other proceeding application, request for a ruling, or
5 other determination;

6 2) contract

7 3) claim

8 4) charge or controversy; in which the employee either participates
9 personally and substantially through decision, approval, disapproval,
10 recommendation, the rendering of advice, investigation, or otherwise, or
11 which is the subject of the employee's official responsibility, where the
12 territory is a party or has a direct and substantial interest.

13 c) **Applicability to members of boards and commissions.**

14 With regards to members of boards, commissions, and committees, this
15 Subsection shall apply only to contracts entered into between a business in
16 which a member has a controlling interest and a territorial agency in which
17 the board, commission, or committee to which the individual is appointed
18 has not filed a conflict of interest and received a waiver from the Guam
19 Ethics Commission.

20 d) **Time limit on doing business with agency where former**
21 **relationship exists.** A territorial agency shall not enter into a contract
22 with any person or business which is represented or assisted in a material
23 manner in the matter by a person who has been an employee of that
24 agency within the prior Ninety (90) days following the date employment
25 ceased where the government employee makes more than Twelve
26 Thousand Dollars (\$12,000) and had participated personal and
27 substantially. A territorial agency shall not enter into a contract

1 e) **Personal and substantial participation.**

2 1) Personal and Substantial Participation means such employee's
3 involvement must have been more than merely ministerial in nature.
4 Factors to be considered in determining personal and substantial
5 participation of a former government employee while a government
6 employee shall include but not limited to:

7 i) the former employee's degree of involvement in the
8 particular matter;

9 ii) the degree of involvement of the former employee with a
10 subordinate who had substantial participation in the matter;

11 iii) the effect or appearance of the involvement of the former
12 government employee;

13 iv) the relative time spent on the particular matter by the
14 former government employee.

15 2) The activities listed above generally describe matters in which
16 issues are defined and parties are identified. Matters of general
17 applications, such as regulation and policy formulations are not intended to
18 be covered.

19 3) In determining whether two particular matters are the same, the
20 following factors should be considered:

21 i) the factual basis of the matters

22 ii) the relationship of the issues involved in each matter;

23 iii) the identity of the parties involved in each matter;

24 iv) the continued existence of an important territory interest.

25 **§15207. Contracts entered into.** If after an award is made it is
26 determined that a contract was awarded in violation of this Chapter, then

1 a) If the person awarded the contract has not acted fraudulently or in
2 bad faith:

3 1) the contract may be ratified and affirmed, provided it is
4 determined that doing so is in the best interests of the territory

5 2) The contract may be terminated and the person awarded the
6 contract shall be compensated for actual expenses reasonably
7 incurred under the contract, plus a reasonable profit, prior to the
8 termination.

9 b) If the person awarded the contract has acted fraudulently or in
10 bad faith;

11 1) the contract may be declared null and void

12 2) the contract may be ratified and affirmed if such action is in
13 the best interests of the territory, without prejudice to the territory's
14 right to such damages as may be appropriate.

15 **§15208. Requirements of Disclosure.** a) All financial disclosure
16 reports required to be filed with the Guam Election Commission pursuant to
17 Chapter 13 of Title 4, Guam Code Annotated, shall be reported to the Guam
18 Ethics Commission within Five (5) working days of filing with the Guam
19 Election Commission.

20 b) If any reports that are received are incomplete, the Guam Election
21 Commission shall require additional information on the financial disclosure
22 reports and the Guam Ethics Commission may request such information
23 directly of the employee or from the Guam Election Commission.

24 c) Failure of an employee to file a disclosure of financial interests as
25 required by this Chapter and by Chapter 13 of Title 4, Guam Code
26 Annotated, shall be a violation of this Chapter.

1 **§15209. Disclosure files; Disposition.** a) All financial
2 disclosure statements filed by an employee shall be maintained by the
3 Guam Ethics Commission during the term of office of the employee, and for
4 a period of Three (3) years thereafter. Upon the expiration of the Three (3)
5 year period, the financial disclosure statement and all copies shall be
6 destroyed.

7 b) Nothing herein shall bar the Guam Ethics Commission from
8 retaining a financial disclosure statement or copy of a financial disclosure
9 statement that has become part of a charge case or advisory opinion
10 request, or is part of an ongoing investigation. Such financial disclosure
11 statement shall be a private document according to the provisions of
12 Chapter 10 of Title 5, Guam Code Annotated, the Sunshine Act of 1987.

13 **§15210. Restriction on Post Employment.** a) As noted in
14 §15206 of this Chapter, there is a One (1) year restriction from
15 participation in any official action to which the employee was substantially
16 involved.

17 b) The One (1) year restriction set forth above is measured from the
18 time the former government employee's official responsibility ended in a
19 particular matter.

20 c) The prohibition against post employment shall not prohibit a
21 former government employee from obtaining employment with a contract,
22 but such employee shall not sell to the territory as defined in Section 11-
23 208.05.2 of the Guam Procurement Regulations.

24 **§15211. Recovery of wrongful gains.** The territory, through
25 the Attorney General, may recover any fee, compensation, gift or profit
26 received by such person as a result of a violation of these standards by an
27 employee or former employee. Action to recover under this Subsection

1 should be brought within Two (2) years after the employee is no longer
2 working for the government.

3 Article III

4 Guam Ethics Commission

5 §15301. **Guam Ethics Commission.** There shall be within the
6 Executive Branch of the government of Guam, a commission to be known as
7 the Guam Ethics Commission. The Guam Ethics Commission shall consist of
8 seven (7) members to be appointed by the Governor and confirmed by the
9 Legislature. Each person nominated shall be a United States citizen or a
10 bona fide resident of Guam. No person who has ever been convicted of a
11 felony shall be eligible to serve on the Commission.

12 The initial Chairperson of the Commission shall be appointed by the
13 Governor. Thereafter election of officers shall occur every year in
14 accordance with Roberts Rules of Order. The term of office of each member
15 shall be four (4) years, provided that of the original members, two shall
16 hold office for two years, two shall hold office for three years and the
17 appointed Chairperson shall hold office for four years. The determination
18 of these members' length of service shall be by lot drawn by the members
19 at their initial meeting under the supervision of the initial chairperson. No
20 person shall be appointed consecutively to more than two terms as a
21 member of the Commission after the initial appointment to the Board.

22 Members shall serve without compensation, except that they shall
23 receive a stipend of Fifty Dollars (\$50) per meeting, not to exceed four
24 meetings per calendar month, and shall be compensated for all normal
25 expenses of travel, and for the cost of meals while in session.

26 Vacancies shall be filled for the remainder of the unexpired term in
27 the same manner as original appointments. The Governor may remove or

1 suspend any member of the Commission, upon the filing of a written
2 finding with the Commission and upon notification to the member.

3 **Article IV**

4 **Administration and Enforcement**

5 **§15401. Duties of Commission; complaint, hearing,**
6 **determination.** a) The Commission shall have the following powers and
7 duties:

8 1) establish an orderly procedure for implementing the requirements
9 of obtaining and keeping financial disclosure forms.

10 2) render advisory opinions upon the request of any employee or
11 former employee as to whether the facts and circumstances of a particular
12 case may constitute a violation of the code of ethics. The opinion rendered,
13 until amended or revoked, shall be binding on the Commission in any
14 subsequent charges concerning the employee or former employee who
15 sought the opinion and acted in reliance on it in good faith, unless material
16 facts were omitted or misstated by the employee or former employee in
17 the request for an advisory opinion. The issuance of an advisory opinion
18 does not prevent the employee or former employee from any criminal or
19 civil liabilities that may occur.

20 3) The Commission shall develop rules and regulations to:

21 a) initiate, receive and consider charges concerning alleged
22 violations of this Chapter, initiate or make investigations, and hold
23 hearings.

24 b) subpoena witnesses, administer oaths, and take testimony
25 relating to matters before the Commission and require the production
26 for examination of any books, papers or electronic records relative to
27 any matter under investigation or in question before the Commission.

1 Before the Commission shall exercise any of the powers authorized
2 herein with respect to any investigation or hearings, it shall be formal
3 resolution, supported by a vote of five or more members, define the
4 nature and scope of its inquiry.

5 4) It may, from time to time, make, amend, and repeal such
6 rules and regulations, not inconsistent with this Chapter as in the
7 opinion of the Commission, seem appropriate for the carrying out of
8 this Chapter for the efficient administration thereof, including every
9 matter or thing required to be done. The rules and regulations, shall
10 be adopted in conformance with the Administrative Adjudication
11 Law.

12 5) It shall have jurisdiction for purposes of investigation and
13 taking appropriate action on alleged violations of this Chapter in all
14 proceedings commenced within Three (3) years of an alleged violation
15 of the Chapter by an employee or former employee. Nothing herein
16 shall bar proceedings against a person who by fraud or other device,
17 prevents discovery of a violation of this Chapter. A proceeding shall
18 commence upon the signing of a charge by Five (5) or more members
19 of the Commission.

20 6) The Commission shall distribute its publications at cost to the
21 public and shall initiate and maintain programs with the purpose of
22 educating the citizenry and employees on matters of ethics in
23 government employment.

24 b) Charges concerning the violation of this Chapter shall be in writing,
25 signed by the person making the charge under oath, except that any charge
26 initiated by the Commission must be signed by Five (5) or more members
27 of the Commission. The Commission shall notify in writing every person

1 against whom a charge is received and afford him or her an opportunity to
2 explain the conduct alleged to be in violation of this Chapter. The
3 Commission may investigate, after compliance with this Section, such
4 charges and render an informal advisory opinion to the alleged violator.
5 The Commission shall investigate all charges on a confidential basis, having
6 available all the powers herein provided, and proceedings at this stage shall
7 not be public. If the informal advisory opinion indicates a probable
8 violation, the person charged may request a formal opinion, or within a
9 reasonable time, to be determined by the Commission, comply with the
10 informal advisory opinion. If the person charged fails to comply with such
11 informal advisory opinion, or if a majority of the members of the
12 Commission determine that there is a probable cause for belief that a
13 violation of this Chapter may have occurred, a copy of this charge and a
14 further statement of the alleged violation shall be personally serviced upon
15 the alleged violator in accordance with the rules for personal service found
16 in the Guam Rules of Civil Procedures. The person so charged shall have
17 Twenty (20) days after service thereof to respond in writing to the charge
18 and statement.

19 c) Any Commission member or any individual, including the
20 individual making the charge, who without permission of the Commission,
21 divulges information obtained from the Commission or who reveals
22 confidential actions of or what happened in closed proceedings before the
23 Commission concerning the charge prior to the issuance of the complaint or
24 other final action of the Commission, except as permitted by the Chapter,
25 shall be guilty of a misdemeanor.

26 d) If after Twenty (20) days following personal service, a majority of
27 the members of the Commission conclude that there is reason to believe

1 that a violation of this Chapter has been committed, then the Commission
2 shall set a time and place for a hearing, giving notice to the complainant
3 and the alleged violator. All parties shall have an opportunity:

- 4 1) to be heard;
- 5 2) to subpoena witnesses and require the production of any books,
6 papers, records, or electronic recordings relative to the proceedings;
- 7 3) to be represented by counsel; and
- 8 4) to have the right of cross- examination.

9 All witnesses shall testify under oath and the hearings shall be closed
10 to the public unless the party complained against requests an open hearing.
11 The Commission shall not be bound by the strict rules of evidence but the
12 Commission's findings must be based upon competent and substantial
13 evidence. All testimony and other evidence taken at the hearing shall be
14 recorded. Copies of transcripts of such records shall be available only to
15 the complainant and the alleged violator at their own expense, and the fees
16 therefor shall be deposited into the General Fund.

17 e) The Commission shall make its findings and render its decision
18 based on a preponderance of the evidence. A decision of the Commission
19 pertaining to the conduct of any employee shall be in writing and signed by
20 Five (5) or more of the members of the Commission. Deliberations of the
21 Commission shall be closed to the public and to all parties.

22 f) The Commission shall cause to be published yearly summaries of
23 decisions, advisory opinions, and informal advisory opinions. The
24 Commission shall make sufficient deletions in the summaries to prevent
25 disclosing the identify of persons involved in the decisions or opinions.

26 **§15402. Filing of false charges.** a) Any person who knowingly
27 and intentionally files a false charge with the Guam Ethics Commission, or

1 any member of the Commission who initiates action against any territorial
2 official, employee, or any other persons covered by this Chapter, knowing
3 such charge to be false, shall be guilty of the crime of perjury and subject
4 to the penalty set forth in Title 9 of Guam Code Annotated (Crimes and
5 Corrections).

6 b) Whoever is convicted in a court of competent jurisdiction of the
7 crime of perjury under this section, in addition to any other punishment
8 prescribed by law thereof, shall be required by court order to reimburse
9 the person against whom the false charge was filed for all of the person's
10 legal expenses and court costs incurred in relation to that person's defense
11 against the false complaint.

12 c) If such charge is filed within Six (6) months prior to an election in
13 which the accused's name appears on the ballot, the person filing the false
14 complaint shall pay to the accused the amount set out above, and shall also
15 pay an equal amount to the general fund of the territory.

16 d) This Section shall not supersede or preclude any other right or
17 remedy at law available to the person falsely accused.

18 **§15403. Procedure.** a) When the Commission, after due hearings,
19 believes that there is cause for the possible filing of criminal charges, it
20 shall refer the complaint to the Attorney General's Office or appropriate
21 authority for its disposition.

22 b) With respect to former employees, the Commission may, with the
23 consent of Five (5) or more members of the Commission, or for the
24 Legislature or the Judiciary a majority of the members of the Committee on
25 Rules or the Judicial Council, respectively, issue a public statement of its
26 findings and conclusions, and the Attorney General may exercise whatever
27 legal or equitable remedies are available to the territory.

1 c) When after due hearing, the Guam Ethics Commission finds that the
2 violation committed by an employee is non-criminal in nature, the
3 Commission shall remand the case to the agency where the employee is
4 employed with the recommendation that the agency impose the
5 corresponding punishment in accordance with the agency's personnel rules
6 and regulations.

7 **§15404. Disciplinary action for violation.** In addition to any
8 other powers the Guam Ethics Commission or other territorial agency may
9 have to discipline employees, the appropriate agency involved may
10 reprimand, put on probation, demote, suspend, or discharge any employee
11 found to have violated this Chapter, according to their respective personnel
12 rules and regulations.

13 **§15405. Cooperation.** The Guam Ethics Commission may request
14 and shall receive from every territorial agency cooperation and assistance
15 in the performance of its duties.

16 **§15406. Jurisdiction to all Three (3) branches of**
17 **government.** The standards of conduct and prohibitions against conduct
18 contained in this Chapter 15 shall apply to all Three (3) branches of
19 government. **a) Legislature.** The Legislature, through its Committee on
20 Rules, shall apply the provisions of this Chapter 15 to its elected members
21 and its employees as if it were the Guam Ethics Commission, and shall
22 investigate and discipline its elected members and its employees for any
23 violation of this Chapter.

24 **b) The Judiciary.** The Supreme Court of Guam shall apply the
25 provisions of this Chapter 15 to Justices and employees of the Supreme
26 Court of Guam and to Judges and employees of the Superior Court of Guam
27 as if it were the Guam Ethics Commission, and shall investigate and

1 discipline the Justices, Judges, and employees of both the Supreme Court of
2 Guam and the Superior Court of Guam for any violation of this Chapter.

3 **§15407. Staff.** The Guam Ethics Commission may employ such
4 persons as it deems necessary for the performance of its functions. It shall
5 submit an annual budget request to the Legislature for its required
6 operations.

7 **§15408. Prohibition from political activity.** Members of the
8 Guam Ethics Commission and its staff shall not take an active part in
9 political activities and shall be governed by the provisions of the
10 prohibition on political activity contained in Chapter 5 of Title 4, Guam Code
11 Annotated.

12 **§15409. Applicability of various Codes of Professional**
13 **Conduct for professional persons.** Persons who are subject to a Code
14 of Professional Conduct or other standard of behavior by reason of their
15 membership in any profession, such as but not limited to attorneys,
16 physicians, engineers, accountants, and other professionals, shall be subject
17 to their respective existing or hereinafter adopted codes of conduct relative
18 to their professions, and shall be disciplined by the method prescribed by
19 their professions for all matters under the jurisdiction of the professional
20 code of conduct.

21 **§15410. Severability.** If any part of this Chapter 15 shall, for
22 any reason, be adjudged by a court of competent jurisdiction to be invalid,
23 or invalid as applied to a class of cases, such judgment shall not affect,
24 impair, or invalidate the remainder thereof, and shall be confined in its
25 operation to the part thereof directly involved in the controversy in which
26 such judgment shall have been rendered."

1 **Section 2. Expansion of persons within the government who**
2 **are covered by the public official financial disclosure**
3 **requirements.** Subsection (a) of §13102 of Title 4, Guam Code Annotated,
4 of the Public Official Financial Disclosure Act is repealed and reenacted to
5 read:

6 **"§13102. Definitions for Purpose of this Act.** a) The term
7 official means any person elected to any public office in Guam and persons
8 occupying the following positions, if such person is paid annual
9 compensation, not a stipend, of \$5,000 or more:

10 1) the Governor, the Lieutenant Governor, members of the
11 Legislature, Judges of the Superior Court, Justices of the Supreme Court,
12 both full-time and part-time, village Mayors and Vice Mayors, and elected
13 members of the Territorial Board of Education;

14 2) the directors, executive managers, and executive directors,
15 regardless of specific titles by which the foregoing persons are designated,
16 of every territorial agency, as defined in Chapter 15 of this Title;

17 3) the Executive Director of the Legislature,

18 4) the members of the Guam Ethics Commission and the Executive
19 Director of that Agency;

20 5) the administrative director and the deputy director of both the
21 Supreme Court of Guam and the Superior Court of Guam;

22 6) the Suruhanu of the Guam Legislature;

23 7) the Public Auditor; and

24 8) the President, Vice President and Assistant Vice Presidents of both
25 the University of Guam and the Guam Community College."

26 **Section 3. Requirement that financial disclosure**
27 **requirements be filed at the Guam Election Commission and at**

1 the Guam Ethics Commission for elected officials, and with the
2 Guam Ethics Commission for all other persons covered by
3 financial disclosure requirements. Subsection (c) of §13102 of Title 4,
4 Guam Code Annotated, of the Public Official Financial Disclosure Act is
5 amended to read:

6 "(c) All reports required to be maintained under this Section for
7 elected officials shall be maintained by the Guam Election Commission as
8 public records available for inspection. The reports shall be forwarded to
9 the Guam Ethics Commission pursuant to §15208 of Title 4, Guam Code
10 Annotated. All reports required to be maintained under this Section for all
11 other persons covered by this Section shall be maintained by the Guam
12 Ethics Commission as public records available for inspection. Copies of the
13 reports shall be furnished to the public, upon the payment of reasonable
14 copying fees. The Executive Officer of the Guam Election Commission shall
15 issue a certificate certifying that an official or candidate has filed his report
16 as required by this Chapter."

17 **Section 4. Specification of financial disclosure report**
18 **for members of boards and commissions.** §2103.5 of Title 4,
19 Guam Code Annotated, is redesignated to be Subsection (a) of that Section,
20 and a new Subsection (b) is added to §2103.5 to read:

21 "(b). Additional requirement of financial disclosure report for
22 members of boards and commissions requiring Legislative confirmation. In
23 addition to the requirements of Subsection (a) of this Section, any member
24 of a board or commission requiring confirmation by the Legislature shall
25 include in the Nomination letter the following information:

26 1) Social Security Number;

1 2) Statement whether the nominee has no financial interest in any
2 business;

3 3) If the nominee does have interests in a business, a statement of
4 the name and address of the business interest, and type or amount of
5 interest in the business.

6 4) Statement whether the nominee has no delinquent or past due
7 tax liabilities.

8 5) Statement listing delinquent or past due tax liabilities."

9 **Section 5. Removal of present jurisdiction of the Civil**
10 **Service Commission over matters of Ethics in Procurement, and**
11 **transferring this jurisdiction to the Guam Ethics Commission.**

12 All references to the "Civil Service Commission" in §§5676 and 5677 of Title
13 5, Guam Code Annotated, shall mean and be read as the "Guam Ethics
14 Commission" on the effective date of this Act. All matters concerning Ethics
15 in Public Contracting as specified in the Guam Procurement Law shall be
16 governed by the Guam Ethics Commission.

17 **Section 6. First meeting.** The Guam Ethics Commission shall
18 convene its first session no later than December 31, 1996.

19 **Section 7. Effective Date.** The effective date of this Act shall be
20 Thirty (30) days after enactment.

TWENTY-THIRD GUAM LEGISLATURE
1996 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Substitute Bill No. 58 (LS), "AN ACT TO PRESCRIBE STANDARDS OF CONDUCT FOR ELECTED OFFICERS, APPOINTED OFFICERS AND PUBLIC EMPLOYEES OF THE GOVERNMENT OF GUAM AND TO ESTABLISH AN ETHICS COMMISSION BY ADDING A NEW CHAPTER 15 TO TITLE 4, GUAM CODE ANNOTATED; AND TO AMEND 4 GCA §13101, RELATIVE TO FINANCIAL DISCLOSURE REQUIREMENTS," was on the 19th day of April, 1996, duly and regularly passed.



TED S. NELSON
Acting Speaker

Attested:



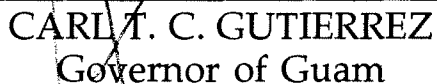
JUDITH WON PAT-BORJA
Senator and Legislative Secretary

This Act was received by the Governor this 23rd day of April,
1996, at 3:30 o'clock P.M.



Assistant Staff Officer
Governor's Office

APPROVED:



CARL T. C. GUTIERREZ
Governor of Guam

Date: _____

Public Law No. _____

TWENTY-THIRD GUAM LEGISLATURE
1995 (First) Regular Session

Bill No. 58 (LS)

As substituted by the Author

Introduced by:

T. S. Nelson
V. C. Pangelinan
T. C. Ada
A. C. Blaz
D. Parkinson
L. Leon Guerrero
J. T. San Agustin
J. Won Pat-Borja
M. C. Charfauros
S. L. Orsini
J. P. Aguon
A. L. G. Santos
H. A. Cristobal
A. R. Unpingco
F. P. Camacho
F. E. Santos
E. Barrett-Anderson
J. M. S. Brown
M. Forbes
A. C. Lamorena V
C. Leon Guerrero

AN ACT TO PRESCRIBE STANDARDS OF CONDUCT FOR ELECTED OFFICERS, APPOINTED OFFICERS AND PUBLIC EMPLOYEES OF THE GOVERNMENT OF GUAM AND TO ESTABLISH AN ETHICS COMMISSION BY ADDING A NEW CHAPTER 15 TO TITLE 4, GUAM CODE ANNOTATED; AND TO AMEND 4 GCA §13101, RELATIVE TO FINANCIAL DISCLOSURE REQUIREMENTS.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

1 defined herein, including members of boards or commissions, and
2 persons under personal services contracts;

3 (e) '**employment**' means any rendering of services for
4 compensation;

5 (f) '**financial interest**' means an interest held by an
6 individual, his or her spouse, or dependent children, which is:

7 (1) an ownership interest in a business;

8 (2) a creditor interest in an insolvent business;

9 (3) an employment, or prospective employment for
10 which negotiations have begun;

11 (4) an ownership interest in personal or real property;

12 (5) a loan or other debtor interest; or

13 (6) a directorship or officership in a business.

14 (g) '**judicial officers**' includes the Justices of the Supreme
15 Court, whether full- or part-time, and Judges of the Superior
16 Court, including Judges pro tem and referees;

17 (h) '**legislator**' means any duly elected members of the
18 Guam Legislature;

19 (i) '**official act**' or '**official action**' means a decision,
20 recommendation, approval, disapproval, or other action,
21 including inaction which involves the use of discretionary and
22 non-discretionary authority;

23 (j) '**official authority**' includes administrative, judicial or
24 legislative powers of decision, recommendation, approval,
25 disapproval, or other discretionary or non-discretionary action;
26 and

1 (k) 'territorial agency' or 'agency' shall mean every branch
2 of government, public corporations, all government of Guam
3 departments, bureaus, and line agencies, autonomous and semi-
4 autonomous agencies, instrumentalities, entities or sub-entities
5 thereof, the Mayor's Council, and Mayors' Offices.

6 **Article 2**

7 **Specified Standards**

8 **§15201. Gifts.** No employee shall solicit, accept, or receive,
9 directly or indirectly, any gift valued singly or in the aggregate from a
10 single source in excess of \$200, whether in the form of money, prize,
11 service, loan, travel, entertainment, hospitality, thing or promise, or in
12 any other form, when a reasonable person would infer that the gift is
13 intended to influence the employee in the performance of that
14 individual's official duties or is intended as a reward for any official
15 action on that individual's part.

16 **§15202. Reporting of gifts.** (a) Every employee shall file a gifts
17 disclosure statement with the Guam Ethics Commission on June 30 of
18 each year if all the following conditions are met:

19 (1) The employee, or spouse or dependent child of an
20 employee, received directly or indirectly from any source
21 any gift or gifts valued singly or in the aggregate from a
22 single source in excess of \$200, whether the gift is in the
23 form of money, services, goods, or in any other form;

24 (2) The source of the gift or gifts have interests that
25 may be affected by the official action or lack of action by the
26 employee; and

1 (3) The gift is not exempted by subsection (d) from
2 reporting requirements under this section.

3 (b) The report shall cover the period from January 1 of the
4 preceding calendar year through December 31 of the year of the
5 report.

6 (c) The gifts disclosure statement shall contain the
7 following information:

8 (1) A description of the gift;

9 (2) A good faith estimate of the value of the gift;

10 (3) The date the gift was received; and

11 (4) The name of the person, business entity, or
12 organization from whom, or on behalf of whom, the gift
13 was received.

14 (d) Excluded from the reporting requirements of this section
15 are the following:

16 (1) Gifts received by will or intestate succession;

17 (2) Gifts received by way of distribution of any inter
18 vivos or testamentary trust established by a spouse or
19 ancestor;

20 (3) Gifts from a spouse, fiancé, fiancée, any relative
21 within three degrees of consanguinity or the spouse, fiancé,
22 or fiancée of such a relative. A gift from any such person is a
23 reportable gift if the person is acting as an agent or
24 intermediary for any person not covered by this paragraph;

25 (4) Political campaign contributions that comply with
26 territorial law. This section shall not exempt the recipient of

1 campaign contributions from the reporting requirements of
2 the Election Code.

3 (5) Anything available to or distributed to the public
4 generally without regard to the official status of the
5 recipient;

6 (6) Gifts that within thirty days after receipt, are
7 returned to the giver or delivered to a public body or to a
8 bona fide educational or charitable organization without
9 the donation being claimed as a charitable contribution for
10 tax purposes; and

11 (7) Exchange of approximately equal value on
12 holidays, birthday, or special occasions.

13 (e) Failure of an employee to file a gifts disclosure
14 statement as required by this section shall be a violation of this
15 chapter.

16 **§15203. Confidential information.** No employee shall disclose
17 information which is considered a private document by existing law,
18 and which the employee acquires in the course of official duties, or use
19 the information for personal gain or for the benefit of someone else.

20 **§15204. Fair Treatment.** No employee shall use or attempt to use
21 an official position to secure or grant unwarranted privileges,
22 exemptions, advantages, contracts, or treatment, for himself or herself,
23 a spouse, children, or others, including but not limited to the following:

24 (a). seeking other employment or contract for services
25 by the use or attempted use of the individual's office or
26 position;

1 (b). accepting, receiving, or soliciting compensation
2 for the performance of official duties or responsibilities
3 except as provided by law;

4 (c). using government time, equipment, or other
5 facilities for private business purposes;

6 (d). soliciting, selling, or otherwise engaging in a
7 financial transaction with a subordinate or a person or
8 business whom the employee inspects or supervises in
9 official capacity.

10 (e) Nothing herein shall be construed to prohibit a
11 legislator from introducing bills and resolutions, serving on
12 committees or making statements or taking action in the
13 exercise of legislative functions. Every legislator shall file
14 with the Guam Ethics Commission a full and complete
15 public disclosure of the nature and extent of the legislator's
16 interest on any legislative transaction which primarily
17 affects only the legislator or legislators involved or their
18 spouses and not the community as a whole or a segment
19 thereof. Disclosure must be made at time of introduction of
20 such legislation, or when the legislator shall first have
21 knowledge of such legislation.

22 **§15205. Conflicts of interest.**

23 (a). No employee shall take any official action directly
24 affecting:

25 (1). business or other undertaking in which the
26 employee has a financial interest; or

1 (2). private undertaking in which the employee is
2 engaged as legal counsel, advisor, consultant,
3 representative, or other agency capacity.

4 A department head who is unable to be disqualified on
5 any matter described in item (1) or (2) of this Subsection may
6 be in violation of this Subsection even if the individual has
7 complied with the disclosure requirements of §15208; and a
8 person whose position on a board, commission or committee
9 is mandated by statute, resolution or executive order to
10 have particular qualifications shall only be prohibited from
11 taking official action that directly and specifically affects a
12 business or undertaking in which such person has a financial
13 interest; provided that the financial interest is related to the
14 member's particular qualifications.

15 (b). No employee shall acquire financial interests in any
16 business or other undertaking which the employee has reason to
17 believe may be directly involved in official action to be taken by the
18 employee.

19 (c). No employee shall assist any person or business or act
20 in a representative capacity before any territorial agency for any
21 compensation in any transaction involving the Territory.

22 (d). No employee shall assist any person or business or act
23 in a representative capacity for a fee or other compensation to
24 secure passage of a bill or to obtain a contract, claim, or other
25 transaction or proposal in which the employee has participated or
26 will participate as an employee, nor shall the employee assist any
27 person, or business, or act in a representative capacity for a fee or

1 other compensation on such bill, contract, claim, or other
2 transaction or proposal before the Legislature or territorial
3 agency of which the individual is an employee.

4 (e). No employee shall assist any person or business or act
5 in a representative capacity before a territorial agency for a fee or
6 other compensation, on any bill, contract, claim, or other
7 transaction or proposal involving official action by the agency if
8 the employee has official authority over that agency unless such
9 employee has complied with the disclosure requirements of
10 §15208.

11 (f) Nothing herein shall preclude an employee from having
12 outside business interests or employment so long as such interests
13 or employment do not interfere with performance of official
14 duties and is not otherwise in direct conflict with this Chapter.

15 **§15206. Contracts.**

16 (a). A territorial agency shall not enter into any contract
17 with an employee or with a business in which an employee has a
18 controlling interest, unless the contract has been awarded
19 through an open, public process. A territorial agency may,
20 however, enter into such contract without resort to competitive
21 bidding process when, in the opinion of the General Services
22 Agency or the procurement officer of that branch of government,
23 the property or services does not fall within the purview of
24 competitive bidding; provided that written justification for the
25 non-competitive award of such contract be made a matter of
26 public record and shall be filed with the Guam Ethics Commission
27 at least ten (10) days before such contract is entered into.

1 With regards to members of boards, commissions, and
2 committees, this Subsection shall apply only to contracts entered
3 into between a business in which a member has a controlling
4 interest and a territorial agency in which the board, commission,
5 or committee to which the individual is appointed has jurisdiction.

6 (b). A territorial agency shall not enter into a contract with
7 any person or business which is represented or assisted in a
8 material manner in the matter by a person who has been an
9 employee of that agency within the preceding twelve (12) months
10 and who participated while in territorial office or employment in
11 a material manner in the matter with which the contract is
12 directly concerned.

13 **§15207. Contracts voidable.** In addition to any other penalty
14 provided by law, any contract entered into by the Territory in violation
15 of this Chapter, is voidable by the Territory; provided that in any act to
16 void a contract pursuant to this Section, the interests of third parties
17 who may be damaged thereby, shall be taken into account, and the
18 action to void the transaction is initiated within ninety (90) days after
19 the determination of a violation under this Chapter. The Attorney
20 General shall have the authority to enforce this provision.

21 **§15208. Requirements of disclosure.**

22 (a) All financial disclosure reports required to be filed with
23 the Guam Election Commission pursuant to Chapter 13 of Title 4,
24 Guam Code Annotated, shall be reported to the Guam Ethics
25 Commission within three working days of filing with the Guam
26 Election Commission.

1 (b) The Guam Election Commission shall require additional
2 information on its financial disclosure reports, as may be
3 requested by the Ethics Commission in accordance with this
4 Section, and the Ethics Commission may request such information
5 directly of the employee if it is not forthcoming from the Election
6 Commission.

7 (c). Failure of an employee to file a disclosure of financial
8 interests as required by this Chapter shall be a violation of this
9 Chapter.

10 **§15209. Disclosure files; disposition.** (a) All financial disclosure
11 statements filed by an employee shall be maintained by the Guam Ethics
12 Commission during the term of office of the employee, and for a period
13 of three years thereafter. Upon the expiration of the three-year period,
14 the financial disclosure statement and all copies thereof shall be
15 destroyed.

16 (b) Nothing herein shall bar the Guam Ethics Commission
17 from retaining a financial disclosure statement or copy of a
18 financial disclosure statement that has become part of a charge
19 case or advisory opinion request, or is part of an ongoing
20 investigation.

21 **§15210. Restrictions on post employment.**

22 (a). No former employee shall disclose any information
23 which by law is not available to the public and which the employee
24 acquired in the course of official duties or use the information for
25 personal gain or the benefit of anyone.

26 (b). No former employee shall, within twelve (12) months
27 after termination from employment, assist any person or business,

1 or act in a representative capacity for a fee or other consideration,
2 on matters involving official action by the particular territorial
3 agency with which the employee had actually served.

4 (c). This Section shall prohibit any agency from contracting
5 with a former employee to act on a matter on behalf of the
6 Territory within the period of limitations stated herein, unless
7 exempted by law.

8 **§15211. Violation.**

9 (a). Any territorial action obtained in violation of this
10 chapter for employees is voidable in the same manner as voidable
11 contracts as provided for under §15207; and the Territory, by the
12 Attorney General, may pursue all legal and equitable remedies
13 available to it.

14 (b). The Territory, by the Attorney General, may recover
15 any fee, compensation, gift, or profit received by such person as a
16 result of a violation of these standards by an employee or former
17 employee. Action to recover under the Subsection (b) shall be
18 brought within two (2) years of such violation under this Chapter.

19 **ARTICLE 3**

20 **Guam Ethics Commission**

21 **§15301. Guam Ethics Commission established;**
22 **composition.** There shall be within the government of Guam, a
23 commission to be known as the Guam Ethics Commission. The
24 Commission shall consist of seven (7) members to be appointed by the
25 Governor from a panel of fifteen (15) persons who shall be nominated
26 by the Judicial Council. Each person nominated shall be a United States
27 citizen and a bona fide resident of Guam. No person who has ever been

1 convicted of a felony shall be eligible to serve on the Commission.
2 Members of the Commission shall not be an employee as defined herein
3 or have any member of their immediate family employed by the
4 Government of Guam. All appointments to the Ethics Commission
5 shall be confirmed by the Legislature.

6 The Chairman of the Commission shall be elected by the majority
7 of the Commission. The term of office of each member shall be four
8 years, provided that of the original members, two shall hold office for
9 two years, two shall hold office for three years and one shall hold office
10 for four years. The determination of these members' length of office
11 shall be by lot drawn by the members at their initial meeting. No person
12 shall be appointed consecutively to more than two terms as a member of
13 the Commission.

14 Members shall serve without compensation, except that they shall
15 receive a stipend of Fifty Dollars (\$50.00) per meeting not to exceed four
16 meetings per calendar month, and shall be compensated for all normal
17 expenses of travel, and for the cost of meals while in session.

18 Vacancies shall be filled for the remainder of the unexpired term
19 in the same manner as original appointments except that the Judicial
20 Council shall nominate for gubernatorial appointment two persons for
21 each vacancy. The Governor may remove or suspend any member of
22 the Commission for cause, upon the filing of a written finding with the
23 Commission and upon service of a copy of the written findings on the
24 member removed or suspended.

25 **ARTICLE 4**

26 **Administration and Enforcement**

1 **§15401. Duties of Commission; complaint, hearing,**
2 **determination.**

3 (a). The Commission shall have the following powers and
4 duties:

5 (1). It shall prescribe a form for the financial
6 disclosures required by §15208 and shall establish an orderly
7 procedure for implementing the requirements of that
8 Section.

9 (2). It shall render advisory opinions upon the request
10 of any employee or former employee as to whether the facts
11 and circumstances of a particular case constitutes or will
12 constitute a violation of the code of ethics. The opinion
13 rendered, until amended or revoked, shall be binding on the
14 Commission in any subsequent charges concerning the
15 employee or former employee who sought the opinion and
16 acted in reliance on it in good faith, unless material facts
17 were omitted or misstated by the employee or former
18 employee in the request for an advisory opinion.

19 (3). It shall initiate, receive and consider charges
20 concerning alleged violations of this Chapter, initiate or
21 make investigations, and hold hearings.

22 (4). It may subpoena witnesses, administer oaths, and
23 take testimony relating to matters before the Commission
24 and require the production for examination of any books,
25 papers or electronic records relative to any matter under
26 investigation or in question before the Commission. Before
27 the Commission shall exercise any of the powers authorized

1 herein with respect to any investigation or hearings, it shall
2 by formal resolution, supported by a vote of five or more
3 members of the Commission, define the nature and scope of
4 its inquiry.

5 (5). It may, from time to time, make, amend, and
6 repeal such rules and regulations, not inconsistent with this
7 Chapter as in the opinion of the Commission, seem
8 appropriate for the carrying out of this Chapter for the
9 efficient administration thereof, including every matter or
10 thing required to be done or which may be done with the
11 approval or consent or by order or under the direction or
12 supervision of or as prescribed by the Commission. The
13 rules and regulations, shall be adopted in conformance with
14 the Administrative Adjudication Law, and shall have the
15 force and effect of law.

16 (6). It shall have jurisdiction for purposes of
17 investigation and taking appropriate action on alleged
18 violations of this Chapter in all proceedings commenced
19 within three (3) years of an alleged violation of this Chapter
20 by an employee, or a former employee. Nothing herein shall
21 bar proceedings against a person who by fraud or other
22 device, prevents discovery of a violation of this Chapter. A
23 proceeding shall be deemed commenced by the signing of a
24 charge by five (5) or more members of the Commission.

25 (7). It shall distribute its publications without cost to
26 the public and shall initiate and maintain programs with the

1 purpose of educating the citizenry and employees on
2 matters of ethics in government employment.

3 (b). Charges concerning the violation of this Chapter shall
4 be in writing, signed by the person making the charge under oath,
5 except that any charge initiated by the Commission must be
6 signed by five (5) or more members of the Commission. The
7 Commission shall notify in writing every person against whom a
8 charge is received and afford him an opportunity to explain the
9 conduct alleged to be in violation of this Chapter. The
10 Commission may investigate, after compliance with this Section,
11 such charges and render an informal advisory opinion to the
12 alleged violator. The Commission shall investigate all charges on
13 a confidential basis, having available all the powers herein
14 provided, and proceedings at this stage shall not be public. If the
15 informal advisory opinion indicates a probable violation, the
16 person charged shall request a formal opinion or within a
17 reasonable time comply with the informal advisory opinion. If the
18 person charged fails to comply with such informal advisory
19 opinion or if a majority of the members of the Commission
20 determine that there is a probable cause for belief that a violation
21 of this Chapter might have occurred, a copy of the charge and a
22 further statement of the alleged violation shall be personally
23 served upon the alleged violator in accordance with the rules for
24 personal service found in Guam Rules of Civil Procedure. The
25 person so charged shall have twenty (20) days after service
26 thereof to respond in writing to the charge and statement.

1 (c). Any Commission member or any individual, including
2 the individual making the charge, who without permission of the
3 Commission, divulges information obtained from the
4 Commission or who reveals confidential actions of or what
5 happened in closed proceedings before the Commission
6 concerning the charge prior to the issuance of the complaint or
7 other final action by the Commission, except as permitted by this
8 Chapter, shall be guilty of a misdemeanor.

9 (d). If after twenty (20) days following personal service, a
10 majority of the members of the Commission conclude that there is
11 reason to believe that a violation of this Chapter has been
12 committed, then the Commission shall set a time and place for a
13 hearing, giving notice to the complainant and the alleged
14 violator. All parties shall have an opportunity (1) to be heard, (2)
15 to subpoena witnesses and require the production of any books,
16 papers, records, or electronic recordings relative to the
17 proceedings, (3) to be represented by counsel, and (4) to have the
18 right of cross-examination. All witnesses shall testify under oath
19 and the hearings shall be closed to the public unless the party
20 complained against requests an open hearing. The Commission
21 shall not be bound by the strict rules of evidence but the
22 Commission's findings must be based upon competent and
23 substantial evidence. All testimony and other evidence taken at
24 the hearing shall be recorded. Copies of transcripts of such record
25 shall be available only to the complainant and the alleged violator
26 at their own expense, and the fees therefor shall be deposited into
27 the General Fund.

1 (e). The Commission shall make its findings and render its
2 decision based on a preponderance of the evidence. A decision of
3 the Commission pertaining to the conduct of any employee shall
4 be in writing and signed by five (5) or more of the members of the
5 Commission. Deliberations of the Commission shall be closed to
6 the public and to all parties.

7 (f). The Commission shall cause to be published yearly
8 summaries of decisions, advisory opinions, and informal advisory
9 opinions. The Commission shall make sufficient deletions in the
10 summaries to prevent disclosing the identify of persons involved
11 in the decisions or opinions.

12 **§15402. Filing of false charges.** (a) Any person who knowingly
13 and intentionally files a false charge with the commission, or any
14 member of the commission who initiates action against any territorial
15 official, territorial employee, or any other person covered by this
16 chapter, knowing such charge to be false, shall be guilty of the crime of
17 perjury and subject to the penalty set forth in Title 9 of Guam Code
18 Annotated (Crimes and Corrections).

19 (b) Whoever is convicted in a court of competent jurisdiction
20 of the crime of perjury under this section, in addition to any other
21 punishment prescribed by law thereof, shall be required by court
22 order to reimburse the person against whom the false charge was
23 filed for all of the person's legal expenses and court costs incurred
24 in relation to that person's defense against the false complaint.

25 (c) If such charge is filed within six months prior to an
26 election in which the accused's name appears on the ballot, the
27 person filing the false complaint shall pay to the accused the

1 amount set out above, and shall also pay an equal amount to the
2 general fund of the Territory.

3 (d) This section shall not supersede or preclude any other
4 right or remedy at law available to the person falsely accused.

5 **§15403. Procedure.**

6 (a). When the Commission, after due hearings, believes that
7 there is cause for the possible filing of criminal charges, it shall
8 refer the complaint to the Attorney General's Office or
9 appropriate authority for its disposition.

10 (b). With respect to former employees, the Commission
11 may, with the consent of five (5) or more members of the
12 Commission, issue a public statement of its findings and
13 conclusions, and the Attorney General may exercise whatever
14 legal or equitable remedies are available to the Territory.

15 (c) When after due hearing, the Commission finds that the
16 violation committed by an employee is non-criminal in nature, the
17 Commission will remand the case to the agency where the
18 employee is employed with the recommendation that the agency
19 impose the corresponding punishment in accordance with the
20 agency's personnel rules and regulations.

21 **§15404. Disciplinary action for violation.** In addition to any
22 other powers the Civil Service Commission or other territorial agency
23 may have to discipline employees, the appropriate agency involved may
24 reprimand, put on probation, demote, suspend, or discharge any
25 employee found to have violated this Chapter.

1 **§15405. Cooperation.** The Guam Ethics Commission may
2 request and shall receive from every territorial agency cooperation and
3 assistance in the performance of its duties.

4 **§15406. Concurrent jurisdiction.** In addition to any provision
5 contained in this Chapter, the Legislature and the Judicial Branch may
6 each prescribe further rules of conduct covering its members and may
7 investigate and discipline its employees for any violation of this
8 Chapter, or its own Rules, or both.

9 **§15407. Staff.** The Guam Ethics Commission may employ such
10 persons as it deems necessary for the performance of its functions. They
11 shall submit an annual budget request to the Legislature for its required
12 operations.

13 **§15408. Prohibition from political activity.** Members of the ethics
14 commission and its staff shall not take an active part in political
15 management or in political campaigns during the term of office or
16 employment.

17 **§15409. Judicial Branch.** The Chief Justice of the Supreme Court
18 shall have jurisdiction and governance over all justices and judges of
19 the judicial branch in matters of ethics as covered in this Chapter 15.

20 **§15410. Repeal.** Those portions of the Guam Code Annotated
21 and the Government Code of Guam, which are in conflict with any
22 section of this Chapter, are hereby repealed.

23 **§15411. Severability.** If any part of this Chapter 15 shall, for any
24 reason, be adjudged by a court of competent jurisdiction to be invalid,
25 or invalid as applied to a class of cases, such judgment shall not affect,
26 impair, or invalidate the remainder thereof, and shall be confined in its

1 operation to the part thereof directly involved in the controversy in
2 which such judgment shall have been rendered.

3 **Section 2.** 4 GCA §13102(a) of the Public Official Financial Disclosure
4 Act is amended to read:

5 **"§13102. Definitions for Purpose of this Act.** (a) The term official
6 means any person elected to any public office in Guam and any person
7 appointed, with legislative concurrence or by the Legislature, to any
8 public office, to include but not limited to:

9 (1) the Governor, the Lieutenant Governor, members of the
10 Legislature, Judges of the Superior Court, Justices of the Supreme
11 Court, both full time and part time, village Mayors and Vice
12 Mayors, and elected members of the Territorial Board of
13 Education.;

14 (2) the directors and their deputies, the division chiefs, and
15 executive directors, regardless of specific titles by which the
16 foregoing persons are designated, of every territorial agency;

17 (3) the Executive Director of the Legislature, and the staff
18 or management assistants in the offices of the Governor and
19 Lieutenant Governor, other than persons employed in clerical,
20 secretarial or similar positions;

21 (4) the hearing officers of every territorial agency;

22 (5) members of every board or commission whose original
23 term of office is for a period exceeding one year and whose
24 functions are not solely advisory;

25 (6) the members of the Guam Ethics Commission and the
26 Executive Director of that Agency shall file the required reports
27 with the Legislative Secretary;

1 (7) The administrative director and deputy director of the
2 courts;

3 (8) The Suruhanu;

4 (9) The Public Auditor; and

5 (10) The President, Vice President and Assistant Vice
6 Presidents of the University of Guam and the Guam Community
7 College."

8 **Section 3.** The Ethics Commission shall convene its first session no
9 later than December 31, 1996.

10 **Section 4. Effective Date.** The effective date of this Act shall be thirty
11 (30) days after enactment.

VOTING SHEET

Bill No. 58

Resolution No. _____

Question: _____

NAME	YEAS	NAYS	NOT VOTING/ ABSTAINED	ABSENT/ OUT DURING ROLL CALL
ADA, Thomas C.	✓			
AGUON, John P.	✓			
BARRETT-ANDERSON, Elizabeth	✓			
BLAZ, Anthony C.	✓			
BROWN, Joanne S.	✓			
CAMACHO, Felix P.	✓			
CHARFAUROS, Mark C	✓			
CRISTOBAL, Hope A.	✓			
FORBES, -MARK	✓			
LAMORENA, Alberto C., V	✓			
LEON GUERRERO, Carlotta	✓			
LEON GUERRERO, Lou	✓			
NELSON, Ted S.	✓			
ORSINI, Sonny L.	✓			
PANGELINAN, Vicente C	✓			
PARKINSON, Don	✓			
SAN AGUSTIN, Joe T.	✓			
SANTOS, Angel L. G.	✓			
SANTOS, Francis E.	✓			
UNPINGCO, Antonio R.	✓			
WONPAT-BORJA, Judith	✓			

TOTAL

21 0 0 0

CERTIFIED TRUE AND CORRECT:

Recording Secretary

23-105

Ofisinan i Setbienten i Taotao Guahan
Vice-Speaker Ted S. Nelson

Chairman

**Committee on General Governmental Operations and Micronesian Affairs
Twenty-Third Guam Legislature**

8 March 1995

COMMITTEES:

Member,
Committee on
Community, Housing
and Cultural Affairs

Member,
Committee on Education

Member,
Committee on Health,
Welfare & Senior
Citizens

Member,
Committee on Judiciary,
Criminal Justice &
Environmental Affairs

Member,
Committee on Rules

Member,
Committee on Water
Utilities & Electronic
Communications

Member,
Committee on Youth,
Labor, and Parks &
Recreation

Director & Vice-President
(Ranking Member),
Association of Pacific
Island Legislatures (APIL)

Honorable Don Parkinson
Speaker
Twenty Third Guam Legislature
424 West O'Brien Drive
Julale Center Ste 222
Agaña GU 96910

Re: Chairman, Committee on General Governmental Operations and
Micronesian Affairs

Dear Mr. Speaker:

The Committee on General Governmental Operations and
Micronesian Affairs, to which was referred Bill #58, "AN ACT TO
PRESCRIBE STANDARDS OF CONDUCT FOR ELECTED
OFFICERS, APPOINTED OFFICERS AND EMPLOYEES OF THE
GOVERNMENT OF GUAM AND TO ESTABLISH AN ETHICS
COMMISSION." wishes to report back the same with the
recommendation to **do pass**.

The Committee votes as follows:


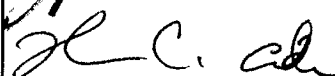

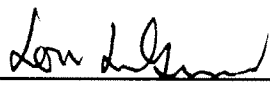
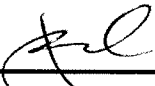
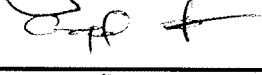

TO DO PASS	7
NOT TO PASS	0
INACTIVE FILE	0
ABSTAIN	0

**COMMITTEE ON GENERAL GOVERNMENTAL OPERATIONS
AND MICRONESIAN AFFAIRS**
Twenty-Third Guam Legislature

**VOTE SHEET ON
Bill No. 58**

**"An Act to prescribe standards of conduct for elected officials,
appointed officers, and public employees of the government of
Guam and to establish an ethics commission"**

RECOMMENDATION TO DO PASS

Committee Members	Signature	To Do Pass	Not to Pass	Place in Inactive File	Abstain
Vice-Speaker Ted S. Nelson Chairman		✓			
Sen. Thomas C. Ada		✓			
Sen. Anthony C. Blaz					
Sen. Mark C. Charfauros		✓			
Sen. Hope A. Cristobal					
Sen. Felix P. Camacho					
Sen. Albert C. Lamorena V					
Sen. Carlotta Leon Guerrero					
Sen. Lou Leon Guerrero		✓			
Sen. Sonny L. Orsini					
Sen. Ben C. Pangelinan		✓			
Sen. Angel L.G. Santos		✓			
Sen. Judith WonPat-Borja		✓			
TOTAL VOTES:					

**COMMITTEE ON GENERAL GOVERNMENTAL OPERATIONS
AND MICRONESIAN AFFAIRS**
Twenty Third Guam Legislature

COMMITTEE REPORT

ON

BILL NO. 58

**AN ACT TO PRESCRIBE STANDARDS OF CONDUCT FOR
ELECTED OFFICIALS, APPOINTED OFFICERS, AND
PUBLIC EMPLOYEES OF THE GOVERNMENT OF GUAM
AND TO ESTABLISH AN ETHICS COMMISSION**

COMMITTEE MEMBERS:

Chairman: Ted S. Nelson

Vice Chairman:

Ex-Officio Member: Speaker Don Parkinson

**Thomas C. Ada
Felix P. Camacho
Hope A. Cristobal
Alberto C. Lamorena V
Lou Leon Guerrero
Angel L.G. Santos**

**Anthony C. Blaz
Mark C. Charfauros
Carlotta Leon Guerrero
Sonny L. Orsini
Vicente C. Pangelinan
Judith Won Pat Borja**

Profile on
Bill No. 58

Official Title: AN ACT TO PRESCRIBE STANDARDS OF CONDUCT FOR ELECTED OFFICERS, APPOINTED OFFICERS, AND PUBLIC EMPLOYEES OF THE GOVERNMENT OF GUAM AND TO ESTABLISH AN ETHICS COMMISSION

Date Introduced: January 19, 1995

Main Sponsor(s) Ted S. Nelson, Vice Speaker

Referral: Committee on General Governmental Operations and Micronesian Affairs on January 30, 1995

Committee Public Hearing: 6:30 pm Wednesday March 8, 1995 at the Public Hearing Room, Guam Legislature, Temporary Location, Agaña Guam

Committee Findings

The Committee finds that there is a need to address the matter of proper ethics among all elected and appointed officers and employees of all branches of the government of Guam. There is need to establish workable standards for these individuals to be guided in their day to day existence.

By establishing an Ethics Commission, there will be one entity to play watchdog over the government, protecting the rights of all citizens. Violations will be referred to the Attorney General for prosecution.

The Civil Service Commission presented oral testimony highly supportive of Bill #58. Mr. Belanger, of the CSC, also spoke in favor of #58. University of

Guam students presented written testimony highly in favor of #58. This was read by a Mr. Carlos Shodda, supported by Annette Cruz.

Bill #58, in its present form, also was introduced into the Twenty-Second Legislature as Bill 429. As 429, it had many hearings during 1993 and 1994. All of these public hearings were highly favorable, even if amendments were introduced. These amendments, although slowing down the process, did greatly improve the overall content of the Bill and limit the scope of it to ethics within government. Bill # 58 is now the final polished version of a long awaited ethics standard for the government of Guam.

Committee Member and Senator, Judith Won-Pat Borja requested that the word "MAY BE" in §7216 be changed to "shall" , thus giving the government departments and agencies some of the power of the Ethics Commission.

Committee Member and Senator, Angel Santos spoke out highly in favor of speedy passage of Bill #58.

All present appeared to be in favor of enactment.

**COMMITTEE ON GENERAL GOVERNMENTAL OPERATIONS AND
MICRONESIAN AFFAIRS**

Public Hearing: 6:30 pm Wednesday March 8, 1995, Public Hearing
Room, Guam Legislature, Temporary Location Agaña.

Committee members present: Senator Vicente C. Pangelinan, Acting Chairperson
Senator Lou Leon Guerrero, Member
Senator Angel L.G. Santos
Senator Judith Won-Pat Borja

Committee Members Off-Island Vice Speaker Ted S. Nelson
Senator Thomas C. Ada

Agenda

Bill No. 58 AN ACT TO PRESCRIBE STANDARDS OF CONDUCT
FOR ELECTED OFFICERS, APPOINTED OFFICERS, AND
PUBLIC EMPLOYEES OF THE GOVERNMENT OF GUAM
AND TO ESTABLISH AN ETHICS COMMISSION.

The Chairman called the hearing to order at 6:30 pm, and made welcoming remarks to the members of the general public as well as government officials. After other scheduled matters were completed, Bill #58 came before the Committee for public hearing.

First witness was Mr. Eloy Hara, Executive Director of Civil Service Commission, who presented oral testimony in favor of enactment of Bill #58.(Attached).

The next witness was Mr. Belanger, member of the CSC Board who testified in favor of Bill #58.

Students Carlos Shodda and Annette Cruz presented written testimony highly in favor of speedy enactment of Bill #58.

Senator Judith Won Pat Borja expressed the opinion that She would like to have the words "may be" in §7216 changed to "shall".

Senator Angel L.G. Santos spoke very highly of Bill #58 and looked forward to enactment as soon as possible.

There being no additional witnesses, the hearing on Bill #58 was concluded.

FINDINGS

It is the consensus of the Committee that Bill #58 be reported out and presented for second hearing as soon as possible.

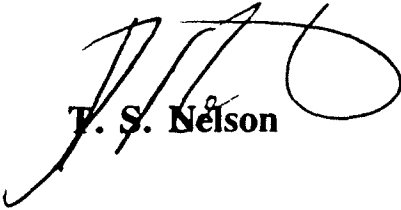
RECOMMENDATIONS

The Committee recommends that Bill #58 be reported out as soon as possible.

TWENTY-THIRD GUAM LEGISLATURE
1995 (First) Regular Session

Bill No. 58

Introduced By:


T. S. Nelson

**AN ACT TO PRESCRIBE STANDARDS OF
CONDUCT FOR ELECTED OFFICERS,
APPOINTED OFFICERS AND PUBLIC
EMPLOYEES OF THE GOVERNMENT OF GUAM
AND TO ESTABLISH AN ETHICS COMMISSION**

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF
2 GUAM:

3 Section 1. A new Chapter 3 is added to Title VIII of the Government
4 Code to read:

5 "CHAPTER 3
6 Standard of Conduct for Elected Officers,
7 Appointed Officers and
8 Public Employees of the Government of Guam
9 Article I
10 General Provisions

1 **Section 7200. Construction.** This Chapter shall be liberally
2 construed to promote the highest standards of ethical conduct within the
3 Territorial government.

4 **Section 7201. Applicability.** This Chapter shall apply to every
5 nominated, appointed, or elected officer, or part time or full time employee
6 of the Territory including members of boards, commissions, and
7 committees, and persons under contract to the Territory, in all three
8 branches of the government.

9 **Section 7202. Definitions.** When used in this Chapter, these key
10 words shall have the indicated meaning:

11 (1). **'business'** includes a corporation, a partnership, a sole
12 proprietorship, a trust or foundation, or any other individual or organization
13 carrying on a business whether or not operated for profit;

14 (2). **'compensation'** means any money, thing of value, or economic
15 benefit conferred on or received by any person subject to this Chapter, in
16 return for services rendered or to be rendered by himself or another;

17 (3). **'controlling interest'** means an interest in a business or other
18 undertaking which is sufficient in fact to control, whether the interest is
19 greater or less than fifty percent ;

1 (4). **'employee'** means any nominated, appointed, or elected officer
2 or part-time or full-time employee of the Territory, including members of
3 boards, commissions, and committees, and employees under contract to the
4 Territory in all three branches of the government;

5 (5). **'employment'** means any rendering of services for
6 compensation;

7 (6). **'financial interest'** means an interest held by an individual, his
8 or her spouse, or dependent children, and others residing in the same
9 household, which is:

10 (a). an ownership interest in a business;

11 (b). a creditor interest in an insolvent business;

12 (c). an employment, or prospective employment for
13 which negotiations have begun;

14 (d). an ownership interest in real or personal property;

15 (e). a loan or other debtor interest; or

16 (f). a directorship or officership in a business.

17 (7). **'official act'** or **'official action'** means a decision,
18 recommendation, approval, disapproval, or other action, including inaction,
19 which involves the use of discretionary authority;

1 (8). 'official authority' includes administrative, judicial or
2 legislative powers of decision, recommendation, approval, disapproval, or
3 other discretionary action; and

4 (9). 'territorial agency' or 'agency' includes the Judicial branch,
5 the Legislature, the Executive branch and the Office of the Suruhanu, all
6 executive departments, boards, commissions, authorities, bureaus and
7 offices, and all independent commissions, and other establishments of the
8 Territorial government.

9 Article 2

10 Specified Standards

11 **Section 7203. Gifts.** No employee shall solicit, accept, or receive,
12 directly or indirectly, any gift, whether in the form of money, service, loan,
13 travel, entertainment, hospitality, thing or promise, or in any other form,
14 under circumstances in which it can reasonably be inferred that the gift is
15 intended to influence him in the performance of his official duties or is
16 intended as a reward for any official action on his part, exclusive of
17 inconsequential gifts such as a desk calendar or similar item.

18 **Section 7204. Confidential information.** No employee shall
19 disclose information which by law or practice is not available to the public

1 and which he acquires in the course of his official duties, or use the
2 information for his personal gain or for the benefit of someone else.

3 **Section 7205. Fair Treatment.** No employee shall use or attempt
4 to use his official position to secure or grant unwarranted privileges,
5 exemptions, advantages, contracts, or treatment, for himself or others
6 including but not limited to the following:

7 (1). seeking other employment or contract for services for himself
8 by the use or attempted use of his office or position;

9 (2). accepting, receiving, or soliciting compensation for the
10 performance of his official duties or responsibilities except as provided by
11 law;

12 (3). using territorial time, equipment, or other facilities for private
13 business purposes;

14 (4). soliciting, selling, or otherwise engaging in a substantial
15 financial transaction with a subordinate or a person or business whom he
16 inspects or supervises in his official capacity.

17 Nothing herein shall be construed to prohibit a legislator from
18 introducing bills and resolutions, serving on committees or making
19 statements or taking action in the exercise of legislative functions. Every

1 Senator shall file with the Guam Ethics Commission a full and complete
2 public disclosure of the nature and extent of his interest or transaction which
3 he believes may be affected by that legislative action. Such information
4 must be filed within no more than five working days after introduction of
5 such legislation.

6 **Section 7206. Conflicts of interest.**

7 (a). No employee shall take any official action directly affecting:

8 (1). business or other undertaking in which he has a
9 substantial financial interest; or

10 (2). private undertaking in which he is engaged as legal
11 counsel, advisor, consultant, representative, or other agency capacity.

12 A department head who is unable to disqualify himself on any
13 matter described in item (1) or (2) of this Subsection will not be in
14 violation of this Subsection if he has complied with the disclosure
15 requirements of Section 7209; and a person whose position on a
16 board, commission or committee is mandated by statute, resolution or
17 executive order to have particular qualifications shall only be
18 prohibited from taking official action that directly and specifically
19 affects a business or undertaking in which he has a substantial

1 financial interest; provided that the substantial financial interest is
2 related to the member's particular qualifications.

3 (b). No employee shall acquire financial interests in any business or
4 other undertaking which he has reason to believe may be directly involved
5 in official action to be taken by him.

6 (c). No employee shall assist any person or business or act in a
7 representative capacity before any territorial agency for contingent
8 compensation in any transaction involving the Territory.

9 (d). No employee shall assist any person or business or act in a
10 representative capacity for compensation to secure passage of a bill or to
11 obtain a contract, claim, or other transaction or proposal in which he has
12 participated or will participate as an employee, nor shall he assist any
13 person, or business, or act in a representative capacity for compensation on
14 such bill, contract, claim, or other transaction or proposal before the
15 territorial agency of which he is an employee.

16 (e). No employee shall assist any person or business or act in a
17 representative capacity before a territorial agency for compensation, on any
18 bill, contract, claim, or other transaction or proposal involving official
19 action by the agency if he has official authority over that agency unless he

1 has complied with the disclosure requirements of Section 7209.

2 **Section 7207. Contracts.**

3 (a). A territorial agency shall not enter into any contract with an
4 employee or with a business in which an employee has a controlling interest,
5 involving services or property of a value in excess of Two Thousand, Five
6 Hundred Dollars (\$2,500.00) unless the contract has been awarded through
7 an open, public process. A territorial agency may, however, enter into
8 such contract without resort to competitive bidding process when, in the
9 judgement of the agency, the property or services should not, in the public
10 interest, be acquired through competitive bidding; provided that written
11 justification for the non-competitive award of such contract be made a matter
12 of public record and shall be filed with the Guam Ethics Commission at least
13 five (5) days before such contract is entered into.

14 With regards to members of boards, commissions, and committees,
15 this Subsection shall apply only to contracts entered into between a business
16 in which a member has a controlling interest and a territorial agency in
17 which the board, commission, or committee to which he is appointed has
18 jurisdiction.

19 (b). A territorial agency shall not enter into a contract with any

1 person or business which is represented or assisted in the matter by a person
2 who has been an employee of the agency within the preceding six (6)
3 months and who participated while in territorial office or employment in the
4 matter with which the contract is directly concerned.

5 **Section 7208. Contracts voidable.** In addition to any other penalty
6 provided by law, any contract entered into by the Territory in violation of
7 this Chapter, is voidable by the Territory; provided that in any act to void
8 a contract pursuant to this Section, the interests of third parties who may be
9 damaged thereby, shall be taken into account, and the action to void the
10 transaction is initiated within sixty (60) days after the determination of a
11 violation under this Chapter. The Attorney General shall have the authority
12 to enforce this provision.

13 **Section 7209. Requirements of disclosure.**

14 (a). For the purposes of this Section, the term '**disclosure period**'
15 refers to the period from January 1 of the preceding calendar year to the
16 time of filing of the employee's or official's disclosure of financial interests.

17 For the purposes of this Section, '**employee**' includes any person who
18 files as a candidate for elective office.

19 (b). The disclosure of financial interests required by this Section

1 shall be filed between January 1 and April 30 of each year or within thirty
2 (30) days of one's election or appointment to a territorial position
3 enumerated in Subsection (c); provided that candidates for elective office
4 shall file the required statements no later than twenty (20) days prior to the
5 date of the primary election.

6 (c). The following persons shall file annually with the Guam Ethics
7 Commission a disclosure of financial interests:

8 (1). the Governor, the Lieutenant Governor, members of the
9 Legislature, Judges of the Superior Court, and village Mayors;

10 (2). the directors and their deputies, the division chiefs,
11 executive directors, and their executive secretaries, purchasing agents,
12 and fiscal officers, regardless of specific titles by which the foregoing
13 persons are designated, of every territorial agency;

14 (3). the Executive Director of the Legislature, and the
15 assistants in the offices of the Governor and Lieutenant Governor,
16 other than persons employed in clerical, secretarial or similar
17 positions;

18 (4). the hearing officers of every territorial agency;

19 (5). members of every board or commission whose original

1 term of office is for periods exceeding one year and whose functions
2 are not solely advisory;

3 (6). the members of the Guam Ethics Commission and the
4 Executive Director of that Agency shall file the required reports with
5 the Legislative Secretary.

6 (d). The financial disclosure statements of the following persons
7 shall be public records and available for public inspection:

8 (1). the Governor, the Lieutenant Governor, members of the
9 Legislature, the Judges of the Superior Court, the Mayors, and
10 candidates for elective office; and

11 (2). the directors and first deputies of each territorial agency.

12 (e). The information on the financial disclosure statements shall be
13 confidential, except as provided in Subsection (d). The Commission shall
14 not release the contents of the disclosure except as may be permitted
15 pursuant to this Chapter. Any person who releases any confidential
16 information shall be guilty of a misdemeanor.

17 (f). The disclosure of financial interest shall state, in addition to the
18 financial interests of the person disclosing, the financial interests of the
19 person's spouse and dependent children and shall include:

1 (1). the source and amount of all income of One Thousand
2 Dollars (\$1,000.00) or more received in his own name or by any
3 other person for his use or benefit during the preceding calendar year
4 and the nature of the services rendered; that information that may be
5 privileged by law or individual items of compensation that constitute
6 a portion of the gross income of the business or profession from
7 which the person derives income need not be disclosed;

8 (2). the amount and identity of every ownership or beneficial
9 interest held during the disclosure period in any business
10 incorporated, regulated, or licensed to carry on business in the
11 Territory having a value of Five Thousand Dollars (\$5,000.00) or
12 more of the business and, if the interest was transferred during the
13 disclosure period, the date of the transfer; provided that an interest in
14 the form of an account in a federal or territorial regulated financial
15 institution an interest in the form of a policy in a mutual insurance
16 company, or individual items in a mutual fund, or a blind trust, if the
17 mutual fund or blind trust has been disclosed pursuant to this
18 paragraph, need not be disclosed;

19 (3). every officership, directorship, trusteeship, or other

1 fiduciary relationship held in a business during disclosure period, the
2 term of office and the annual compensation;

3 (4). the name of each creditor to whom the value of Three
4 Thousand Dollars (\$3,000.00) or more was owed during the
5 disclosure period and the original amount and amount outstanding;
6 provided that debts arising out of retail installment transactions for the
7 purchase of consumer goods need not be disclosed;

8 (5). the certificate of title number and street address, if any,
9 and the value of any real property in the Territory in which the
10 person holds an interest whose value is Ten Thousand Dollars
11 (\$10,000.00) or more, and if the interest was transferred or obtained
12 during the disclosure period, a statement of the amount and nature of
13 the consideration received or paid in exchange for such interest, and
14 the name of the person furnishing or receiving the consideration;

15 (6). the names of clients personally represented before
16 territorial agencies, except in judicial or ministerial matters, for a fee
17 or compensation during the disclosure period and the names of the
18 territorial agencies involved;

19 (7). the amount and identity of every creditor interests in an

1 insolvent business held during the disclosure period having a value of
2 Five Thousand Dollars (\$5,000.00) or more.

3 (g). Where an amount is required to be reported, the person
4 disclosing the same shall report the amount as exactly as practicable. An
5 amount of stock shall be reported by number of shares and by estimated
6 market value as of the date of reporting.

7 (h). The Guam Ethics Commission shall provide a short form of
8 disclosure for subsequent annual filings in those instances where the
9 financial interests of the person disclosing are substantially the same as those
10 reported for the preceding disclosure period.

11 (i). Failure of an employee or candidate to file a disclosure of
12 financial interests as required by this Chapter shall be a violation of this
13 Chapter.

14 (j). The Chairman of the Election Commission, upon receipt of the
15 nomination paper of any person seeking elective office, shall notify the
16 Guam Ethics Commission of the name of the candidate. The Ethics
17 Commission, upon expiration of the time allowed for filing, shall make
18 public a list of all candidates who have failed to file financial disclosure
19 statements.

1 **Section 7209. Restrictions on post employment.**

2 (a). No former employee shall disclose any information which by
3 law or practice is not available to the public and which he acquired in the
4 course of his official duties or use the information for his personal gain or
5 the benefit of anyone.

6 (b). No former employee shall, within twelve (12) months after
7 termination of his employment, assist any person or business or act in a
8 representative capacity for a fee or other consideration, on matters in which
9 he participated as an employee.

10 (c). No former employee shall, within six (6) months after
11 termination of his employment, assist any person or business or act in a
12 representative capacity for a fee or other consideration, on matters involving
13 official action by the particular territorial agency with which he had actually
14 served.

15 (d). This Section shall not prohibit any agency from contracting with
16 a former employee to act on a matter on behalf of the Territory within the
17 period of limitations stated herein, and shall not prevent such employee from
18 appearing before any agency in relation to such employment.

19 **Section 7211. Violation.**

1 (a). Any favorable territorial action obtained in violation of any of
2 the standards for employees is voidable in the same manner as voidable
3 contracts as provided for under Section 7208; and the Territory, by the
4 Attorney General, may pursue all legal and equitable remedies available to
5 it.

6 (b). The Territory, by the Attorney General, may recover any fee,
7 compensation, gift, or profit received by such person as a result of a
8 violation of these standards by an employee or former employee. Action to
9 recover under this Subsection (b) shall be brought within two (2) years of
10 such violation under this Chapter.

11 **Section 7212. Criminal sanctions.** To the extent that violations of
12 the Ethic Standards of Conduct set forth in this Chapter constitute violations
13 of Title 9 of Guam Code Annotated (Crimes and Corrections), they shall be
14 punishable as provided therein. Such sanctions shall be in addition to the
15 civil remedies set forth in this Chapter.

16 ARTICLE 3

17 Guam Ethics Commission

18 **Section 7213. Guam Ethics Commission established; composition.**

19 There shall be within the government of Guam, a commission to be known

1 as the Guam Ethics Commission. The Commission shall consist of five (5)
2 members to be appointed by the Governor with the advice and consent of
3 the Legislature from a panel of ten persons who shall be nominated by the
4 Judicial Council. Each person nominated shall be a United States citizen
5 and resident of Guam. No person who has ever been convicted of a felony
6 shall be eligible to serve on the Commission. Members of the Commission
7 shall hold no other public office.

8 The Chairman of the Commission shall be elected by the majority of
9 the Commission. The term of office of each member shall be four years,
10 provided that of the original members, two shall hold office for two years,
11 two shall hold office for three years and one shall hold office for four years.
12 The determination of these members' length of office shall be by lot drawn
13 by the members at their initial meeting. No person shall be appointed
14 consecutively to more than two terms as a member of the Commission.

15 Members shall serve without compensation, except that they shall
16 receive a stipend of Fifty Dollars (\$50.00) per meeting not to exceed four
17 meetings per calendar month, and shall be compensated for all normal
18 expenses of travel; and for the cost of meals while in session.

19 Vacancies shall be filled for the remainder of the unexpired term in

1 the same manner as original appointments except that the Judicial Council
2 shall nominate for gubernatorial appointment two persons for each vacancy.
3 The Governor may remove or suspend any member of the Commission for
4 cause, upon the filing of a written finding with the Commission and upon
5 service of a copy of the written findings on the member removed or
6 suspended.

7 ARTICLE 4

8 Administration and Enforcement

9 **Section 7214. Duties of Commission; complaint, hearing,**
10 **determination.**

11 (a). The Commission shall have the following powers and duties:

12 (1). It shall prescribe a form for the financial disclosures
13 required by Section 7208 and shall establish an orderly procedure for
14 implementing the requirements of that Section.

15 (2). It shall render advisory opinions upon the request of any
16 employee or former employee as to whether the facts and
17 circumstances of a particular case constitutes or will constitute a
18 violation of the standards of ethics. If no advisory opinion is rendered
19 within thirty (30) days after the request is filed with the Commission,

1 it shall be deemed that an advisory opinion was rendered and that the
2 facts and circumstances of that particular case do not constitute a
3 violation of the standards. The opinion rendered or deemed rendered,
4 until amended or revoked, shall be binding on the Commission in any
5 subsequent charges concerning the employee or former employee who
6 sought the opinion and acted in reliance on it in good faith, unless
7 material facts were omitted or misstated by the employee or former
8 employee in the request for an advisory opinion.

9 (3). It shall initiate, receive and consider charges concerning
10 alleged violations of this Chapter, initiate or make investigations, and
11 hold hearings.

12 (4). It may subpoena witnesses, administer oaths, and take
13 testimony relating to matters before the Commission and require the
14 production for examination of any books, papers or electronic records
15 relative to any; matter under investigation or in question before the
16 Commission. Before the Commission shall exercise any of the
17 powers authorized herein with respect to any investigation or
18 hearings, it shall by formal resolution, supported by a vote of four or
19 more members of the Commission, define the nature and scope of its

1 inquiry.

2 (5). It may, from time to time, make, amend, and repeal such
3 rules and regulations, not inconsistent with this Chapter as in the
4 judgement of the Commission, seem appropriate for the carrying out
5 of this Chapter for the efficient administration thereof, including every
6 matter or thing required to be done or which may be done with the
7 approval or consent or by order or under the direction or supervision
8 of or as prescribed by the Commission. The rules and regulations,
9 shall be adopted in conformance with the Administrative Adjudication
10 Law, and shall have the force and effect of law.

11 (6). It shall have jurisdiction for purposes of investigation and
12 taking appropriate action on alleged violations of this Chapter in all
13 proceedings commenced within six (6) months after termination of
14 employment by an employee. Nothing herein shall bar proceedings
15 against a person who by fraud or other device, prevents discovery of
16 a violation of this Chapter. A proceeding shall be deemed
17 commenced by the signing of a charge by three or more members of
18 the Commission.

19 (7). It shall distribute its publications without cost to the

1 public and shall initiate and maintain programs with the purpose of
2 educating the citizenry and employees on matters of ethics in
3 government employment.

4 (b). Charges concerning the violation of this Chapter shall be in
5 writing, signed by the person making the charge under oath, except that any
6 charge initiated by the Commission must be signed by three (3) or more
7 members of the Commission. The Commission shall notify in writing every
8 person against whom a charge is received and afford him an opportunity to
9 explain the conduct alleged to be in violation of this Chapter. The
10 Commission may investigate, after compliance with this Section, such
11 charges and render an informal advisory opinion to the alleged violator.
12 The Commission shall investigate all charges on a confidential basis, having
13 available all the powers herein provided, and proceedings at this stage shall
14 not be public. If the informal advisory opinion indicates a probable
15 violation, the person charged shall request a formal opinion or within a
16 reasonable time comply with the informal advisory opinion. If the person
17 charged fails to comply with such informal advisory opinion or if a majority
18 of the members of the Commission determine that there is a probable cause
19 for belief that a violation of this Chapter; might have occurred, a copy of

1 the charge and a further statement of the alleged violation shall be personally
2 served upon the alleged violator. He shall have twenty (20) days after
3 service thereof to respond in writing to the charge and statement.

4 (c). Any Commission member or individual, including the individual
5 making the charge, who divulges information concerning the charge prior
6 to the issuance of the complaint by the Commission, or if the investigation
7 discloses that the complaint should not be issued by the Commission, at any
8 time divulges any information any information concerning the original
9 charge, or divulges the contents or disclosures except as permitted by this
10 Chapter, shall be guilty of a felony.

11 (d). If after twenty (20) days following personal service, a majority
12 of the members of the Commission conclude that there is reason to believe
13 that a violation of this Chapter has been committed, then the Commission
14 shall set a time and place for a hearing, giving notice to the complainant and
15 the alleged violator. All parties shall have an opportunity (1) to be heard,
16 (2) to subpoena witnesses and require the production of any books, papers,
17 records, or electronic recordings relative to the proceedings, (3) to be
18 represented by counsel, and (4) to have the right of cross-examination. All
19 witnesses shall testify under oath and the hearings shall be closed to the

1 public unless the party complained against requests an open hearing. The
2 Commission shall not be bound by the strict rules of evidence but the
3 Commission's findings must be based upon competent and substantial
4 evidence. All testimony and other evidence taken at the hearing shall be
5 recorded. Copies of transcripts of such record shall be available only to the
6 complainant and the alleged violator at their own expense, and the fees
7 therefor shall be deposited into the General Fund.

8 (e). A decision of the Commission pertaining to the conduct of any
9 person shall be in writing and signed by three (3) or more of the members
10 of the Commission. Deliberations of the Commission shall be closed to the
11 public and to all parties.

12 (f). The Commission shall cause to be published yearly summaries
13 of decisions, advisory opinions, and informal advisory opinions. The
14 Commission shall make sufficient deletions in the summaries to prevent
15 disclosing the identity of persons involved in the decisions or opinions.

16 **Section 7215. Procedure.**

17 (a). When the Commission, after due hearing, determines pursuant
18 to Section 7214(d), that there is sufficient cause to file a complaint against
19 an employee, it shall refer its decision to the Attorney General.

1 (b). With respect to former employees, the Commission may, with
2 the consent of three (3) or more members of the Commission, issue a public
3 statement of its findings and conclusions, and the Attorney General may
4 exercise whatever legal or equitable remedies are available to the Territory.

5 **Section 7216. Disciplinary action for violation.** In addition to any
6 other powers an agency may have to discipline its employees, it may
7 reprimand, put on probation, demote, suspend, or discharge any employee
8 found to have violated the standard of ethics.

9 **Section 7217. Cooperation.** The Guam Ethics Commission may
10 request and receive from every territorial agency cooperation and assistance
11 in the performance of its duties.

12 **Section 7218. Concurrent jurisdiction.** Notwithstanding any
13 provision contained in this Chapter, the Legislature and Judicial branches
14 may each prescribe further rules of conduct covering its members and may
15 investigate and discipline a member for any violation of this Chapter or its
16 Standing Rules.

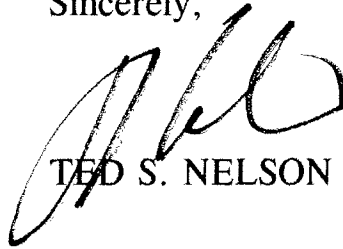
17 **Section 7219. Staff.** The Guam Ethics Commission may employ
18 such persons as it deems necessary for the performance of its functions.
19 They shall submit an annual budget request to the Legislature for its

1 required operations."

2 **Section 2. Repeal.** Those portions of the Guam Code Annotated
3 and the Government Code of Guam, which have not as yet been updated and
4 which are in conflict with any section of this Chapter, are hereby repealed.

A copy of the Committee Report and other pertinent documents are enclosed for your review and information.

Sincerely,



TED S. NELSON

Enclosures

**COMMITTEE ON GENERAL GOVERNMENTAL OPERATIONS
AND MICRONESIAN AFFAIRS**

Twenty-Third Guam Legislature

Public Hearing

on Bill Nos. 51, 58, 65, 101 and 125

7:00 p.m., Wednesday, March 8, 1995, GLTB Public Hearing Room, Agana

ATTENDANCE SHEET

COMMITTEE MEMBERS	Present	Absent	Signature
Vice-Speaker Ted S. Nelson Chairman		Off-Island	
Sen. Thomas C. Ada		off	ISLAND
Sen. Anthony C. Blaz			
Sen. Felix P. Camacho			
Sen. Mark C. Charfauros			
Sen. Hope A. Cristobal			
Sen. Alberto C. Lamorena V			
Sen. Carlotta Leon Guerrero			
Sen. Lou Leon Guerrero	LM.		<i>Lou Leon Guerrero</i>
Sen. Sonny L. Orsini			
Sen. Vicente C. Pangelinan Acting Chairman	X		<i>[Signature]</i>
Sen. Angel L.G. Santos	AGS		<i>[Signature]</i>
Sen. Judith Won Pat-Borja	<i>[Signature]</i>		<i>Judith Won Pat-Borja</i>
Speaker Don Parkinson Ex-Officio Member			
OTHERS SENATORS	Present	Absent	Signature
Sen. John P. Aguon			
Sen. Elizabeth Barrett-Anderson			
Sen. Joanne M.S. Brown			
Sen. Mark Forbes			
Sen. Joe T. San Agustin			
Sen. Francis E. Santos			
Sen. Antonio R. Unpingco			

COMMITTEE ON GENERAL GOVERNMENTAL OPERATIONS
AND MICRONESIAN AFFAIRS
Twenty-Third Guam Legislature
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on Bill Nos. 51, 58, 65, 101 and 125

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Sen. Alberto C. Lamorena V			
Sen. Carlotta Leon Guerrero			
Sen. Lou Leon Guerrero	LM		Lou Leon Guerrero
Sen. Sonny L. Orsini			
Sen. Vicente C. Pangelinan Acting Chairman	X		[Signature]
Sen. Angel L.G. Santos	AGS		[Signature]
Sen. Judith Won Pat-Borja	[Signature]		Judith Won Pat-Borja
Speaker Don Parkinson Ex-Officio Member			[Signature]
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Sen. Joanne M.S. Brown			
Sen. Mark Forbes			
Sen. Joe T. San Agustin			
Sen. Francis E. Santos			
Sen. Antonio R. Unpingco			

GGOMA Staff Assigned	Assisted by
John F. Blas Ruth LG Benavente	Kimberly Barrett Frank San Nicolas
	Victor Guerrero Marjorie Richards
	Rosanne LeFever Robert Tenorio



UNIVERSITY OF GUAM
UNIBETSEDAT GUAHAN
COLLEGE OF BUSINESS AND PUBLIC ADMINISTRATION
UOG Station, Mangilao, Guam 96923
Telephone: (671) 734-9540/9225 Fax: (671) 734-5362

March 7, 1995

The Honorable Ted Nelson
Chairman
Committee on Governmental Operations
and Micronesian Affairs
23rd Guam Legislature
Agana, Guam 96910

Dear Senator Nelson:

The students and faculty of the PA405 class (Professional Ethics in Public Administration, Business and the Professions) for the current Spring 1994-1995 semester at the College of Business and Public Administration, University of Guam, are pleased to give enthusiastic support to Bill 58, "An Act to Prescribe Standards of Conduct for Elected Officers, Appointed Officers and Public Employees of the Government of Guam and to Establish an Ethics Commission."

Previous PA405 students and faculty helped to contribute to the drafting of this Bill and have testified numerous times over the past three years in favor of this measure.

We once again come forward to support this Bill.

Senators, it is important to remember that public officials and employees are trustees of the community's wealth and resources. They should never use their positions for personal gain. They must at all times be answerable to the public. No privacy should exist for the public sector. While the business sector is inherently self-serving because of the profit motive, government must serve a balance of all public and private interests.

In addition, let us also remember that the public service is more than a job. It's a summons to duty on behalf of the public and, as such, the citizenry are entitled to protection from the sleazier elements that may exist in government.

Ofisinan i Setbienten i Taotao Guahan
Vice-Speaker Ted S. Nelson

Chairman

Committee on General Governmental Operations and Micronesian Affairs
Twenty-Third Guam Legislature

8 March 1995

COMMITTEES:

Member,
Committee on
Community, Housing
and Cultural Affairs

Member,
Committee on Education

Member,
Committee on Health,
Welfare & Senior
Citizens

Member,
Committee on Judiciary,
Criminal Justice &
Environmental Affairs

Member,
Committee on Rules

Member,
Committee on Water
Utilities & Electronic
Communications

Member,
Committee on Youth,
Labor, and Parks &
Recreation

Director & Vice-President
Ranking Member,
Association of Pacific
Island Legislatures (APIL)

Honorable Don Parkinson
Speaker
Twenty Third Guam Legislature
424 West O'Brien Drive
Julale Center Ste 222
Agaña GU 96910

Re: Chairman, Committee on General Governmental Operations and
Micronesian Affairs

Dear Mr. Speaker:

The Committee on General Governmental Operations and
Micronesian Affairs, to which was referred Bill #58, "AN ACT TO
PRESCRIBE STANDARDS OF CONDUCT FOR ELECTED
OFFICERS, APPOINTED OFFICERS AND EMPLOYEES OF THE
GOVERNMENT OF GUAM AND TO ESTABLISH AN ETHICS
COMMISSION." wishes to report back the same with the
recommendation to do pass as amended.

The Committee votes as follows:

TO DO PASS	_____
NOT TO PASS	_____
INACTIVE FILE	_____
ABSTAIN	_____



Committee on General Governmental Operations & Micronesian Affairs

Twenty-Second Guam Legislature
297-B West O'Brien Drive Agana, Guam 96910

Sen. Ted S. Nelson
Chairman

December 13, 1993

Telephones:
(671) 472-3446-8/472-3501/3569

Honorable Joe T. San Agustin
Speaker
22nd Guam Legislature
155 Hessler Street
Agana, Guam 96910

Dear Mr. Speaker:

The Committee on General Governmental Operations and Micronesian Affairs, to which was referred **Bill No. 429** (*An Act to prescribe standards of conduct for elected officers, appointed officers, and public employees of the Government of Guam and to establish an Ethics Commission*) has had the same consideration and now wishes to report back the same with the recommendation **to do pass as substituted.**

The Committee votes are as follows:

To do pass	<u>8</u>
Not to pass	<u>0</u>
To place in inactive file	<u>0</u>
To report out only	<u>1</u>
Other	<u>0</u>

A copy of the Committee Report and other pertinent documents are enclosed for your reference and information.

Sincerely,


TED S. NELSON

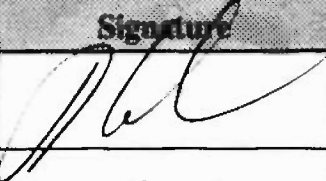


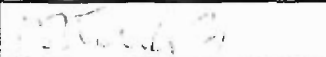
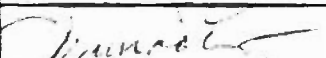
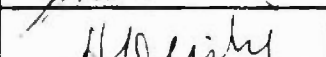
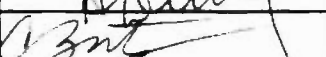

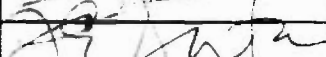
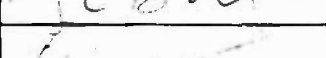
Enclosures

**COMMITTEE ON GENERAL GOVERNMENTAL OPERATIONS
AND MICRONESIAN AFFAIRS
Twenty-Second Guam Legislature**

VOTE SHEET ON SUBSTITUTE BILL NO. 429

An Act to prescribe standards of conduct for elected officers, appointed officers, and public employees of the Government of Guam and to establish an Ethics Commission.

RECOMMENDATION TO DO PASS

Committee Members	Signature	To Do Pass	Not to Pass	To Report Out Only	To Place in the Inactive File
Senator Ted S. Nelson <i>Chairman</i>		✓			
Senator Edward D. Reyes <i>Vice-Chairman</i>		✓			
Speaker Joe T. San Agustin <i>Ex-Officio Member</i>					
Senator Thomas C. Ada		✓			
Senator J. George Bamba					
Senator Anthony C. Blaz					
Senator Felix P. Camacho		✓			
Senator Herminia D. Dierking		✓			
Senator Carl T.C. Gutierrez		✓			
Senator Marilyn D.A. Manibusan					
Senator Vicente C. Pangelinan				✓	
Senator Francis E. Santos		✓			
Senator Thomas V.C. Tanaka		✓			

TWENTY-SECOND GUAM LEGISLATURE
1993 (First) Regular Session

Bill No. 429

As Substituted by the Committee on
General Governmental Operations
& Micronesian Affairs

Introduced By:

T. S. Nelson

AC BLA...
[Handwritten signature]

**AN ACT TO PRESCRIBE STANDARDS OF CONDUCT
FOR ELECTED OFFICERS, APPOINTED OFFICERS
AND PUBLIC EMPLOYEES OF THE GOVERNMENT OF
GUAM AND TO ESTABLISH AN ETHICS
COMMISSION**

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

2 Section 1. A new Chapter 3 is added to Title VIII of the Government Code

3 to read:

4 "CHAPTER 3

5 Standard of Conduct for Elected Officers,

6 Appointed Officers and

7 Public Employees of the Government of Guam

8 Article I

9 General Provisions

10 **Section 7200. Construction.** This Chapter shall be liberally construed to
11 promote the highest standards of ethical conduct within the Territorial government.

1 **Section 7201. Applicability.** This Chapter shall apply to every nominated,
2 appointed, or elected officer, or part time or full time employee of the Territory
3 including members of boards, commissions, and committees, and persons under
4 contract to the Territory.

5 **Section 7202. Definitions.** When used in this Chapter, these key words
6 shall have the indicated meaning:

7 (1). **'business'** includes a corporation, a partnership, a sole proprietorship,
8 a trust or foundation, or any other individual or organization carrying on a
9 business whether or not operated for profit;

10 (2). **'compensation'** means any money, thing of value, or economic benefit
11 conferred on or received by any person subject to this Chapter, in return for
12 services rendered or to be rendered by himself or another;

13 (3). **'controlling interest'** means an interest in a business or other
14 undertaking which is sufficient in fact to control, whether the interest is greater or
15 less than fifty percent;

16 (4). **'employee'** means any nominated, appointed, or elected officer or part
17 time or full time employee of the Territory, including members of boards,
18 commissions, and committees, and employees under contract to the Territory;

19 (5). **'employment'** means any rendering of services for compensation;

20 (6). **'financial interest'** means an interest held by an individual, his or her
21 spouse, or dependent children which is:

22 (a). an ownership interest in a business;

23 (b). a creditor interest in an insolvent business;

24 (c). an employment, or prospective employment for which

1 negotiations have begun;

2 (d). an ownership interest in real or personal property;

3 (e). a loan or other debtor interest; or

4 (f). a directorship or officership in a business.

5 (7). **'official act'** or **'official action'** means a decision, recommendation,
6 approval, disapproval, or other action, including inaction, which involves the use
7 of discretionary authority;

8 (8). **'official authority'** includes administrative or legislative powers of
9 decision, recommendation, approval, disapproval, or other discretionary action;
10 and

11 (9). **'territorial agency'** or **'agency'** includes the Judicial branch, the
12 Legislature, the Executive branch and the Office of the Suruhanu, all executive
13 departments, boards, commissions, authorities, bureaus and offices, and all
14 independent commissions, and other establishments of the Territorial government.

15 **Article 2**

16 **Specified Standards**

17 **Section 7203. Gifts.** No employee shall solicit, accept, or receive, directly
18 or indirectly, any gift, whether in the form of money, service, loan, travel,
19 entertainment, hospitality, thing or promise, or in any other form, under
20 circumstances in which it can reasonably be inferred that the gift is intended to
21 influence him in the performance of his official duties or is intended as a reward
22 for any official action on his part.

23 **Section 7204. Confidential information.**

24 No employee shall disclose information which by law or practice is not

1 available to the public and which he acquires in the course of his official duties,
2 or use the information for his personal gain or for the benefit of someone else.

3 **Section 7205. Fair Treatment.**

4 No employee shall use or attempt to use his official position to secure or
5 grant unwarranted privileges, exemptions, advantages, contracts, or treatment, for
6 himself or others including but not limited to the following:

7 (1). seeking other employment or contract for services for
8 himself by the use or attempted use of his office or position;

9 (2). accepting, receiving, or soliciting compensation for the
10 performance of his official duties or responsibilities except as
11 provided by law;

12 (3). using territorial time, equipment, or other facilities for
13 private business purposes;

14 (4). soliciting, selling, or otherwise engaging in a substantial
15 financial transaction with a subordinate or a person or business
16 whom he inspects or supervises in his official capacity.

17 Nothing herein shall be construed to prohibit a legislator from introducing
18 bills and resolutions, serving on committees or making statements or taking action
19 in the exercise of legislative functions. Every Senator shall file with the Guam
20 Ethics Commission a full and complete public disclosure of the nature and extent
21 of his interest or transaction which he believes may be affected by that legislative
22 action.

23 **Section 7206. Conflicts of interest.**

24 (a). No employee shall take any official action directly affecting:

1 (1). business or other undertaking in which he has a substantial financial
2 interest; or

3 (2). private undertaking in which he is engaged as legal counsel, advisor,
4 consultant, representative, or other agency capacity.

5 A department head who is unable to disqualify himself on any matter
6 described in item (1) or (2) of this Subsection will not be in violation of this
7 Subsection if he has complied with the disclosure requirements of Section 7209;
8 and a person whose position on a board, commission or committee is mandated
9 by statute, resolution or executive order to have particular qualifications shall only
10 be prohibited from taking official action that directly and specifically affects a
11 business or undertaking in which he has a substantial financial interest; provided
12 that the substantial financial interest is related to the members particular
13 qualifications.

14 (b). No employee shall acquire financial interests in any business or
15 other undertaking which he has reason to believe may be directly involved in
16 official action to be taken by him.

17 (c). No employee shall assist any person or business or act in a
18 representative capacity before any territorial agency for contingent compensation
19 in any transaction involving the Territory.

20 (d). No employee shall assist any person or business or act in a
21 representative capacity for compensation to secure passage of a bill or to obtain
22 a contract, claim, or other transaction or proposal in which he has participated or
23 will participate as an employee, nor shall he assist any person, or business, or act
24 in a representative capacity for compensation on such bill, contract, claim, or

1 other transaction or proposal before the territorial agency of which he is an
2 employee.

3 (e). No employee shall assist any person or business or act in a
4 representative capacity before a territorial agency for compensation, on any bill,
5 contract, claim, or other transaction or proposal involving official action by the
6 agency if he has official authority over that agency unless he has complied with
7 the disclosure requirements of Section 7209.

8 **Section 7207. Contracts.**

9 (a). A territorial agency shall not enter into any contract with an employee
10 or with a business in which an employee has a controlling interest, involving
11 services or property of a value in excess of Two Thousand Five Hundred Dollars
12 (\$2,500.00) unless the contract has been awarded through an open, public
13 process. A territorial agency may, however, enter into such contract without resort
14 to competitive bidding process when, in the judgement of the agency, the
15 property or services should not, in the public interest, be acquired through
16 competitive bidding; provided that written justification for the non-competitive
17 award of such contract be made a matter of public record and shall be filed with
18 the Guam Ethics Commission at least five (5) days before such contract is entered
19 into.

20 With regards to members of boards, commissions, and committees, this
21 Subsection shall apply only to contracts entered into between a business in which
22 a member has a controlling interest and a territorial agency in which the
23 board, commission, or committee to which he is appointed has jurisdiction.

24 (b). A territorial agency shall not enter into a contract with any person or

1 business which is represented or assisted in the matter by a person who has been
2 an employee of the agency within the preceding six (6) months and who
3 participated while in territorial office or employment in the matter with which the
4 contract is directly concerned.

5 **Section 7208. Contracts voidable.** In addition to any other penalty
6 provided by law, any contract entered into by the Territory in violation of this
7 Chapter, is voidable by the Territory; provided that in any act to void a contract
8 pursuant to this Section, the interests of third parties who may be damaged
9 thereby, shall be taken into account, and the action to void the transaction is
10 initiated within sixty (60) days after the determination of a violation under this
11 Chapter. The Attorney General shall have the authority to enforce this provision.

12 **Section 7209. Requirements of disclosure.**

13 (a). For the purposes of this Section, the term 'disclosure period' refers to
14 the period from January 1 of the preceding calendar year to the time of filing of
15 the employee's or official's disclosure of financial interests.

16 For the purposes of this Section, 'employee' includes any person who files
17 as a candidate for elective office.

18 (b). The disclosure of financial interests required by this Section shall be
19 filed between January 1 and April 30 of each year or within thirty (30) days of
20 one's election or appointment to a territorial position enumerated in Subsection
21 (c); provided that candidates for elective office shall file the required statements
22 no later than twenty (20) days prior to the date of the primary election.

23 (c). The following persons shall file annually with the Guam Ethics
24 Commission a disclosure of financial interests:

1 (1). the Governor, the Lieutenant Governor, members of the
2 Legislature, Judges of the Superior Court, and village Mayors;

3 (2). the directors and their deputies, the division chiefs, executive
4 directors, and their executive secretaries, purchasing agents, and fiscal officers,
5 regardless of specific titles by which the foregoing persons are designated, of
6 every territorial agency;

7 (3). the Executive Director of the Legislature, and the assistants in the
8 offices of the Governor and Lieutenant Governor, other than persons employed
9 in clerical, secretarial or similar positions;

10 (4). the hearing officers of every territorial agency;

11 (5). members of every board or commission whose original term of
12 office is for periods exceeding one year and whose functions are not solely
13 advisory;

14 (6). the members of the Guam Ethics Commission and the Executive
15 Director of that Agency shall file the required reports with the Legislative Secretary.

16 (d). The financial disclosure statements of the following persons shall be
17 public records and available for public inspection:

18 (1). the Governor, the Lieutenant Governor, members of the
19 Legislature, the Judges of the Superior Court, the Mayors, and candidates for
20 elective office; and

21 (2). the directors and first deputies of each territorial agency.

22 (e). The information on the financial disclosure statements shall be
23 confidential, except as provided in Subsection (d). The Commission shall not
24 release the contents of the disclosure except as may be permitted pursuant to this

1 Chapter. Any person who releases any confidential information shall be guilty of
2 a misdemeanor.

3 (f). The disclosure of financial interest shall state, in addition to the financial
4 interests of the person disclosing, the financial interests of the person's spouse
5 and dependent children and shall include:

6 (1). the source and amount of all income of One Thousand Dollars
7 (\$1,000.00) or more received in his own name or by any other person for his use
8 or benefit during the preceding calendar year and the nature of the services
9 rendered; that information that may be privileged by law or individual items of
10 compensation that constitute a portion of the gross income of the business or
11 profession from which the person derives income need not be disclosed;

12 (2). the amount and identity of every ownership or beneficial interest
13 held during the disclosure period in any business incorporated, regulated, or
14 licensed to carry on business in the Territory having a value of Five Thousand
15 Dollars (\$5,000.00) or more of the business and, if the interest was transferred
16 during the disclosure period, the date of the transfer; provided that an interest in
17 the form of an account in a federal or territorial regulated financial institution an
18 interest in the form of a policy in a mutual insurance company, or individual items
19 in a mutual fund, or a blind trust, if the mutual fund or blind trust has been
20 disclosed pursuant to this paragraph, need not be disclosed;

21 (3). every officership, directorship, trusteeship, or other fiduciary
22 relationship held in a business during disclosure period, the term of office and the
23 annual compensation;

24 (4). the name of each creditor to whom the value of Three Thousand

1 Dollars (\$3,000.00) or more was owed during the disclosure period and the
2 original amount and amount outstanding; provided that debts arising out of retail
3 installment transactions for the purchase of consumer goods need not be
4 disclosed;

5 (5). the certificate of title number and street address, if any, and the
6 value of any real property in the Territory in which the person holds an interest
7 whose value is Ten Thousand Dollars (\$10,000.00) or more, and if the interest was
8 transferred or obtained during the disclosure period, a statement of the amount
9 and nature of the consideration received or paid in exchange for such interest,
10 and the name of the person furnishing or receiving the consideration;

11 (6). the names of clients personally represented before territorial
12 agencies, except in judicial or ministerial matters, for a fee or compensation during
13 the disclosure period and the names of the territorial agencies involved;

14 (7). the amount and identity of every creditor interests in an insolvent
15 business held during the disclosure period having a value of Five Thousand
16 Dollars (\$5,000.00) or more.

17 (g). Where an amount is required to be reported, the person disclosing the
18 same shall report the amount as exactly as practicable. An amount of stock shall
19 be reported by number of shares and by estimated market value as of the date
20 of reporting.

21 (h). The Guam Ethics Commission shall provide a short form of disclosure
22 for subsequent annual filings in those instances where the financial interests of the
23 person disclosing are substantially the same as those reported for the preceding
24 disclosure period.

1 (i). Failure of an employee or candidate to file a disclosure of financial
2 interests as required by this Chapter shall be a violation of this Chapter.

3 (j). The Chairman of the Election Commission, upon receipt of the
4 nomination paper of any person seeking elective office, shall notify the Guam
5 Ethics Commission of the name of the candidate. The Ethics Commission, upon
6 expiration of the time allowed for filing, shall make public a list of all candidates
7 who have failed to file financial disclosure statements.

8 **Section 7209. Restrictions on post employment.**

9 (a). No former employee shall disclose any information which by law or
10 practice is not available to the public and which he acquired in the course of his
11 official duties or use the information for his personal gain or the benefit of anyone.

12 (b). No former employee shall, within twelve (12) months after termination
13 of his employment, assist any person or business or act in a representative
14 capacity for a fee or other consideration, on matters in which he participated as
15 an employee.

16 (c). No former employee shall, within six (6) months after termination of his
17 employment, assist any person or business or act in a representative capacity for
18 a fee or other consideration, on matters involving official action by the particular
19 territorial agency with which he had actually served.

20 (d). This Section shall not prohibit any agency from contracting with a
21 former employee to act on a matter on behalf of the Territory within the period of
22 limitations stated herein, and shall not prevent such employee from appearing
23 before any agency in relation to such employment.

24 **Section 7211. Violation.**

1 (a). Any favorable territorial action obtained in violation of any of the
2 standards for employees is voidable in the same manner as voidable contracts as
3 provided for under Section 7208; and the Territory, by the Attorney General, may
4 pursue all legal and equitable remedies available to it.

5 (b). The Territory, by the Attorney General, may recover any fee,
6 compensation, gift, or profit received by such person as a result of a violation of
7 these standards by an employee or former employee. Action to recover under
8 this Subsection (b) shall be brought within two (2) years of such violation under
9 this Chapter.

10 **Section 7212. Criminal sanctions.** To the extent that violations of the
11 ethic standards of conduct set forth in this Chapter constitute violations of Title 9
12 of Guam Code Annotated (Crimes and Corrections), they shall be punishable as
13 provided therein. Such sanctions shall be in addition to the civil remedies set
14 forth in this Chapter.

15 **ARTICLE 3**

16 **Guam Ethics Commission**

17 **Section 7213. Guam Ethics Commission established; composition.**

18 There shall be within the government of Guam, a commission to be known
19 as the Guam Ethics Commission. The Commission shall consist of five (5)
20 members to be appointed by the Governor with the advice and consent of the
21 Legislature from a panel of ten persons who shall be nominated by the Judicial
22 Council. Each person nominated shall be a United States citizen and resident of
23 Guam. No person who has ever been convicted of a felony shall be eligible to
24 serve on the Commission. Members of the Commission shall hold no other

1 public office.

2 The Chairman of the Commission shall be elected by the majority of the
3 Commission. The term of office of each member shall be four years, provided that
4 of the original members, two shall hold office for two years, two shall hold office
5 for three years and one shall hold office for four years. The determination of these
6 members' length of office shall be by lot drawn by the members at their initial
7 meeting. No person shall be appointed consecutively to more than two terms as
8 a member of the Commission.

9 Members shall serve without compensation, except that they shall receive
10 a stipend of Fifty Dollars (\$50.00) per meeting not to exceed four meetings per
11 calendar month, and shall be compensated for all normal expenses of travel, and
12 for the cost of meals while in session.

13 Vacancies shall be filled for the remainder of the unexpired term in the same
14 manner as original appointments except that the Judicial Council shall nominate
15 for gubernatorial appointment two persons for each vacancy. The Governor may
16 remove or suspend any member of the Commission for cause, upon the filing of
17 a written finding with the Commission and upon service of a copy of the written
18 findings on the member removed or suspended.

19

20

ARTICLE 4

21

Administration and Enforcement

22

Section 7214. Duties of Commission; complaint, hearing, determination.

23

(a). The Commission shall have the following powers and duties:

24

(1). It shall prescribe a form for the financial disclosures required by Section

1 7208 and shall establish an orderly procedure for implementing the requirements
2 of that Section.

3 (2). It shall render advisory opinions upon the request of any employee or
4 former employee as to whether the facts and circumstances of a particular case
5 constitutes or will constitute a violation of the standards of ethics. If no advisory
6 opinion is rendered within thirty (30) days after the request is filed with the
7 Commission, it shall be deemed that an advisory opinion was rendered and that
8 the facts and circumstances of that particular case do not constitute a violation of
9 the standards. The opinion rendered or deemed rendered, until amended or
10 revoked, shall be binding on the Commission in any subsequent charges
11 concerning the employee or former employee who sought the opinion and acted
12 in reliance on it in good faith, unless material facts were omitted or misstated by
13 the employee or former employee in the request for an advisory opinion.

14 (3). It shall initiate, receive and consider charges concerning alleged
15 violations of this Chapter, initiate or make investigations, and hold hearings.

16 (4). It may subpoena witnesses, administer oaths, and take testimony
17 relating to matters before the Commission and require the production for
18 examination of any books, papers or electronic records relative to any matter
19 under investigation or in question before the Commission. Before the Commission
20 shall exercise any of the powers authorized herein with respect to any
21 investigation or hearings, it shall by formal resolution, supported by a vote of four
22 or more members of the Commission, define the nature and scope of its inquiry.

23 (5). It may, from time to time, make, amend, and repeal such rules and
24 regulations, not inconsistent with this Chapter as in the judgement of the

1 Commission, seem appropriate for the carrying out of this Chapter for the efficient
2 administration thereof, including every matter or thing required to be done or
3 which may be done with the approval or consent or by order or under the
4 direction or supervision of or as prescribed by the Commission. The rules and
5 regulations, shall be adopted in conformance with the Administrative Adjudication
6 Law, and shall have the force and effect of law.

7 (6). It shall have jurisdiction for purposes of investigation and taking
8 appropriate action on alleged violations of this Chapter in all proceedings
9 commenced within six (6) months after termination of employment by an
10 employee. Nothing herein shall bar proceedings against a person who by fraud
11 or other device, prevents discovery of a violation of this Chapter. A proceeding
12 shall be deemed commenced by the signing of a charge by three or more
13 members of the Commission.

14 (7). It shall distribute its publications without cost to the public and shall
15 initiate and maintain programs with the purpose of educating the citizenry and
16 employees on matters of ethics in government employment.

17 (b). Charges concerning the violation of this Chapter shall be in writing,
18 signed by the person making the charge under oath, except that any charge
19 initiated by the Commission must be signed by three (3) or more members of the
20 Commission. The Commission shall notify in writing every person against whom
21 a charge is received and afford him an opportunity to explain the conduct alleged
22 to be in violation of this Chapter. The Commission may investigate, after
23 compliance with this Section, such charges and render an informal advisory
24 opinion to the alleged violator. The Commission shall investigate all charges on

1 a confidential basis, having available all the powers herein provided, and
2 proceedings at this stage shall not be public. If the informal advisory opinion
3 indicates a probable violation, the person charged shall request a formal opinion
4 or within a reasonable time comply with the informal advisory opinion. If the
5 person charged fails to comply with such informal advisory opinion or if a majority
6 of the members of the Commission determine that there is a probable cause for
7 belief that a violation of this Chapter might have occurred, a copy of the charge
8 and a further statement of the alleged violation shall be personally served upon
9 the alleged violator. He shall have twenty (20) days after service thereof to
10 respond in writing to the charge and statement.

11 (c). Any Commission member or individual, including the individual making
12 the charge, who divulges information concerning the charge prior to the issuance
13 of the complaint by the Commission, or if the investigation discloses that the
14 complaint should not be issued by the Commission, at any time divulges any
15 information any information concerning the original charge, or divulges the
16 contents or disclosures except as permitted by this Chapter, shall be guilty of a
17 felony.

18 (d). If after twenty (20) days following personal service, a majority of the
19 members of the Commission conclude that there is reason to believe that a
20 violation of this Chapter has been committed, then the Commission shall set a
21 time and place for a hearing, giving notice to the complainant and the alleged
22 violator. All parties shall have an opportunity (1) to be heard, (2) to subpoena
23 witnesses and require the production of any books, papers, records, or electronic
24 recordings relative to the proceedings, (3) to be represented by counsel, and (4)

1 to have the right of cross-examination. All witnesses shall testify under oath and
2 the hearings shall be closed to the public unless the party complained against
3 requests an open hearing. The Commission shall not be bound by the strict rules
4 of evidence but the Commission's findings must be based upon competent and
5 substantial evidence. All testimony and other evidence taken at the hearing shall
6 be recorded. Copies of transcripts of such record shall be available only to the
7 complainant and the alleged violator at their own expense, and the fees therefor
8 shall be deposited into the General Fund.

9 (e). A decision of the Commission pertaining to the conduct of any person
10 shall be in writing and signed by three (3) or more of the members of the
11 Commission. Deliberations of the Commission shall be closed to the public and
12 to all parties.

13 (f) The Commission shall cause to be published yearly summaries of
14 decisions, advisory opinions, and informal advisory opinions. The Commission
15 shall make sufficient deletions in the summaries to prevent disclosing the identity
16 of persons involved in the decisions or opinions.

17 **Section 7215. Procedure.**

18 (a). When the Commission, after due hearing, determines pursuant to
19 Section 7214 (d), that there is sufficient cause to file a complaint against an
20 employee, it shall refer its decision to the Attorney General.

21 (b). With respect to former employees, the Commission may, with the
22 consent of three (3) or more members of the Commission, issue a public
23 statement of its findings and conclusions, and the Attorney General may exercise
24 whatever legal or equitable remedies are available to the Territory.

1 **Section 7216. Disciplinary action for violation.**

2 In addition to any other powers an agency may ave to discipline its
3 employees, it may reprimand, put on probation, demote, suspend, or discharge
4 any employee found to have violated the standard of ethics.

5 **Section 7217. Cooperation.**

6 The Guam Ethics Commission may request and receive from every territorial
7 agency cooperation and assistance in the performance of its duties.

8 **Section 7218. Concurrent jurisdiction.**

9 Notwithstanding any provision contained in this Chapter, the Legislature
10 may prescribe further rules of conduct covering its members and may investigate
11 and discipline a member for any violation of this Chapter or its Standing Rules.

12 **Section 7219. Staff.**

13 The Guam Ethics Commission may employ such persons as it deems
14 necessary for the performance of its functions. They shall submit an annual
15 budget request to the Legislature for its required operations."

16 **Section 2. Repeal.**

17 Those portions of the Guam Code Annotated, and the Government Code
18 of Guam, which have not as yet been updated and which are in conflict with any
19 section of this Chapter, are hereby repealed.

**COMMITTEE ON GENERAL GOVERNMENTAL OPERATIONS
AND MICRONESIAN AFFAIRS
TWENTY-SECOND GUAM LEGISLATURE
155 Hessler Street, Agana, Guam 96910**

COMMITTEE REPORT

ON

BILL NO. 429

An Act to prescribe standards of conduct for elected officers, appointed officers, and public employees of the Government of Guam and to establish an Ethics Commission.

COMMITTEE MEMBERS:

Chairman: Ted S. Nelson

Vice-Chairman: Edward D. Reyes

Ex-Officio Member: Speaker Joe T. San Agustin

Thomas C. Ada
Herminia D. Dierking
Carl T.C. Gutierrez
Vicente C. Pangelinan
Francis E. Santos

J. George Bamba
Anthony C. Blaz
Felix P. Camacho
Marilyn D.A. Manibusan
Thomas V.C. Tanaka

COMMITTEE REPORT

Bill No. 429

An Act to prescribe standards of conduct for elected officers, appointed officers, and public employees of the Government of Guam and to establish an Ethics Commission.

I. BACKGROUND

Bill No. 429 is an act to establish a standard of conduct for all elected officers, appointed officers and all other government of Guam public employees. It shall be liberally construed to promote the highest standards of ethical conduct within the Territorial government. It establishes requirements for disclosure, restrictions on post employment, the handling of contracts, the reporting of income, and penalties for violations. It establishes a Commission on Ethics and sets the composition and duties of the Commission.

Public hearings were held on May 6, 1993 and on June 15, 1993 at the University of Guam. Persons presenting testimony included many University students, Government of Guam employees, members of the Department of Law, private citizens, and the Compiler of Laws. Everyone testified in favor of having a set standard of conduct for all.

Committee members present were: Senators Ted S. Nelson, Chairman; Tommy Tanaka, Ben Pangelinan, Tony Blaz, and Marilyn Manibusan. Testimony received by the Committee was completely favorable to the passage of Bill No. 429 after it is re-written with minor revisions. The Committee agreed with the recommendations and they have included them in Bill No. 429 as amended.

II. SUMMARY OF TESTIMONY

TESTIFYING: Carolyn M. Toves, *GovGuam employee*
Deborah L.P. Toves, *student*
Andrew Anderson, *GovGuam employee*

Therese Morta, *GovGuam employee*
Henry D. Leon Guerrero, *GovGuam employee*
David E. Smith, *student*
Kenneth DeNusta, *teacher*
Roy Dirige, *GovGuam employee*
Francesca Tydingco, *student*
John Quinene, *student*
Joseph T. Tenorio, *GovGuam employee*
Connie M. Cruz, *student*
Mark G. Miller, *GovGuam employee*
Patsy A. Borja, *GovGuam employee*
Teresita B. Rosario, *GovGuam employee*
Frankie Lujan, *GovGuam employee*
Kenneth Paulino, *GovGuam employee*
Antonia Lujan, *GovGuam employee*
Roger Cauley, *GovGuam employee*
Chan Ho Park, *GovGuam employee*
Dr. Judy Guthertz, *GovGuam employee*
Dr. Singh, *GovGuam employee*
Attorney Charles Troutman, *Compiler of Laws*
Mark Charfauros, *student*
Florence Paulino, *student*
Barbara Benavente, *student*
Mark Howard, *student*

All of the above had favorable comments (refer to Minutes of May 6 and June 15, 1993) for passage of Bill No. 429 as amended.

III. FINDINGS

The Committee finds it is appropriate to have a single set of standards of conduct for all elected officers, appointed officers and public employees, with a Committee on Ethics to enforce such standards and to have a set of penalties for violation. Amendments and adjustments are needed to enhance the presented Bill 429 and has therefore been amended as proposed.

IV. RECOMMENDATION

The Committee on General Governmental Operations and Micronesian Affairs hereby reports out Bill 429 to the Twenty-Second Guam Legislature with the recommendation **TO DO PASS Bill No. 429, AS SUBSTITUTED.**

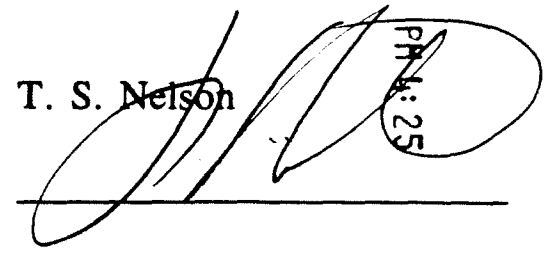
TWENTY-SECOND GUAM LEGISLATURE
1993 (FIRST) Regular Session

93 APR 27 PM 4:25

Bill No. 429

Introduced by:

T. S. Nelson



AN ACT TO ADD A NEW SECTION TO THE GUAM CODE ANNOTATED FOR THE PURPOSE OF ESTABLISHING A MANDATORY CODE OF ETHICS FOR ALL ELECTED, APPOINTED, CLASSIFIED AND UNCLASSIFIED EMPLOYEES OF THE EXECUTIVE, LEGISLATIVE AND JUDICIAL BRANCHES OF THE GOVERNMENT OF GUAM.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF
2 GUAM:

3 Section 1: Declaration of Policy. The proper operation of
4 democratic government requires that public officials and employees be
5 independent, impartial and responsible to the people they serve; that
6 government decisions and policy be made in the proper channels of the
7 governmental structure; that public office not be used for personal gain
8 or to advance the interests of family, relatives, or friends; and that the
9 public have confidence in the integrity of its government. In
10 recognition of these goals there is established a Code of Ethics for all

1 public officials and employees of the Government of Guam in the
2 Executive, Legislative and Judicial branches, whether elected,
3 appointed, classified or unclassified, paid or unpaid. The purposes of
4 the code are to establish and mandate ethical standards of conduct for
5 all such public officials and employees in the Government of Guam by
6 setting forth those acts or actions which are incompatible with the best
7 interests of Guam and its inhabitants and by requiring disclosure by
8 public officials and employees of private financial or other interests in
9 matters affecting the Government of Guam.

10 **Definitions.**

11 (a) ***Public Official or Employee*** means any person, officer or
12 employee holding a position by election, appointment or employment
13 in the classified or unclassified service of the Government of Guam,
14 whether paid or unpaid, including members of any branch, agency,
15 office, board, commission, committee or task force thereof, providing,
16 however, that independent contractors shall not be considered public
17 officials or employees.

18 (b) ***Family member*** means a spouse, children and grandchildren

1 and their spouses; parents and the parents of a spouse; and brothers and
2 sisters and their spouses.

3 (c) *Interest* means any material direct or indirect benefit
4 accruing to a public official or employee or their family members,
5 whether in the public official's or employee's own name or the name
6 of any person, firm, or corporation, association or trust from which the
7 official or employee is entitled to receive any financial benefit, as a
8 result of a contract or transaction which is or which is known will
9 become the subject of an official act, or action by or with the
10 Government of Guam. Contracts or actions which by their terms and
11 by the substance of their provisions confer the opportunity and right to
12 realize the accrual of similar benefits to all other residents of Guam and
13 except that benefits accruing to any business entity in which a public
14 official or employee holds an ownership interest is less than 7½% shall
15 not be deemed to be benefits accruing to such public official or
16 employee. Notwithstanding anything to the contrary, any interest
17 permitted or prohibited to conform to the same circumstances and
18 conditions as herein set forth.

1 (d) **Official act or action** means any legislative, administrative,
2 appointive or discretionary act of any public official or employee of the
3 Government of Guam or any branch, department, agency, office,
4 board, commission, committee, or task force thereof. Acts of any
5 family member of a public official or employee, when done with the
6 knowledge and expressed, implied or tacit consent of the public official
7 or employee shall be deemed to be acts of such official or employee for
8 purposes of applying the prohibitions and restrictions of this Code of
9 Ethics.

10 (e) **Business entity** means any business, proprietorship, firm
11 partnership, cooperative, person in representative or fiduciary capacity,
12 association, venture, trust, or corporation carrying on a business
13 whether or not operated for profit.

14 (f) **Transaction** means any matter, including but not limited to,
15 contracts, work or business with the Government of Guam, the sale,
16 purchase, lease or exchange of real estate by the Government of Guam,
17 and any requests for zoning amendments, variations, planned
18 development approval or special permits or leases pending before the

1 Government of Guam, upon which a public official or employee
2 performs an official act or action.

3 **Code of Ethics.**

4 (a) **Purpose.** This Code of Ethics is founded upon the principle
5 that no individual should receive any inordinate financial or other gain
6 by reason of their serving as a public official or employee of the
7 Government of Guam, and that no private party or taxpayer, including
8 public officials or employees or their family members should receive
9 any benefit from Government of Guam action beyond that which is
10 available to any other private party or taxpayer due to their relation to
11 or as a result of privileged information or support provided by any
12 public official or employee.

13 (b) **Interest in contract or transaction.** No public official or
14 employee of the Government of Guam shall perform or participate in
15 an official act or action with regard to a transaction in which he or she
16 has a direct or indirect interest or knows he or she will thereafter
17 acquire a direct or indirect interest.

18 (c) **Gifts.** No public official or employee shall accept from any

1 person involved in any transaction with the Government of Guam any
2 present or future gift, favor, service or thing of value as an inducement
3 for an official act or action. Any such gift, favor, service or thing of
4 value in excess of one U.S. Cent (1¢) accepted by a public official or
5 employee shall be conclusively presumed to have been accepted as an
6 inducement for an official act or action.

7 (d) *Pre-acquisition of Interest.* No public official or employee
8 shall acquire an interest in or be affected by any transaction or the
9 subject matter thereof at a time when the public official or employee
10 believes or has reason to believe that such transaction will directly or
11 indirectly be affected by his or her own official act or action.

12 (e) *Disclosure of information.* No public official or employee
13 with respect to any transaction which is or which is reasonably
14 expected to become the subject of an official act or action, shall,
15 without proper legal authorization, disclose confidential information
16 concerning the property, transactions or affairs of the Government of
17 Guam or use such information to advance the interest defined herein
18 above of such public official or employee or his or her family members

1 and/or friends.

2 (f) *Appearance.* No public official or employee of the
3 Government of Guam shall appear on behalf of any private person or
4 business entity, other than himself or herself or a family member or
5 friend before any Government of Guam branch, department, agency,
6 office, board, commission, committee, or task force on matters that
7 may have the appearance of a conflict of interest.

8 (g) *Public property.* No public official or employee shall
9 request or permit the use of Government of Guam-owned vehicles,
10 equipment, materials or real property for personal convenience or
11 profit.

12 (h) *Special treatment.* No public official or employee shall
13 grant any special consideration, treatment or advantage to any person
14 or business entity beyond that which is available to every other resident
15 of Guam.

16 **Ex Parte Communications.** No public official or employee shall
17 encourage, make or accept ex parte or unilateral application or
18 communication on any matter which is the subject of an application or

1 petition before the Government of Guam and upon which a public
2 hearing is required to be held and where a determination is to be made
3 after such public hearing unless such public official or employee shall
4 make the contents of such communication a part of the public record
5 prior to such determination.

6 **Political Activities.** (a) No appointment to or employment in
7 any Government of Guam position shall be dependent upon political
8 activity. (b) No employee of the Government of Guam shall be
9 required to engage in any political activity as a condition of
10 employment or advancement to a higher position in the Government of
11 Guam.

12 **Disclosure of Interest.** Any public official of the Government
13 of Guam who has (or whose family members or friends have) an
14 interest in a transaction which is the subject of an official act or action
15 shall disclose on the record of the branch, department, agency, office,
16 board, commission, committee or task force which performs such
17 official act or to the Attorney General, in the case of employees, the
18 nature and extent of such interest.

1 **Annual Disclosure Statements.** All appointed Directors and
2 Deputy Directors and the equivalent positions in line departments,
3 agencies, offices and autonomous instrumentalities of the Executive,
4 Legislative, and Judicial Branches of the Government of Guam shall
5 file a *Statement of Financial Disclosure and Economic Interest* with
6 the Guam Election Commission annually on the 15th day of April. All
7 Judges of the Superior Court of Guam and the Supreme Court of Guam
8 shall file a Statement of Financial Disclosure and Economic Interest
9 with the Guam Election Commission's Office annually on the 15th day
10 of April. All members of boards, commissions, committees or task
11 forces of the Government of Guam shall file a Statement of Financial
12 Disclosure and Economic Interest with the Office of the Attorney
13 General annually on the 15th day of April. Such Statement will be a
14 form as shall be approved by the Guam Legislature and supplied by the
15 Office of the Attorney General. Each elected official of the
16 Government of Guam shall file a Statement of Financial Disclosure and
17 Economic Interest with the Guam Election Commission annually on the
18 15th day of April on a form approved by the Board of the Guam

1 Election Commission. Each elected official, Judge, appointed Director
2 and Deputy Director or the equivalent appointed official shall also file
3 an initial Statement of Financial Disclosure and Economic Interest
4 within ten (10) working days of assuming the duties of his or her
5 office. Members of the boards, commissions, committees and task
6 forces shall also file an initial Statement of Financial Disclosure and
7 Economic Interest within ten (10) working days of assuming the duties
8 of his or her office.

9 **Public Access to Disclosure Statements.** All Statements of
10 Financial Disclosure and Economic Interest filed by elected and
11 appointed officials, members of boards, commissions, committees and
12 task forces, and the Judges of the Superior Court and Supreme Court
13 of the Government of Guam shall be public documents of the
14 Government of Guam, open and available to all residents and
15 organizations on Guam during normal government working hours for
16 public view, scrutiny and duplication at cost to the requesting party.
17 Any public official or employee of the Government of Guam and any
18 representative of the Office of the Attorney General or the Guam

1 Election Commission who attempts to knowingly withhold Statements
2 of Financial Disclosure and Economic Interest from the public shall be
3 charged with a felony. If found guilty, such violator(s) shall serve a
4 mandatory sentence of one year of incarceration at the Department of
5 Corrections, pay a minimum fine of Five Thousand U.S. Dollars
6 (\$5,000), and shall be terminated from employment in the Government
7 of Guam in perpetuity.

8 **Interpretation.** It is recognized that no written code of this
9 nature can provide specifically for all possible contingencies. Any
10 questions regarding the propriety of any transaction or the proper
11 interpretation of this Code may be brought to the Office of the Attorney
12 General at any time. The Office of the Attorney General shall maintain
13 a public record of all hypothetical and actual instances considered under
14 this Code which shall serve as a guide for future compliance with and
15 enforcement of this law. This record shall be available for public view
16 and inspection by all officials and employees of the Government of
17 Guam and by all residents of Guam.

18 **Violations.**

1 (a) Any person found guilty of violating the provisions of this
2 Code shall be fined a minimum of Five Thousand U.S. Dollars
3 (\$5,000) for each such offense.

4 (b) A finding that any public official or employee has violated
5 any provision of this Code shall constitute a cause for censure,
6 suspension, removal from office or employment, prosecution or other
7 disciplinary action as may be appropriate; provided, however, that no
8 such disciplinary action shall be taken except in compliance with all
9 applicable procedures and standards established by the laws of the
10 Territory of Guam and the adverse action procedures of the
11 Government of Guam.

12 (c) Any contract or transaction which was the subject of an
13 official act or action of the Government of Guam in which any public
14 official or employee has an interest prohibited by this Code, or which
15 involved the violation of a provision of this Code, shall, upon
16 discovery, disclosure, determination and prosecution of such interest or
17 violation, be officially terminated.

18

1 (d) Alleged violations of this Code shall be reported to the
2 Office of the Attorney General which shall have no more than 30
3 calendar days to investigate alleged violations. After receiving the
4 report of alleged violations, the Office of the Attorney General shall
5 conduct an immediate investigation and make a public report of its
6 findings and intended actions to the people of Guam.

7 (e) For the purpose of encouraging reports of violations, names
8 of persons who report such violations shall be held strictly confidential
9 and shall not be subject to retribution in any form. Anyone attempting
10 or executing retribution upon those making reports of violations of this
11 Code to the Office of the Attorney General shall be subject to
12 prosecution and other penalties as prescribed by this Act.

13 **Distribution of Code of Ethics.** The Office of the Attorney
14 General, the Guam Election Commission and the Civil Service
15 Commission shall cause a copy of this Code of Ethics to be officially
16 distributed and received by proof of a signature to every elected and
17 appointed official, Judge, and classified and unclassified employee of
18 the Government of Guam working in any and all branches,

1 departments, agencies, offices, boards, commissions, committees and
2 task forces therein within sixty (60) days after enactment of this Code.

3 Each elected and appointed official, Judge and classified and
4 unclassified employee of the Government of Guam, including all
5 members of boards, commissions, committees and task forces thereafter
6 shall be furnished an official copy of the code of Ethics received by
7 proof of signature upon entering the duties of his or her office or
8 employment. Original signature sheets documenting receipt of a copy
9 of the Code of Ethics shall become part of permanent personnel file
10 and/or payroll file of the public official or employee concerned.

11 **Implementing the Code: Mandatory Ethics Training on the**
12 **Code of Ethics of the Government of Guam:** The Legislature finds
13 that the Code of Ethics for the Government of Guam can best be
14 implemented through a rigorous training program involving all current
15 and newly-elected and appointed officials, Judges, members of boards
16 and commissions, personnel in management and supervisory positions,
17 and all classified and unclassified, paid or unpaid public sector
18 employees of the Government of Guam. It furthermore finds that

1 instructor-led training and facilitation must be absolutely professional
2 and objective to demonstrate that ethics is a serious subject requiring
3 proper attention and consideration by all public officials and employees.

4 In this regard, the Legislature hereby mandates that:

5 (a) The University of Guam's Center for Continuing Education
6 and Outreach Programs shall design and deliver-through professional
7 faculty facilitators cognizant and familiar with the laws, regulations,
8 organization and management systems of the Government of Guam -
9 the **Mandatory Ethics Training on the Code of Ethics of the**
10 **Government of Guam** via training sessions to be held in all branches,
11 departments, agencies, offices, boards, commissions, committees and
12 task forces of the Government of Guam and to be attended by all
13 elected and appointed public officials, Judges, managers and
14 supervisors, classified and unclassified employees, and paid or unpaid
15 employees of the Government of Guam starting no later than September
16 1, 1993 and regularly thereafter.

17 (b) The Legislature further mandates that the training program
18 be presented uniformly throughout the ranks of the Government of

1 Guam and be brief, interactive, and respectful of the experience of
2 participants. Half-day sessions are suggested involving a maximum of
3 thirty (30) participants per session.

4 (c) It is hereby further mandated that the general message of
5 the training should be that the Code of Ethics of the Government of
6 Guam reflects public officials and employees commitment to
7 professionalism throughout the public service and that a public office
8 is always a public trust on Guam.

9 **Section 2.** The University of Guam shall submit in their annual
10 budget request for the Center for Continuing Education and Outreach
11 Programs, sufficient funds to cover the cost of designing and printing
12 instructional materials, providing instructor services and delivering the
13 *Mandatory Ethics Training on the Code of Ethics of the Government*
14 *of Guam* to all elected and appointed public officials, board,
15 commission, committee, task force members, Judges, managers,
16 supervisors, classified and unclassified employees, and paid or unpaid
17 employees of the Government of Guam. The University of Guam is
18 hereby directed to prepare a report of expenditures on the use of these

1 funds to the Legislature no later than September 30, 1994 and to reflect
2 budgetary requests for the future funding of this mandated ethics
3 training program in the University's Center for Continuing Education
4 and Outreach Program yearly budget requests to the Legislature
5 beginning in Fiscal Year 1995 and thereafter.

6 **Separability.** If any provision of this Code is found by a court
7 of competent jurisdiction to be invalid, inorganic or unconstitutional,
8 or if the application of this Code of Ethics is found by a court of
9 competent jurisdiction to be invalid, inorganic or unconstitutional, or
10 if the application of this Code of Ethics to any person or circumstances
11 is found to be invalid, inorganic or unconstitutional, such invalidity or
12 unconstitutionality shall not affect the other provisions or applications
13 of this Code which can be given effect without the invalid, inorganic
14 or unconstitutional provision or application.

15 **Section 3. Effective Date.** This Code of Ethics for the
16 Government of Guam shall be in full force and effect within sixty (60)
17 days after its passage and approval.

COMMITTEE ON GENERAL GOVERNMENTAL OPERATIONS
AND MICRONESIAN AFFAIRS

The Committee on General Governmental Operations and Micronesian Affairs held a **public mark-up hearing on Bill No. 429** at the University of Guam Building A Room 108 at 6:30 p.m. on **June 15, 1993**. Present were:

Senator Ted S. Nelson, Chairman
Senator Tommy Tanaka, Member
Senator Ben Pangelinan, Member
Senator Tony Blaz, Member
Senator Marilyn Manibusan, Member
Many students of the Public Administration class
Many members of the public
Attorney Charles Troutman
Dr. Judith Guthertz
Dr. Singh
Various staff members
Members of the public print and electronic media

SENATOR NELSON opened the meeting by stating that the final version of the several ethics bills would include portions of each. He commended the students who were instrumental in drafting Bill 429. The final version will have a hearing in the Legislature's Public Hearing Room when the work is completed.

He then introduced Dr. Guthertz, who in turn introduced the many students who took part in this project.

The first witness to present testimony was ATTORNEY C. TROUTMAN, the government of Guam Compiler of Laws. He presented written testimony (attached) and then expounded orally. His testimony opposed enactment of 429 as written but he felt that the concept had merit. He stated that existing laws should be mentioned in the Bill but not be rewritten. He also mentioned that the primary purpose of the Civil Service Commission is to protect the merit system and not to be a disciplinary body.

Troutman recommended that everything needed is to be put into a draft version, then delete that part which already exists in current law or is unnecessary. The balance should then be compiled into a satisfactory Bill to be voted into law.

SENATOR MANIBUSAN asked Troutman if he would assist the Committee and the authors in doing this and his response was in the affirmative. She asked about the gifts or contributions made by PACs or Political Action Committees. Troutman responded that this is already covered in existing law and need not be put into an Ethics Bill. He went on to express the thoughts that gifts, even official, needed to be clarified such that if over a specific value they should revert to the government. The present Bill is too restrictive and too vague. If this bill passes, it will be looked at as a whole and the question arises -- Which takes precedence, this Bill or present law? If changes need to be made, they could all be done in one law.

SENATOR BLAZ expressed the opinion that we need ethics rules for all components of the government. Troutman concurred but said they should be kept current. He did not think that all of the ethics laws should be combined into one because there are many reasons for the separation which exists today.

SENATOR PANGELINAN stated that ethics is not a law until it is made into a law. Troutman stated that Guam is similar to any of the States or the Federal government. An entity can only judge its own members. A commission would be in effect become a "Super Director." This is something we need to avoid at all costs.

SENATOR TOMMY TANAKA thanked the students for bringing to the public attention the need for a long overdue piece of legislation. We need to bring together all aspects of ethics. We don't want to wait for the federal government to bring this to our attention. If a commission is created, it should be apolitical. The time has come for a change.

Student MARK CHARFAUROS told the Committee not to kill the Bill, but don't create a separate judicial system. All of the parts of an ethics bill must be enforceable. He feels that a public figure's private life should be private and not a subject of this Bill.

Student FLORENCE PAULINO stated she supported the Bill but that there were too many things wrong with it. She said it was contrary to Chamorro culture, it had not relief or redemption clause, was too tough for an innocent or minor offense and it did not address the compadre system.

Student BARBARA BENAVENTE complimented the Commission for their creative approach of involving people in the hearing. She is concerned with REACTION rather than ACTION. She would prefer that the Bill be kept simple. She agrees with Attorney Troutman's remarks and also feels that the term *ethics* needs to be redefined. The question of due process comes up. Is this constitutional? We need to enforce what we already have. And in closing, she expresses the idea that DOA Training Division be responsible to indoctrinate employees rather than UOG Continuing Education.

FLORENCE PAULINO stated that Revenue and Taxation Department came up with a "Code of Conduct" which stressed honesty. This is what we need for all government employees and officials.

SENATOR MANIBUSAN asked what happened to the old adage of "Innocent until proved guilty?"

Student FRANK LUJAN asked "Should elected officials be held to a higher standard of conduct?" His response was an emphatic yes. Since they are elected by the people, they need to be trusted by the people.

ANDREW ANDERSON stated they want to condense this Bill and make it readable. We DO need a code.

MARK HOWARD stated that he felt strongly in favor of a strong Code of Ethics for elected and appointed officials. They should be subject to a higher standard but their conduct or misconduct should not be tried in the media. Leave it to the Committee. They have two points to address. First is the disclosure of interest in outside projects. They must serve all the people. The second is that sentencing must be in other laws. The Committee should only address in-house sentencing, of which the most severe would be removal from office. Also, as written, the time limit for reporting is much too short.

DR. JUDITH GUTHERTZ expressed her thanks to all present and also to

Charles Troutman for his offer to assist. As she explained the intent of Bill 429, she said it must be positive, protect the innocent, with no intent to conflict with the local culture. The community merely wants to know the do's and don'ts.

SENATOR NELSON on stated that there would be at least one more hearing and it would be in the public hearing room in the Guam Legislature in Agana.

DR. GUTHERTZ submitted an addendum to the Bill which is a Table of Penalties.

The Chairman adjourned the hearing at 9:30 p.m.

**COMMITTEE ON GENERAL GOVERNMENTAL OPERATIONS
AND MICRONESIAN AFFAIRS**

Twenty-Second Guam Legislature

Chaired by

Senator Ted S. Nelson

PUBLIC MARK-UP HEARING

6:30 p.m., Tuesday, June 15, 1993

**University of Guam, College of Business and Public Administration
Building A, Mangilao**

A G E N D A

Bill No. 429 An Act to add a new Section to the Guam Code Annotated for the purpose of establishing a mandatory Code of Ethics for all elected, appointed, classified and unclassified employees of the Executive, Legislative and Judicial Branches of the Government of Guam. *(Introduced by T.S. Nelson)*



Committee on General Governmental Operations & Micronesian Affairs

Twenty-Second Guam Legislature
297-B West O'Brien Drive Agana, Guam 96910

Sen. Ted S. Nelson
Chairman

Telephones:
(671) 472-3446-8/472-3501/3569

June 9, 1993

Memorandum

To: Members, Committee on General Governmental Operations and
Micronesian Affairs

From: Chairman

Subject: **Notice of Committee Public Mark-Up Hearing on Bill No. 429**

I am pleased to announce that there will be a public mark-up hearing on **Bill No. 429, "An Act to a new Section to the Guam Code Annotated for the purpose of establishing a mandatory Code of Ethics for the government of Guam."**

Date: June 15, 1993 (Tuesday)
Time: 6:30 p.m.
Place: Building A, University of Guam, Mangilao

Your presence and active participation in this mark-up hearing will be appreciated.



TED S. NELSON

c: All Senators
Executive Director
Audio Technician Supervisor
Protocol Office

COMMITTEE ON GENERAL GOVERNMENTAL OPERATIONS
AND MICRONESIAN AFFAIRS

The Committee on General Governmental Operations and Micronesian Affairs held a hearing on **Bill No. 429** at the University of Guam (Building A Room 212) at 9:30 a.m. on **May 6, 1993**. Present were:

Senator Ted S. Nelson, Chairman
Senator Edward D. Reyes, Vice-Chairman
Senator J. George Bamba, Member
Senator Marilyn Manibusan, Member
Dr. Judith Guthertz

SENATOR NELSON opened the meeting and welcomed testimony on Bill 429 from the students in the PA405/G Ethics in Public Administration, Business and the Professional Class, CBPA-UOG. The following are excerpts from their testimony:

MS. CAROLYN M. TOVES, Government of Guam employee (9 years): "... because of the lack of a formal code of ethics, there are times when decisions are made and actions are taken that we know are not quite 'right.'"

MS. DEBORAH L.P. TOVES: "... it is our intention and our goal to achieve the realization for the highest standards of personal integrity, truthfulness, honesty and fortitude in all public activities of the Government of Guam in order to inspire public confidence and trust in our island's public institutions."

MR. ANDREW ANDERSON, Government of Guam employee (17 years in law enforcement): "We need to send a message to those few scoundrels who are in the Government of Guam, and also to those who contemplate entering government service, that the people of Guam demand that all government employees be at their best behavior while in their employment, otherwise get out or be willing to pay the price if they are caught trying to deceive the public."

MS. THERESE MORTA, Government of Guam employee: "It is time that

the Government of Guam move to try to improve its reputation of being a carefree place of employment where anyone can take advantage of the system and that the employees do not really work for their money."

MR. HENRY D. LEON GUERRERO, Government of Guam employee: "Bill No. 429 was developed to provide all public officials and employees of our government with a meaningful framework of mandated standards for guiding their judgment and conduct, and to minimize any existing and future risk of corruption in our government. With the passage of this bill, the message will be clear to the Government of Guam officials and employees that a public office is always a public trust on Guam."

MR. DAVID E. SMITH: "The bill would give to all citizens of Guam the assurance that all citizens are equal and have the same rights for access to government service and a remedy for anything that is done that is not in the public interest. ... The proposed code would preclude future unethical deals or appearances of impropriety when doing business with the Government of Guam."

MR. KENNETH DENUSTA, High School Teacher: "Aside from the public image concern, I believe that this bill could save the government money. For instance, those who benefit from the sale or theft of government property may cost the government enormous sums that are incalculable when gone unnoticed and unreported. Even more, employees who dodge being caught, may continue to work at government expense and public tax dollars. Bill No. 429 can send a strong message to prevent would be violators, as well as, save the government money. The bill will also set a prevailing tone for the desired conduct of government employees."

MR. ROY DIRIGE, Government of Guam employee (11 years): "Throughout my tenure in the public sector there weren't any ethical/moral standards that was set for employees to use as a guideline for their judgement and conduct. I relied mainly on actions and decisions made by my peers or superiors. On many occasions they may be wrong, but the practice have been accepted."

MS. FRANCESCA S. TYDINGCO: "... many people will say that government employment involves many duties, functions and responsibilities

which are too complex and numerous in addition to other conditions and circumstances that create or foster unethical conduct. However, this is largely due in part to a government environment devoid of ethical guidelines."

MR. JOHN W.U. QUINENE: "This bill, if passed into law, can prevent further Government corruption in the future; help attract and retain educated and experienced employees in the Government; and instill in employees' high standards of conduct and commitment to service for the public."

MR. JOSEPH T. TENORIO, Government of Guam employee: "As a Government of Guam employee, I feel that the enactment of this Code of Ethics is past due. Our government has for a long time now, been plagued with public distrust. That should come as no surprise to anyone living on Guam, just think back to all the negative publicity our government has had recently. I hope that with the support of the legislature and the public, Bill 429 will become law, a law long overdue."

MS. CONNIE M. CRUZ: "This Code of Ethics is long overdue. If we do not pass Bill 429 into law, we will continue to see corruption, sexual misconduct, and scandals being practiced in our government. Our government will also continue to be abused by its employees who do not have any Code of Ethics in 'black and white' to guide them in their daily conduct."

MR. MARK G. MILLER, Government of Guam employee: "As a Government of Guam employee, I feel that the enactment of this Code of Ethics is past due. Our Government has for a long time now, been plagued with public distrust. That should come as no surprise to anyone living on Guam, just think back to all the negative publicity our government has had recently. I hope that with the support of the legislature and the public, Bill 429 will become law, a law long overdue."

MS. PATSY A. BORJA, Government of Guam employee: "More recently our government has been the spotlight of on-going investigations and prosecutions of illegal acts and corruption, as well as scandalous affairs, such as allegations of sexual harassment. Therefore, I strongly feel that it is absolutely necessary that a Code of Ethics be established so that each and

every Government of Guam employee has rules or standards to abide by. Bill 429 clearly sends the message that enough is enough, and there are no excuses for any unethical behavior in the government."

MS. TERESITA B. ROSARIO, Government of Guam employee and a junior under the "Doc" Sanchez Scholarship: "I affirm Bill 429 as not discriminatory for it applies to all branches of the government and does not exempt anyone regardless of their status."

MR. FRANKIE J.T. LUJAN, Government of Guam employee (15 years): "The proposed Code of Ethics would serve as a guide and a gauge of conduct. It would put into perspective questionable issues or conduct which may not be illegal, but unethical. It defines areas of conflict and benefit which often times are loosely interpreted and ambiguous."

MR. KENNETH R. PAULINO, Government of Guam employee (3 years): "Bill No. 429 focuses primarily on the needs and concerns of employees and on the management practices that support high standards of conduct. This is why we cannot afford to lessen the provisions and penalties within this Bill. Through this Bill, a clear message will echo throughout the public service, in that the people of Guam will be provided for in a fair and honest manner, and this message will reflect the commitment to professionalism throughout the public service."

MS. ANTONIA C. LUJAN, Government of Guam employee: "Theft of funds, theft of public land, procurement scandals, sexual misconduct by public employees (to name a few) have dubbed the Government of Guam as a 'totally inefficient and corrupt government' and have tainted, in the process, the reputations of many dedicated and innocent public servants. The Government of Guam is failing in ethics and integrity; thus, our proposed Code of Ethics seeks only to correct this failure and instill, once again, the confidence and trust we so rightly deserve from the people we serve."

MR. ROGER CAULEY, Government of Guam employee: "The section that I agree most with is the statement of disclosure that applies to all elected, appointed, Committees, task force, etc. to disclose on the record the nature and extend of interest. ... It is important that ethics be taught to all managers, administrators, agency directors, committee members, etc. Some

questionable practices of an agency may not have occurred if this type of program was available during their initial employment. Guidelines on ethical behaviors will allow for employees and officials to be more accountable for their actions and allow them the skills to perform in the best interest of all residents."

MR. CHAN HO PARK, GPD Employee and UOG Student: "The proposed Code of Ethics would serve as a guideline to the Government of Guam employee's conduct. It would put into perspective questionable issues of conduct which may prove unethical. It defines areas of conflict and benefits which often times are loosely interpreted and ambiguous."

May 6, 1993

The Honorable Ted Nelson
Chairman, Committee on General
Governmental Operations
22nd Guam Legislature
Agana, Guam

Dear Senator Nelson:

This is submitted as testimony in favor of Bill 429, an act that would formally establish a code of ethics for the Government of Guam.

Having been employed with the Government of Guam for approximately 9 years, I can speak from experience when I say that the majority of us in the public service are committed towards performing our duties within the realm of what we know is right. But because of the lack of a formal code of ethics, there are times when decisions are made and actions are taken that we know are not quite "right."

I feel that our Government has the responsibility for setting the guidelines that public servants should follow. These guidelines should also reflect no less than what the community expects and deserves. I foresee the passage of Bill 429 as a milestone in legitimizing our Government's commitment towards honesty, integrity and fair play in the public service.

Thank you for this opportunity.

Sincerely,


Carolyn M. Toves

May 6, 1993

Honorable Theodore Nelson
Chairman
Committee on General Government Operation
22nd Guam Legislature

Mr. Chairman and members of the Committee,

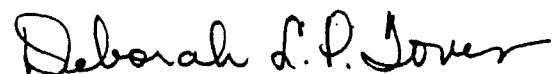
My name is Deborah L.P. Toves, I am from the village of Dededo and a student at the University of Guam. I am testifying in support of Bill 429: An act to establish a mandatory code of ethics for all elected, appointed, classified and unclassified employees of the executive, legislative and judicial branches of the Government of Guam.

This proposed bill was crafted by Professor Guthertz and her students at the University of Guam, and it is our intention and our goal to achieve the realization for the highest standards of personal integrity, truthfulness, honesty and fortitude in all public activities of the Government of Guam in order to inspire public confidence and trust in our island's public institutions.

Although ethical rules of conduct and proper behavior for government officials are already established in such documents as the Procurement Policy of the Government of Guam and also in the Government Personnel Rules and Regulations, Bill 429 will incorporate the rules contained in those two documents and other recently added language into a single document for ethical rules of conduct and behavior. This is a more organized approach. The proposed bill also recommends that mandatory training be accomplished for all those employees affected and specifies the procedure for such training. If Bill 429 should be enacted into law, it then becomes the "Bible" of ethical rules of conduct for all Government personnel, elected, classified, unclassified and appointed for all three branches of the Government of Guam.

I also recommend this amendment; that the Government Code of Ethics shall be known as the "Judith Guthertz Law" in honor of Dr. Guthertz's many years of dedicated work in public administration training and research and to recognize her efforts to improve government operations.

I want to thank the committee for this opportunity to testify in support of Bill 429. Again, thank you and Si Yu'us Ma'asse.



Deborah L.P. Toves

May 6, 1993

Honorable Senator Ted Nelson
Chairperson, Committee on General
Governmental Operations
Twenty-Second Guam Legislature

ref. Testimony on Code of Ethics

Senator, Ladies and Gentlemen,

We, students of the University of Guam, enrolled in the Professional Ethics in Public Administration, Business and the Professions course, have submitted this proposed Code of Ethics to the Twenty-Second Guam Legislature because it is time that all government of Guam employees, whether they be elected, appointed, or recruited be held ethically responsible to the people of Guam.

Being in law enforcement with the government of Guam for over seventeen years, I still recall the scandals at the Guam Police Department and other departments. Many of the perpetrators are, in fact, still employed with the government of Guam, and a few hold high paying positions. Is this the kind of legacy that we want our children to grow up with? That if you are dishonest and cheat the people, that you will get away with it and continue to advance in government service. The people deserve a lot more from the government. They deserve an honest, truthful, and conscientious government that will only act in their best interests.

In all the years that I have been with the government there has not been a Code of Ethics for government of Guam employees. This is an injustice to the employees, as it is up to our government's leaders to formulate this code and set the examples for all of Guam. Now, more than ever, we need to see the Legislature implement this Code of Ethics.

We need to send a message to those few scoundrels who are in the government of Guam, and also to those who contemplate entering government service, that the people of Guam demand that all government employees be at their best behavior while in their employment, otherwise get out or be willing to pay the price if they are caught trying to deceive the public.

Thank you.



Andrew Anderson

May 05, 1993

The Honorable Ted Nelson
Chairman, Committee on General
Governmental Operations
22nd Guam Legislature
155 Hessler Street
Agana, Guam 96910

Dear Senator Nelson:

As a student of the University of Guam's Public Administration class on Ethics in Public Administration better known as PA405/G, I would like to provide additional written testimony on the proposed Bill No. 429. I would also like to include that I am a participant of the Pedro "Doc" Sanchez Scholarship program.

My fellow class mates, myself and many other private citizens feel there is a need to establish a Government of Guam Ethics Code. Many other employees of the Government of Guam who are not participants of the PA405/G class nor the Sanchez scholarship program recognize the need for such a law. It is time that the Government of Guam move to try to improve its reputation of being a carefree place of employment where anyone can take advantage of the system and that the employees do not really work for their money.

I am a former private sector employee so I know that such remarks are often said of employment in the Government of Guam. Now I am a part of that group and do not appreciate such remarks and would like to move forward in a positive direction.

I realize that there may be sections in the proposed bill that is almost shocking to many public officials, but that is part of what will make this bill a challenging one.

I hope you seriously consider this bill and vote on establishing the Code of Ethics for all government employees.

Thank you,


THERESE MORTA
Student & Government Employee

May 4, 1993

Senator Ted Nelson
Chairperson
Committee on General
Governmental Operations
22nd Guam Legislature
155 Hesler Street
Agana, Guam 96910

Dear Senator Nelson:

On behalf of the students in PA 405/G Ethics in Public Administration, Business and Professions course, our Professor, Dr. Judith Guthertz, Government of Guam employees and the people of Guam, I would like to extend our Dangkulo Na Si Yu'us Maase to your Committee for this invitation and opportunity to testify on Bill No. 429 (An act to establish and standardize the Code of Ethics for the Government of Guam). I am here today to testify in support of Bill No. 429 in its entirety.

During my 21 years of naval service, I have heard so much about the stereotyping of abuses, laziness, dumb mentality, and unethical conduct of Government of Guam employees. Now that I have retired from the naval service and presently a Government of Guam employee, I find that these stereotypes are not founded. The Government of Guam has come a long way since the enactment of the Organic Act of Guam in 1950. The technology, information dissemination, salary and prestige of being a Government of Guam employee is indicative by the number of personnel transferring from the private and federal service sector, into public employment. The majority of government employees are younger, educated, talented, dedicated and are willing to work for their wages. Please help us remove this negative and untrue stigma regarding our public servants.


I am fully supporting Bill No. 429 not because I am a student in this class, or that I am employed by the Government of Guam, but because it is a basic and sound administrative and management policy that high ethical standards are critical to the Government of Guam's credibility with the public. It is time that we erase any doubt in any Government of Guam employees' mind, as to what

is ethically expected from them during their public service. Senator Nelson, I applaud you and your Committee for not only making an historical public hearing appearance on campus today, but also for being instrumental and supportive of this proposed legislation. The people of Guam and especially the Government of Guam employees have long awaited for this day in Guam's history, for a strict and mandatory Code of Ethics to be legislated, to guide all public officials and employees in the Government of Guam. To date, there is nothing promulgated to focus primarily on the needs and concerns of employees and on the management practices that support high standards of conduct.

Bill No. 429 was developed to provide all public officials and employees of our government with a meaningful framework of mandated standards for guiding their judgements and conduct, and to minimize any existing and future risk of corruption in our government. With the passage of this Bill, the message will be clear to the Government of Guam officials and employees that a public office is always a public trust on Guam. I could not think of a better method to re-gain the public's trust and confidence in the Government of Guam than this legislation. Your advocacy and solicitation of support from your colleagues in the 22nd Guam Legislature to pass and implement Bill No. 429 will be greatly appreciated.

Again, thank you for the opportunity to testify in this most worthwhile proposed legislation. Should you require additional information or clarification, please feel free to contact me or call 637-0442/5.

Sincerely,



HENRY D. LEONGUERRERO
Public Servant

May 6, 1993

The Honorable Ted Nelson
Chairman, Committee on General
Government Operations
22nd Guam Legislature
Agana, Guam

Dear Senator Nelson:

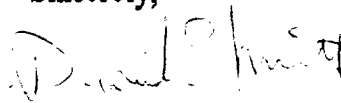
The Bill 429 that you have introduced for a proposed Code of Ethics for all aspects of the Government of Guam would set a standard that would be an example for how all the states and the federal government of the United States should operate.

The bill would give to all citizens of Guam the assurance that all citizens are equal and have the same rights for access to government services and a remedy for anything that is done that is not in the public interest. Guam will be giving notice to any investors from foreign countries what the rules are for doing business in Guam. The proposed code would preclude future unethical deals or appearances of impropriety when doing business with the Government of Guam.

The many loyal and diligent employees of the three branches of the government of Guam would have standards to guide their performance of duty. These employees would be protected from undue coercion and stress when dealing with their conscience that tells them to do what is right for the citizens of Guam.

If Bill 429 is enacted by the 22nd Guam Legislature as introduced, it will prove to the federal government that Guam has political maturity and is prepared to govern its self as a Commonwealth.

Sincerely,



David E. Smith

May 6, 1993

The Honorable Ted Nelson
Chairman, Committee on
General Governmental Operations
Twenty-Second Guam Legislature
Agana, Guam

Dear Senator Nelson,

I offer the following written testimony in support of **Bill No. 429**:


"AN ACT TO ADD A NEW SECTION TO THE GUAM CODE ANNOTATED FOR THE PURPOSE OF ESTABLISHING A MANDATORY CODE OF ETHICS FOR ALL ELECTED, APPOINTED, CLASSIFIED AND UNCLASSIFIED EMPLOYEES OF THE EXECUTIVE, LEGISLATIVE AND JUDICIAL BRANCHS OF THE GOVERNMENT OF GUAM"

I support the bill for many reasons, one being that I firmly believe that this bill can be the impetus for a truly open and honest government. Such a government, would instill greater public confidence and trust towards public employees of which I am a part. I also believe that any public employee who abuses his or her authority to personally gain from the government, will erode and taint the image of public employees as a whole.

Aside from the public image concern, I believe that this bill could save the government money. For instance, those who benefit from the sale or theft of government property may cost the government enormous sums that are incalculable when gone unnoticed and unreported. Even more, employees who dodge being caught, may continue to work at government expense and public tax dollars. Bill No. 429 can send a strong message to prevent would be violators, as well as, save the government money. The bill will also set a prevailing tone for the desired conduct of government employees.

I'm confident that the citizens of Guam will, without a doubt, be supportive in the enactment of this bill into public law. Your legislative committee's decision to hold today's public hearing, especially in the University of Guam, is to be commended.

Sincerely,


Kenneth S. Denusta

Rydzko

The Honorable Ted Nelson
Chairman, Committee on General
Governmental Operations
22nd Guam Legislature
Agana, Guam 96910

May 6, 1993

Good Morning Mr Chairman and Senators.

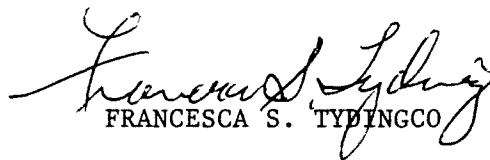
I am Francesca S. Tydingco, a member of the PA 405/G Ethics Class at University of Guam and one of the drafters of the proposed Code of Ethics we are hearing in this class today.

To be or not to be ethical is not the question government officials and employees should be considering because it is universally accepted that their conduct must be ethical. I am sure that they and we have been taught by parents, religious leaders, community leaders and significant others to be honest, truthful, fair, moral, kind, respectful and so on. Unfortunately this is frequently not enough to guide one's conduct in the government.

I know that many people will say that government employment involves many duties, functions and responsibilities which are too complex and numerous in addition to other conditions and circumstances that create or foster unethical conduct. However, this largely due in part to a government environment devoid of ethical guidelines. As a result, too often government officials and employees cannot see the forest because their focus is on the trees.

The forest is public trust in the integrity of government. Therefore, the question for government officials and employees is HOW TO BEGIN TO KNOW WHAT IS ETHICAL OR UNETHICAL conduct because in the final analysis, they are accountable to the people of Guam.

Thus, our PA 405/G Ethics Class urges your support for the legislation of Bill 429 establishing a government-wide Code of Ethics.


FRANCESCA S. TYDINGCO

06 MAY 1993

The Honorable Ted Nelson
Chairman, Committee on General
Governmental Operations
22nd Guam Legislature
Agana, Guam 96910

Dear Senator Nelson,

I would first like to thank you and your colleagues for conducting this historical public hearing here in our classroom for Bill 429.

Bill 429, which was originally the proposed Ethics Bill drafted by the PA 405/G class, is a proposal that provides for high ethical standards which are crucial to the Government of Guam's credibility with the public.

Bill 429, on the front cover, states :

"An act to add a new section to the Guam Code Annotated for the purpose of establishing a mandatory code of ethics for all elected, appointed, classified and unclassified employees of the Executive, Legislative and Judicial Branches of the Government of Guam."

This Bill, if passed into law, can prevent further Government corruption in the future; help attract and retain educated and experienced employees in the Government; and instill in employees high standards of conduct and commitment to service for the public.


JOHN W. U. QUINENE

May 5, 1993

The Honorable Ted Nelson
Chairman, Committee on General
Governmental Operations
22nd Guam Legislature
Agana, Guam

Dear Chairman Nelson:

My name is Joe Tenorio. I am a resident of the village of Yona and a career employee of the Government of Guam. My intention here is to give testimony in support of Bill #429, "The Code of Ethics for Public Officials and Employees of the Government of Guam".

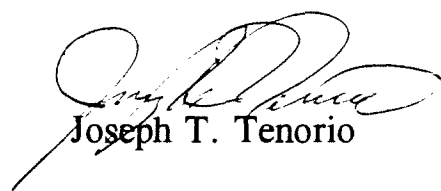
In the Public Service, nothing can be more important than the public's opinion of public employee honesty, truthfulness, and personal integrity. Bill #429, "The Code of Ethics for Public Officials and Employees of the Government of Guam", will serve to motivate Government of Guam Employees to reach for the highest level of moral conduct attainable. This bill makes a diligent effort for everyone to conceive ethics in the public service as a paramount concern. The perceptions citizens will have about government employees, should this bill become law, will definitely instill pride and integrity in the valued employees of the government and in government service in general. Employees would understand the seriousness of ethics in government service while simultaneously imparting a sense of trust and confidence in citizens for the employees and the offices of the Government of Guam.

There should not be any compromise of honesty and integrity for advancement, honors or personal gain by employees of the government. Public servants should always be respectful of the values of those they serve. Amongst employees, there should always be an acknowledgement for the legitimate responsibilities of others. This code of ethics will provide the guiding juggernaut for employees to make it clear, through their actions, that they will not tolerate any use of public funds towards benefits for themselves, family, or friends.

The "Whistle blowers" of a public office may very well be the loyal employees to the interest of the public and should be given support. A means of giving support is to establish a code of ethics. When more people are aware of unethical acts, moral sanctions to deter these acts is inevitable as well as the support for the reporting of unethical acts.

I presume, that from time to time, you may have been given a hint or two about the conduct of a few government employees, conduct unbecoming of a public servant. Employees should always remember that government needs to gain the cooperation of citizens and the involvement of civic groups. It is imperative that all employee dealings with the public be done with respect, concern, courtesy, and responsiveness to the citizens we work for.

Senator Nelson, please make an earnest attempt to get this bill to become public law. We owe it to the employees of the Government of Guam and to our employers, the citizens of this territory.



Joseph T. Tenorio

May 06, 1993

The Honorable Ted Nelson
Chairman, Committee on General
Governmental Operations
22nd Guam Legislature
Agana, Guam 96910

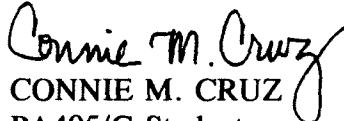
Dear Senator Nelson:

I would like to thank you and your colleagues for making history by holding a public hearing on Bill 429 in our classroom.

I strongly support Bill 429 because I feel that it will minimize and hopefully prevent further government corruption in our government. It will also help to improve our government by providing high ethical standards to guide all appointed, elected, classified and unclassified employees of the Executive, Legislative, and Judicial branches in their daily conduct.

This Code of Ethics is long overdue. If we do not pass Bill 429 into law, we will continue to see corruption, sexual misconduct, and scandals being practiced in our government. Our government will also continue to be abused by its employees who do not have any Code of Ethics in "black and white" to guide them in their daily conduct.

In closing, I encourage you and your colleagues of the Twenty-Second Guam Legislature to take action by passing Bill 429 into law and to stand committed to it so that the Government of Guam and the community of Guam will take it seriously.


CONNIE M. CRUZ
PA405/G Student

May 06, 1993

The Honorable Ted Nelson
Chairman, Committee on General
Governmental Operations
22nd Guam legislature
Agana, Guam

Dear Senator Nelson:

As one of the students of the PA405/G Ethics in Public Administration, Business and Professions Spring Semester Class at the College of Business and Public Administration, University of Guam, I would like to take this opportunity to thank you personally for your efforts in introducing our proposed Code of Ethics Bill for the Government of Guam. Because of your efforts to introduce the bill in its entirety and without change, we may for the first time achieve a new public outlook towards our government.

Bill 429, as it is officially known, will hold public officials and employees of the Government of Guam accountable for their actions. Our government, in my opinion, has operated much too long without proper guidelines or standards of conduct in place. The bill will provide the framework to use in deciding if the action taken by the individual or individuals was proper or improper. Once that has been determined, it goes further by prescribing the mandated punishment for the violation.

Since no two people possess the same level of morality, bill 429 also includes a provision for the awareness training of Government of Guam public officials and employees. This training will strengthen the governments arguments against an individual or individuals who have violated the Code of Ethics bill, and are using the argument that they were not aware of the policy in force.

As a Government of Guam employee, I feel that the enactment of this Code of Ethics is past due. Our government has for a long time now, been plagued with public distrust. That should come as no surprise to anyone living on Guam, just think back to all the negative publicity our government has had recently. I hope that with the support of the legislature and the public, Bill 429 will become law, a law long overdue.

Sincerely,



Mark G. Miller
Student in CBPA
Class PA405/G

P.O. Box 3457
Agana, Guam 96910
March 6, 1993

The Honorable Ted Nelson
Chairman, Committee on General
Governmental Operations
22nd Guam Legislature
Agana, Guam

Dear Senator Nelson:

I congratulate you and members of your committee for setting history at this very moment, since this is the first time a public hearing has ever been held in the manner you and your committee has done so today.

As one of the students in the PA 405G Ethics in Public Administration class, I participated in the development of Bill 429 so obviously, I am in full support of this bill. However, we all know that honest individuals can and do disagree on moral judgements and true concensus is difficult to achieve, so thereby, it is utterly crucial that certain standards of conduct are established for the Government of Guam. As such, I urge the passage of Bill 429 because a Government of Guam Code of Ethics will ensure that ethical conduct, what is and what is not appropriate, is adhered to and abided by all Government of Guam employees as prescribed in Bill 429.

More recently our government has been the spotlight of ongoing investigations and prosecutions of illegal acts and corruption, as well as scandulous affairs, such as allegations of sexual harrassment. Therefore, I strongly feel that it is absolutely necessary that a Code of Ethics be established so that each and every Government of Guam employee has rules or standards to abide by. Bill 429 clearly sends the message that enough is enough, and there are no excuses for any unethical behavior in the government.

As a Government of Guam employee, I have seen and worked with many employees who do their jobs and who have ethical values such as honesty and integrity, coupled with a strong desire to respect and honor the strong commitment to their

May 5 1993

Honorable Ted Nelson
Chairman
Committee on General
Governmental Operations
22nd Guam Legislature
Agana, Guam

Dear Honorable Nelson:

My name is Teresita B. Rosario, presently a junior under the "Doc" Sanchez scholarship. I am currently employed as a Research & Statistics Analyst II at the Department of Commerce, Economic Research Center Division. I am also a student of the Ethics in Public Administration class.

I fully endorse Bill 429, an act to add a new section to the Guam Code Annotated for the purpose of establishing a mandatory code of ethics for all elected, appointed, classified and Judicial branches of the Government of Guam. It will direct all public servants whether elected, appointed or hired to be responsible in safeguarding the public trust. I affirm Bill 429 as not discriminatory for it applies to all branches of the Government and does not exempt anyone regardless of their status.

This Bill further demonstrates to guide nearly, if not all aspects of the government organization. It also addresses the long overdue code that would bring the government to the highest standard of conduct.

One of the best feature of this Bill is the implementation procedures by a rigorous training program to all branches of the Government in a timely manner. However, the date on line 16, page 15 can be extended to one hundred and twenty (120) days after enactment and approval of the code. This would give reasonable if not sufficient time for the financial and administrative procedures to be iron out and adequately conduct the training program as prescribed. Consequently, the number of days of sixty (60) be changed as on line 2, page 14 and on line 17, page 17 to one hundred and twenty (120) days after the enactment and approval of the act.

I want to thank you for introducing Bill 429 and especially for affording the PA405 class the opportunity to be the first to testify on this most important and historical code.

Sincerely,


Teresita B. Rosario

May 6, 1993

Honorable Ted Nelson
Chairman, Committee on General
Governmental Operations
Twenty-Second Guam Legislature
Agana, Guam

Dear Mr. Chairman:

I appear before you and your committee today to give testimony in support of BILL 429, an Act to establish a Code of Ethics for the Government of Guam.

I am both a student at this University and a career employee of the Government of Guam, having worked for the government for more than 15 years.


The Government of Guam like all other governments in a democratic society must have integrity and the confidence of the people it serves. Our government is entrusted to protect the interest of the people. This is carried out by government employees at all levels in all three branches of the government.

It is my contention that a great number of Government of Guam employees are hard working dedicated people who strive for excellence in providing service to the people of Guam. The passage and enactment of BILL 429 will not only assist government employees in achieving excellence, but, will ultimately promote efficiency and savings to the Government of Guam. This in effect will set the pace for the government in achieving a TOTAL QUALITY WORK FORCE.

The proposed Code of Ethics would serve as a guide and a gauge of conduct. It would put into perspective questionable issues or conduct which may not be illegal, but unethical. It defines areas of conflict and benefit which often times are loosely interpreted and ambiguous.

Inclosing, I support the enactment of BILL 429 as it would only lead to a more responsible, efficient and accountable government.

Sincerely,


Frankie J.T. Lujan

May 6, 1993

The Honorable Ted Nelson
Chairman, Committee on General Governmental Operations
22nd Guam Legislature
Agana, Guam

Dear Senator Nelson:

Bill No. 429, a proposed substitute Bill to Bill No. 132, introduced by Senator Elizabeth Arriola, to set up standards of conduct for all Government employees is for the most part inevitable. I would like to thank Senator Arriola for opening the door regarding this very important issue.

As we all know, the government of Guam is an ever growing business entity, and with a growing population, the demand for services are also growing. I've been working for the Government of Guam for a little over three years, and I truly understand the services that my agency is required to provide. However, the way these services are carried out is a question that arises in my mind, time and time again.

I often wonder if our actions in government are all together done in honesty and fairness. I look around me and I see the actions of many government employees, that to me can very well be considered unethical. Are my thoughts of their actions right or wrong? Have these people lost the vision of proper public administration? Should I turn away and accept these actions because everybody else does? My drill instructor once asked me, "If I give instructions to do a right face, and the whole platoon turns left, should I accept this since everybody did the same thing?" The more I look at this problem, the more I realize, that the only solution to this problem is by establishing a strict code of ethics that will govern the actions of all public servants.

Presently, there is no set standards of conduct for all government of Guam employees. The code of ethics which we have now is self defined. What seems right or wrong to a person is right or wrong to that person. This self definition of what is ethical and what is not, gives all employees of the government of Guam a chance to protect their own self interests. This self definition also causes our governmental family to go in different directions; some go on the right direction and some go on the wrong direction, and only through the passage of Bill No. 429 will we be able to set all members of our governmental family on an established and rightful direction.

Bill No. 429 focuses primarily on the needs and concerns of employees and on the management practices that support high standards of conduct. This is why we cannot afford to lessen the provisions and penalties within this Bill. Through this Bill, a clear message will echo throughout the public service, in that the people of Guam will be provided for in a fair and honest manner, and this message will reflect the commitment to professionalism throughout the public service.

I still have 27-years left before I can consider retirement. I can already feel the positive effects that the provisions of this Bill will have in my future dealings on behalf of the people of Guam. I will abide by these provisions, and be proud to know that our governmental family will finally have a very meaningful Code of Ethics.

Sincerely,



Kenneth R. Paulino

May 6, 1993

The Honorable Ted Nelson
Chairman, Committee on General
Governmental Operations
22nd Guam Legislature
Agana, Guam

Dear Mr. Chairman,


I am in favor of Bill No. 429, a bill which seeks to establish a "mandatory Code of Ethics for all elected, appointed, classified and unclassified employees of the Executive, Legislative, and Judicial Branches of the Government of Guam."

Theft of funds, theft of public land, procurement scandals, sexual misconduct by public employees (to name a few) have dubbed the Government of Guam as a "totally inefficient and corrupt government" and have tainted, in the process, the reputations of many dedicated and innocent public servants.

The Government of Guam is failing in ethics and integrity; thus, our proposed Code of Ethics seeks only to correct this failure and instill, once again, the confidence and trust we so rightly deserve from the people we serve.

Please give this proposal your utmost consideration as its passage would only be to "help realize the highest standards of personal integrity, truthfulness, honesty and fortitude in all public activities of the Government of Guam."

Si Yu'os Ma'a'se.


ANTONIA C. LUJAN

The Honorable Ted Nelson
Minister, Committee of General
Governmental Employees
1000 Bank Building
Ottawa, Ontario

Dear Mr. Nelson:

Minister Nelson and Ted Nelson and members of the Committee of General Governmental Employees have been very helpful in their efforts to bring about a change in the Government's policy.

I am submitting my statement in support of Bill C-10, which provides for the establishment of a new Government Employees' Pension Plan.

As stated under the purview of this Bill, it is the intention of the Government to provide for the pension of all full-time employees of the Government of Canada and their other present and future dependants. It is the intention of the Government that all such employees and their family members should receive the same level of pension as that received by other full-time employees of the Government.

It is important that we should believe that the Government of Canada is committed to the principle that the Government should provide the same level of pension to all full-time employees of the Government.

The pension plan is a very important part of the Government's social policy. It is a very important part of the Government's social policy and it is very important that we should believe that the Government is committed to the principle that the Government should provide the same level of pension to all full-time employees of the Government.

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THE UNITED STATES OF AMERICA
DEPARTMENT OF JUSTICE

Washington, D. C. 20535

John Edgar Hoover
Director

Chan Ho Park (Park)
Chan

May 6, 1993

Honorable Ted Nelson
Chairman, Committee on General
Governmental Operations
Twenty-Second Guam Legislature
Agana, Guam

Dear Mr. Chairman

I appear before you and your committee today to give testimony in support of **Bill 429**, an Act to establish a Code of Ethics for the Government of Guam.

I am both a student at the University of Guam and a career employee at the Guam Police Department.

The Government of Guam, like all other governments in a democratic society, must have integrity and confidence of the people for which it serves. Our government is entrusted to protect and serve all the interests of the people. This should be carried out in all levels and branches of government employees.

It is my opinion that a great number of Government of Guam employees are hard working people who deserve the best in providing service to the people of Guam. The passage and enactment of **Bill 429** will not only assist government employees in achieving total quality of service but will increase efficiency to the Government of Guam. This in effect will set a pace for the government in achieving a **Total Quality Work Force**.

The proposed Code of Ethics would serve as a guideline to the Government of Guam employees' conduct. It would put into perspective questionable issues of conduct which may prove unethical. It defines areas of conflict and benefits which often times are loosely interpreted and ambiguous.

In closing, I give full support for the enactment of **Bill 429** as it would only lead to a more responsible, efficient and stable government now and in the future.

Sincerely yours,


Chan Ho Park

TWENTY-SECOND GUAM LEGISLATURE
 COMMITTEE ON GENERAL GOVERNMENTAL OPERATIONS & MICRONESIAN AFFAIRS
 PUBLIC HEARING

9:30 a.m., Thursday, May 6, 1993
 UOG College of Business & Public Administration Bldg. (Room A212), Mangilao

; WITNESS SIGN-IN SHEET ON BILL NO. 429

Name (PLEASE PRINT)	Department/Agency or Firm Representing (if none, please indicate "Self")	Mailing Address	Position on Bill No. 429	
			For	Against
Patsy A Barja	Self Self	PO Box 34509, Agaña	✓	
Teresita B. Rosaroid	Self	P.O. Box 8387, Agaña, Gu.	✓	
Matthews Makopua	Self	P.O. Box 5084, UOG Station	✓	
Joseph S. Sabin	Self	Private address		
LEONORA PEREZ	Self	#95 Mangrota St. Agaña Mangilao, GU 96914	✓	
Sandra L. M. Paulino	Self - And some from PHSS	4110 Canton Beach Rd, Tapan Tafafu, GU 96930	✓	
JAMES R. Amador	Self	PO Box 8008 Agaña, Gu. 96910	✓	
KENNETH R. PAULINO	Self	P.O. Box 5893 Agaña Gu. 96910	✓	

TWENTY-SECOND GUAM LEGISLATURE
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Name (PLEASE PRINT)	Department/Agency or Firm Representing (if none, please indicate "Self")	Mailing Address	Position on Bill No. 429	
			For	Against
Michael McCarty Ph.D.	Acting Director DEEP UGC	Same	✓	
KIM SKOOG, Ph.D.	Philosophy Professor UOG	Division of Humanities Studies UOG 96923	✓	
Joseph T. Ferrer	SELF	PR13 1624, Agaña	✓	
Robert & Lauley	WOMEN	P.O. BOX 8365, Tamuning, Guam	✓	
MARK G. MILLER	SELF	P.O. BOX 1352 AGAÑA, GU 96910	✓	
TINA M. SAUS	SELF	PO BOX 9724 SANTA RITA, GU 96915	✓	
FRANCESCA S. TORRES	SELF	PO BOX 24542 SUMA, GUAMA 96911	✓	
ANTONIA C. LUYAN	SELF	P.O. Box 6795 Tamuning, Guam 96931	✓	

TWENTY-SECOND GUAM LEGISLATURE
COMMITTEE ON GENERAL GOVERNMENTAL OPERATIONS & MICRONESIAN AFFAIRS
PUBLIC HEARING

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WITNESS SIGN-IN SHEET ON BILL NO. 429

Name <i>(PLEASE PRINT)</i>	Department/Agency or Firm Representing (if none, please indicate "Self")	Mailing Address	Position on Bill No. 429	
			For	Against
Boy B. Dinige	Self	P.O. Box 9524 Yokos, Cu. 96914	X	
Sam Brainer	Self	P.O. Box 25442 65th St. E., Bldg 96821	X	
Quana P. Gutierrez	UOG	Box 959 Hq.	X	
John P.	Self	P.O. Box 22472 CMF	X	
CONNIE M. CRUZ	Self	HCR. Box 16801 MERIZO, GU. 96916	X	

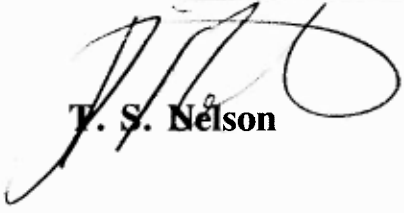
Introduced

TWENTY-THIRD GUAM LEGISLATURE
1995 (First) Regular Session

MAR 13 1995

Bill No. 58 (LS)

Introduced By:


T. S. Nelson

**AN ACT TO PRESCRIBE STANDARDS OF
CONDUCT FOR ELECTED OFFICERS,
APPOINTED OFFICERS AND PUBLIC
EMPLOYEES OF THE GOVERNMENT OF GUAM
AND TO ESTABLISH AN ETHICS COMMISSION**

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF
2 GUAM:

3 **Section 1.** A new Chapter 3 is added to Title VIII of the Government

4 Code to read:

5 "CHAPTER 3

6 Standard of Conduct for Elected Officers,

7 Appointed Officers and

8 Public Employees of the Government of Guam

9 Article I

10 General Provisions

1 **Section 7200. Construction.** This Chapter shall be liberally
2 construed to promote the highest standards of ethical conduct within the
3 Territorial government.

4 **Section 7201. Applicability.** This Chapter shall apply to every
5 nominated, appointed, or elected officer, or part time or full time employee
6 of the Territory including members of boards, commissions, and
7 committees, and persons under contract to the Territory, in all three
8 branches of the government.

9 **Section 7202. Definitions.** When used in this Chapter, these key
10 words shall have the indicated meaning:

11 (1). '**business**' includes a corporation, a partnership, a sole
12 proprietorship, a trust or foundation, or any other individual or organization
13 carrying on a business whether or not operated for profit;

14 (2). '**compensation**' means any money, thing of value, or economic
15 benefit conferred on or received by any person subject to this Chapter, in
16 return for services rendered or to be rendered by himself or another;

17 (3). '**controlling interest**' means an interest in a business or other
18 undertaking which is sufficient in fact to control, whether the interest is
19 greater or less than fifty percent ;

1 (4). **'employee'** means any nominated, appointed, or elected officer
2 or part-time or full-time employee of the Territory, including members of
3 boards, commissions, and committees, and employees under contract to the
4 Territory in all three branches of the government;

5 (5). **'employment'** means any rendering of services for
6 compensation;

7 (6). **'financial interest'** means an interest held by an individual, his
8 or her spouse, or dependent children, and others residing in the same
9 household, which is:

10 (a). an ownership interest in a business;

11 (b). a creditor interest in an insolvent business;

12 (c). an employment, or prospective employment for
13 which negotiations have begun;

14 (d). an ownership interest in real or personal property;

15 (e). a loan or other debtor interest; or

16 (f). a directorship or officership in a business.

17 (7). **'official act'** or **'official action'** means a decision,
18 recommendation, approval, disapproval, or other action, including inaction,
19 which involves the use of discretionary authority;

1 (8). 'official authority' includes administrative, judicial or
2 legislative powers of decision, recommendation, approval, disapproval, or
3 other discretionary action; and

4 (9). 'territorial agency' or 'agency' includes the Judicial branch,
5 the Legislature, the Executive branch and the Office of the Suruhanu, all
6 executive departments, boards, commissions, authorities, bureaus and
7 offices, and all independent commissions, and other establishments of the
8 Territorial government.

9 **Article 2**

10 **Specified Standards**

11 **Section 7203. Gifts.** No employee shall solicit, accept, or receive,
12 directly or indirectly, any gift, whether in the form of money, service, loan,
13 travel, entertainment, hospitality, thing or promise, or in any other form,
14 under circumstances in which it can reasonably be inferred that the gift is
15 intended to influence him in the performance of his official duties or is
16 intended as a reward for any official action on his part, exclusive of
17 inconsequential gifts such as a desk calendar or similar item.

18 **Section 7204. Confidential information.** No employee shall
19 disclose information which by law or practice is not available to the public

1 and which he acquires in the course of his official duties, or use the
2 information for his personal gain or for the benefit of someone else.

3 **Section 7205. Fair Treatment.** No employee shall use or attempt
4 to use his official position to secure or grant unwarranted privileges,
5 exemptions, advantages, contracts, or treatment, for himself or others
6 including but not limited to the following:

7 (1). seeking other employment or contract for services for himself
8 by the use or attempted use of his office or position;

9 (2). accepting, receiving, or soliciting compensation for the
10 performance of his official duties or responsibilities except as provided by
11 law;

12 (3). using territorial time, equipment, or other facilities for private
13 business purposes;

14 (4). soliciting, selling, or otherwise engaging in a substantial
15 financial transaction with a subordinate or a person or business whom he
16 inspects or supervises in his official capacity.

17 Nothing herein shall be construed to prohibit a legislator from
18 introducing bills and resolutions, serving on committees or making
19 statements or taking action in the exercise of legislative functions. Every

1 Senator shall file with the Guam Ethics Commission a full and complete
2 public disclosure of the nature and extent of his interest or transaction which
3 he believes may be affected by that legislative action. Such information
4 must be filed within no more than five working days after introduction of
5 such legislation.

6 **Section 7206. Conflicts of interest.**

7 (a). No employee shall take any official action directly affecting:

8 (1). business or other undertaking in which he has a
9 substantial financial interest; or

10 (2). private undertaking in which he is engaged as legal
11 counsel, advisor, consultant, representative, or other agency capacity.

12 A department head who is unable to disqualify himself on any
13 matter described in item (1) or (2) of this Subsection will not be in
14 violation of this Subsection if he has complied with the disclosure
15 requirements of Section 7209; and a person whose position on a
16 board, commission or committee is mandated by statute, resolution or
17 executive order to have particular qualifications shall only be
18 prohibited from taking official action that directly and specifically
19 affects a business or undertaking in which he has a substantial

1 financial interest; provided that the substantial financial interest is
2 related to the member's particular qualifications.

3 (b). No employee shall acquire financial interests in any business or
4 other undertaking which he has reason to believe may be directly involved
5 in official action to be taken by him.

6 (c). No employee shall assist any person or business or act in a
7 representative capacity before any territorial agency for contingent
8 compensation in any transaction involving the Territory.

9 (d). No employee shall assist any person or business or act in a
10 representative capacity for compensation to secure passage of a bill or to
11 obtain a contract, claim, or other transaction or proposal in which he has
12 participated or will participate as an employee, nor shall he assist any
13 person, or business, or act in a representative capacity for compensation on
14 such bill, contract, claim, or other transaction or proposal before the
15 territorial agency of which he is an employee.

16 (e). No employee shall assist any person or business or act in a
17 representative capacity before a territorial agency for compensation, on any
18 bill, contract, claim, or other transaction or proposal involving official
19 action by the agency if he has official authority over that agency unless he

1 has complied with the disclosure requirements of Section 7209.

2 **Section 7207. Contracts.**

3 (a). A territorial agency shall not enter into any contract with an
4 employee or with a business in which an employee has a controlling interest,
5 involving services or property of a value in excess of Two Thousand, Five
6 Hundred Dollars (\$2,500.00) unless the contract has been awarded through
7 an open, public process. A territorial agency may, however, enter into
8 such contract without resort to competitive bidding process when, in the
9 judgement of the agency, the property or services should not, in the public
10 interest, be acquired through competitive bidding; provided that written
11 justification for the non-competitive award of such contract be made a matter
12 of public record and shall be filed with the Guam Ethics Commission at least
13 five (5) days before such contract is entered into.

14 With regards to members of boards, commissions, and committees,
15 this Subsection shall apply only to contracts entered into between a business
16 in which a member has a controlling interest and a territorial agency in
17 which the board, commission, or committee to which he is appointed has
18 jurisdiction.

19 (b). A territorial agency shall not enter into a contract with any

1 person or business which is represented or assisted in the matter by a person
2 who has been an employee of the agency within the preceding six (6)
3 months and who participated while in territorial office or employment in the
4 matter with which the contract is directly concerned.

5 **Section 7208. Contracts voidable.** In addition to any other penalty
6 provided by law, any contract entered into by the Territory in violation of
7 this Chapter, is voidable by the Territory; provided that in any act to void
8 a contract pursuant to this Section, the interests of third parties who may be
9 damaged thereby, shall be taken into account, and the action to void the
10 transaction is initiated within sixty (60) days after the determination of a
11 violation under this Chapter. The Attorney General shall have the authority
12 to enforce this provision.

13 **Section 7209. Requirements of disclosure.**

14 (a). For the purposes of this Section, the term **'disclosure period'**
15 refers to the period from January 1 of the preceding calendar year to the
16 time of filing of the employee's or official's disclosure of financial interests.

17 For the purposes of this Section, **'employee'** includes any person who
18 files as a candidate for elective office.

19 (b). The disclosure of financial interests required by this Section

1 shall be filed between January 1 and April 30 of each year or within thirty
2 (30) days of one's election or appointment to a territorial position
3 enumerated in Subsection (c); provided that candidates for elective office
4 shall file the required statements no later than twenty (20) days prior to the
5 date of the primary election.

6 (c). The following persons shall file annually with the Guam Ethics
7 Commission a disclosure of financial interests:

8 (1). the Governor, the Lieutenant Governor, members of the
9 Legislature, Judges of the Superior Court, and village Mayors;

10 (2). the directors and their deputies, the division chiefs,
11 executive directors, and their executive secretaries, purchasing agents,
12 and fiscal officers, regardless of specific titles by which the foregoing
13 persons are designated, of every territorial agency;

14 (3). the Executive Director of the Legislature, and the
15 assistants in the offices of the Governor and Lieutenant Governor,
16 other than persons employed in clerical, secretarial or similar
17 positions;

18 (4). the hearing officers of every territorial agency;

19 (5). members of every board or commission whose original

1 term of office is for periods exceeding one year and whose functions
2 are not solely advisory;

3 (6). the members of the Guam Ethics Commission and the
4 Executive Director of that Agency shall file the required reports with
5 the Legislative Secretary.

6 (d). The financial disclosure statements of the following persons
7 shall be public records and available for public inspection:

8 (1). the Governor, the Lieutenant Governor, members of the
9 Legislature, the Judges of the Superior Court, the Mayors, and
10 candidates for elective office; and

11 (2). the directors and first deputies of each territorial agency.

12 (e). The information on the financial disclosure statements shall be
13 confidential, except as provided in Subsection (d). The Commission shall
14 not release the contents of the disclosure except as may be permitted
15 pursuant to this Chapter. Any person who releases any confidential
16 information shall be guilty of a misdemeanor.

17 (f). The disclosure of financial interest shall state, in addition to the
18 financial interests of the person disclosing, the financial interests of the
19 person's spouse and dependent children and shall include:

1 (1). the source and amount of all income of One Thousand
2 Dollars (\$1,000.00) or more received in his own name or by any
3 other person for his use or benefit during the preceding calendar year
4 and the nature of the services rendered; that information that may be
5 privileged by law or individual items of compensation that constitute
6 a portion of the gross income of the business or profession from
7 which the person derives income need not be disclosed;

8 (2). the amount and identity of every ownership or beneficial
9 interest held during the disclosure period in any business
10 incorporated, regulated, or licensed to carry on business in the
11 Territory having a value of Five Thousand Dollars (\$5,000.00) or
12 more of the business and, if the interest was transferred during the
13 disclosure period, the date of the transfer; provided that an interest in
14 the form of an account in a federal or territorial regulated financial
15 institution an interest in the form of a policy in a mutual insurance
16 company, or individual items in a mutual fund, or a blind trust, if the
17 mutual fund or blind trust has been disclosed pursuant to this
18 paragraph, need not be disclosed;

19 (3). every officership, directorship, trusteeship, or other

1 fiduciary relationship held in a business during disclosure period, the
2 term of office and the annual compensation;

3 (4). the name of each creditor to whom the value of Three
4 Thousand Dollars (\$3,000.00) or more was owed during the
5 disclosure period and the original amount and amount outstanding;
6 provided that debts arising out of retail installment transactions for the
7 purchase of consumer goods need not be disclosed;

8 (5). the certificate of title number and street address, if any,
9 and the value of any real property in the Territory in which the
10 person holds an interest whose value is Ten Thousand Dollars
11 (\$10,000.00) or more, and if the interest was transferred or obtained
12 during the disclosure period, a statement of the amount and nature of
13 the consideration received or paid in exchange for such interest, and
14 the name of the person furnishing or receiving the consideration;

15 (6). the names of clients personally represented before
16 territorial agencies, except in judicial or ministerial matters, for a fee
17 or compensation during the disclosure period and the names of the
18 territorial agencies involved;

19 (7). the amount and identity of every creditor interests in an

1 insolvent business held during the disclosure period having a value of
2 Five Thousand Dollars (\$5,000.00) or more.

3 (g). Where an amount is required to be reported, the person
4 disclosing the same shall report the amount as exactly as practicable. An
5 amount of stock shall be reported by number of shares and by estimated
6 market value as of the date of reporting.

7 (h). The Guam Ethics Commission shall provide a short form of
8 disclosure for subsequent annual filings in those instances where the
9 financial interests of the person disclosing are substantially the same as those
10 reported for the preceding disclosure period.

11 (i). Failure of an employee or candidate to file a disclosure of
12 financial interests as required by this Chapter shall be a violation of this
13 Chapter.

14 (j). The Chairman of the Election Commission, upon receipt of the
15 nomination paper of any person seeking elective office, shall notify the
16 Guam Ethics Commission of the name of the candidate. The Ethics
17 Commission, upon expiration of the time allowed for filing, shall make
18 public a list of all candidates who have failed to file financial disclosure
19 statements.

1 **Section 7209. Restrictions on post employment.**

2 (a). No former employee shall disclose any information which by
3 law or practice is not available to the public and which he acquired in the
4 course of his official duties or use the information for his personal gain or
5 the benefit of anyone.

6 (b). No former employee shall, within twelve (12) months after
7 termination of his employment, assist any person or business or act in a
8 representative capacity for a fee or other consideration, on matters in which
9 he participated as an employee.

10 (c). No former employee shall, within six (6) months after
11 termination of his employment, assist any person or business or act in a
12 representative capacity for a fee or other consideration, on matters involving
13 official action by the particular territorial agency with which he had actually
14 served.

15 (d). This Section shall not prohibit any agency from contracting with
16 a former employee to act on a matter on behalf of the Territory within the
17 period of limitations stated herein, and shall not prevent such employee from
18 appearing before any agency in relation to such employment.

19 **Section 7211. Violation.**

1 (a). Any favorable territorial action obtained in violation of any of
2 the standards for employees is voidable in the same manner as voidable
3 contracts as provided for under Section 7208; and the Territory, by the
4 Attorney General, may pursue all legal and equitable remedies available to
5 it.

6 (b). The Territory, by the Attorney General, may recover any fee,
7 compensation, gift, or profit received by such person as a result of a
8 violation of these standards by an employee or former employee. Action to
9 recover under this Subsection (b) shall be brought within two (2) years of
10 such violation under this Chapter.

11 **Section 7212. Criminal sanctions.** To the extent that violations of
12 the Ethic Standards of Conduct set forth in this Chapter constitute violations
13 of Title 9 of Guam Code Annotated (Crimes and Corrections), they shall be
14 punishable as provided therein. Such sanctions shall be in addition to the
15 civil remedies set forth in this Chapter.

16 ARTICLE 3

17 Guam Ethics Commission

18 **Section 7213. Guam Ethics Commission established; composition.**

19 There shall be within the government of Guam, a commission to be known

1 as the Guam Ethics Commission. The Commission shall consist of five (5)
2 members to be appointed by the Governor with the advice and consent of
3 the Legislature from a panel of ten persons who shall be nominated by the
4 Judicial Council. Each person nominated shall be a United States citizen
5 and resident of Guam. No person who has ever been convicted of a felony
6 shall be eligible to serve on the Commission. Members of the Commission
7 shall hold no other public office.

8 The Chairman of the Commission shall be elected by the majority of
9 the Commission. The term of office of each member shall be four years,
10 provided that of the original members, two shall hold office for two years,
11 two shall hold office for three years and one shall hold office for four years.
12 The determination of these members' length of office shall be by lot drawn
13 by the members at their initial meeting. No person shall be appointed
14 consecutively to more than two terms as a member of the Commission.

15 Members shall serve without compensation, except that they shall
16 receive a stipend of Fifty Dollars (\$50.00) per meeting not to exceed four
17 meetings per calendar month, and shall be compensated for all normal
18 expenses of travel, and for the cost of meals while in session.

19 Vacancies shall be filled for the remainder of the unexpired term in

1 the same manner as original appointments except that the Judicial Council
2 shall nominate for gubernatorial appointment two persons for each vacancy.
3 The Governor may remove or suspend any member of the Commission for
4 cause, upon the filing of a written finding with the Commission and upon
5 service of a copy of the written findings on the member removed or
6 suspended.

7 ARTICLE 4

8 Administration and Enforcement

9 Section 7214. Duties of Commission; complaint, hearing, 10 determination.

11 (a). The Commission shall have the following powers and duties:

12 (1). It shall prescribe a form for the financial disclosures
13 required by Section 7208 and shall establish an orderly procedure for
14 implementing the requirements of that Section.

15 (2). It shall render advisory opinions upon the request of any
16 employee or former employee as to whether the facts and
17 circumstances of a particular case constitutes or will constitute a
18 violation of the standards of ethics. If no advisory opinion is rendered
19 within thirty (30) days after the request is filed with the Commission,

1 it shall be deemed that an advisory opinion was rendered and that the
2 facts and circumstances of that particular case do not constitute a
3 violation of the standards. The opinion rendered or deemed rendered,
4 until amended or revoked, shall be binding on the Commission in any
5 subsequent charges concerning the employee or former employee who
6 sought the opinion and acted in reliance on it in good faith, unless
7 material facts were omitted or misstated by the employee or former
8 employee in the request for an advisory opinion.

9 (3). It shall initiate, receive and consider charges concerning
10 alleged violations of this Chapter, initiate or make investigations, and
11 hold hearings.

12 (4). It may subpoena witnesses, administer oaths, and take
13 testimony relating to matters before the Commission and require the
14 production for examination of any books, papers or electronic records
15 relative to any; matter under investigation or in question before the
16 Commission. Before the Commission shall exercise any of the
17 powers authorized herein with respect to any investigation or
18 hearings, it shall by formal resolution, supported by a vote of four or
19 more members of the Commission, define the nature and scope of its

1 inquiry.

2 (5). It may, from time to time, make, amend, and repeal such
3 rules and regulations, not inconsistent with this Chapter as in the
4 judgement of the Commission, seem appropriate for the carrying out
5 of this Chapter for the efficient administration thereof, including every
6 matter or thing required to be done or which may be done with the
7 approval or consent or by order or under the direction or supervision
8 of or as prescribed by the Commission. The rules and regulations,
9 shall be adopted in conformance with the Administrative Adjudication
10 Law, and shall have the force and effect of law.

11 (6). It shall have jurisdiction for purposes of investigation and
12 taking appropriate action on alleged violations of this Chapter in all
13 proceedings commenced within six (6) months after termination of
14 employment by an employee. Nothing herein shall bar proceedings
15 against a person who by fraud or other device, prevents discovery of
16 a violation of this Chapter. A proceeding shall be deemed
17 commenced by the signing of a charge by three or more members of
18 the Commission.

19 (7). It shall distribute its publications without cost to the

1 public and shall initiate and maintain programs with the purpose of
2 educating the citizenry and employees on matters of ethics in
3 government employment.

4 (b). Charges concerning the violation of this Chapter shall be in
5 writing, signed by the person making the charge under oath, except that any
6 charge initiated by the Commission must be signed by three (3) or more
7 members of the Commission. The Commission shall notify in writing every
8 person against whom a charge is received and afford him an opportunity to
9 explain the conduct alleged to be in violation of this Chapter. The
10 Commission may investigate, after compliance with this Section, such
11 charges and render an informal advisory opinion to the alleged violator.
12 The Commission shall investigate all charges on a confidential basis, having
13 available all the powers herein provided, and proceedings at this stage shall
14 not be public. If the informal advisory opinion indicates a probable
15 violation, the person charged shall request a formal opinion or within a
16 reasonable time comply with the informal advisory opinion. If the person
17 charged fails to comply with such informal advisory opinion or if a majority
18 of the members of the Commission determine that there is a probable cause
19 for belief that a violation of this Chapter; might have occurred, a copy of

1 the charge and a further statement of the alleged violation shall be personally
2 served upon the alleged violator. He shall have twenty (20) days after
3 service thereof to respond in writing to the charge and statement.

4 (c). Any Commission member or individual, including the individual
5 making the charge, who divulges information concerning the charge prior
6 to the issuance of the complaint by the Commission, or if the investigation
7 discloses that the complaint should not be issued by the Commission, at any
8 time divulges any information any information concerning the original
9 charge, or divulges the contents or disclosures except as permitted by this
10 Chapter, shall be guilty of a felony.

11 (d). If after twenty (20) days following personal service, a majority
12 of the members of the Commission conclude that there is reason to believe
13 that a violation of this Chapter has been committed, then the Commission
14 shall set a time and place for a hearing, giving notice to the complainant and
15 the alleged violator. All parties shall have an opportunity (1) to be heard,
16 (2) to subpoena witnesses and require the production of any books, papers,
17 records, or electronic recordings relative to the proceedings, (3) to be
18 represented by counsel, and (4) to have the right of cross-examination. All
19 witnesses shall testify under oath and the hearings shall be closed to the

1 public unless the party complained against requests an open hearing. The
2 Commission shall not be bound by the strict rules of evidence but the
3 Commission's findings must be based upon competent and substantial
4 evidence. All testimony and other evidence taken at the hearing shall be
5 recorded. Copies of transcripts of such record shall be available only to the
6 complainant and the alleged violator at their own expense, and the fees
7 therefor shall be deposited into the General Fund.

8 (e). A decision of the Commission pertaining to the conduct of any
9 person shall be in writing and signed by three (3) or more of the members
10 of the Commission. Deliberations of the Commission shall be closed to the
11 public and to all parties.

12 (f). The Commission shall cause to be published yearly summaries
13 of decisions, advisory opinions, and informal advisory opinions. The
14 Commission shall make sufficient deletions in the summaries to prevent
15 disclosing the identity of persons involved in the decisions or opinions.

16 **Section 7215. Procedure.**

17 (a). When the Commission, after due hearing, determines pursuant
18 to Section 7214(d), that there is sufficient cause to file a complaint against
19 an employee, it shall refer its decision to the Attorney General.

1 (b). With respect to former employees, the Commission may, with
2 the consent of three (3) or more members of the Commission, issue a public
3 statement of its findings and conclusions, and the Attorney General may
4 exercise whatever legal or equitable remedies are available to the Territory.

5 **Section 7216. Disciplinary action for violation.** In addition to any
6 other powers an agency may have to discipline its employees, it may
7 reprimand, put on probation, demote, suspend, or discharge any employee
8 found to have violated the standard of ethics.

9 **Section 7217. Cooperation.** The Guam Ethics Commission may
10 request and receive from every territorial agency cooperation and assistance
11 in the performance of its duties.

12 **Section 7218. Concurrent jurisdiction.** Notwithstanding any
13 provision contained in this Chapter, the Legislature and Judicial branches
14 may each prescribe further rules of conduct covering its members and may
15 investigate and discipline a member for any violation of this Chapter or its
16 Standing Rules.

17 **Section 7219. Staff.** The Guam Ethics Commission may employ
18 such persons as it deems necessary for the performance of its functions.
19 They shall submit an annual budget request to the Legislature for its

1 required operations."

2 **Section 2. Repeal.** Those portions of the Guam Code Annotated
3 and the Government Code of Guam, which have not as yet been updated and
4 which are in conflict with any section of this Chapter, are hereby repealed.