

TWENTY-SECOND NORTHERN MARIANAS COMMONWEALTH

LEGISLATURE

IN THE HOUSE OF REPRESENTATIVES

_____ Session, 2021

H. B. 22- 61

A BILL FOR AN ACT

To repeal statutes relating to public officials' financial disclosures and re-enact them as the Public Official Disclosure Act of 2021.

BE IT ENACTED BY THE 22ND NORTHERN MARIANAS
COMMONWEALTH LEGISLATURE:

1 **Section 1. Findings and Purpose.** The Legislature finds that nearly all
2 states and territories require public officials to file some type of financial disclosure.
3 The Legislature also finds that financial disclosure laws are required of public
4 officials because they enable the public to evaluate potential conflicts of interest,
5 deter corruption, and increase public confidence in government. Additionally, the
6 Legislature finds that robust financial disclosure laws encourage public officials to
7 be mindful of potential conflicts of interest that their holdings present and help them
8 remain accountable. The Legislature finds that a public official's source of
9 earnings, investments, and properties should not influence what bills s/he
10 introduces or supports. Unfortunately, current CNMI laws regarding disclosures of
11 public officials' financial information are not conducive to transparency.

12 The Legislature further finds that CNMI Public Law 8-11, also known as

1 the "Government Ethics Code Act of 1992," requires public officials to submit a
2 financial statement of interest to the Office of the Public Auditor. However, such
3 financial statements are "kept strictly confidential unless the person required to file
4 a statement of financial interest has given the Public Auditor prior written approval
5 to make such information available to the general public." The Office of the Public
6 Auditor acts as a repository, where such statements of financial interests are stored
7 but kept away from the public eye.

8 This Act adopts well-established and time-tested rules so as to avoid any
9 claims that these laws were drafted with an agenda that targets one person or party.
10 The people have the right to know if public officials have become enriched while
11 holding modest paying positions, or if politicians have made questionable or
12 suspicious economic gains while in public office. The people have the right to know
13 which public servants turned average salaries into extraordinary wealth and
14 holdings. This legislation will only impair those who seek to conceal wealth and
15 hide assets. In the spirit of transparency, accountability, and good governance, it is
16 imperative that we embrace and follow public disclosure laws that exist in nearly
17 all states and territories.

18 The intent of this Act is to repeal statutes relating to public officials'
19 financial disclosures and re-enact them as the Public Official Disclosure Act of
20 2021.

21 **Section 2. Repeal and Re-Enactment.** Title 1, Division 8, Part 4, Chapter

1 2, Financial Disclosure, sections 8511 to 8523 of the Commonwealth Code are
2 hereby repealed and re-enacted as follows:

3 **“§ 8511. Title.**

4 This Chapter shall be known and may be cited as the “Public Official
5 Disclosure Act of 2021.”

6 **§ 8512. Definitions for Purposes of This Act.**

7 (a) For purposes of this Act, the term “official” means any person
8 elected to any public office in the Commonwealth of the Northern Marianas
9 Islands and any person appointed, with legislative concurrence or by the
10 Commonwealth of the Northern Marianas Islands Legislature, to any public
11 office, to include, but not limited to:

12 (1) all elected officials;

13 (2) officials appointed by the Governor whose appointment
14 is subject to the consent of the CNMI Legislature, except ex-officio
15 and student members of Boards and Commissions in their capacity
16 as members of such Boards and Commissions; and

17 (3) the chief executive officers, by whatever title they may
18 be known, of all agencies and instrumentalities of the government
19 of the Commonwealth of the Northern Marianas Islands whether or
20 not confirmation by the CNMI Legislature is required.

1 (4) all individuals who are given or delegated authority by
2 an elected official or appointed official, with sole expenditure
3 authority, to approve contracts for procurement and change orders.
4 Exempt are classified employees who do administrative processing
5 but do not have discretion on awards.

6 (b) The term candidate means a candidate to any public office.

7 (c) The term gift means something of value voluntarily transferred
8 from one party to another without compensation or monetary consideration.

9 (d) The term fund means a sum of money or other material resources
10 available for the use of an official or candidate or anyone acting on his
11 behalf.

12 (e) The term asset means an item of value owned or in which exists
13 a beneficial interest.

14 **§ 8513. Report to be Filed With the Office of the Public Auditor.**

15 (a) Each official shall file with the Office of the Public Auditor, on
16 or before August 1 of the first year of enactment, and May 1 every year
17 thereafter of each calendar year, a written report containing the financial
18 information required by this Chapter covering the preceding calendar year
19 (or other year if the individual official files a Commonwealth of the
20 Northern Marianas Islands Income Tax Return covering a period other than
21 the calendar year). Each official shall also file a written felony conviction

1 report within thirty (30) days of conviction of a felony in court, or within
2 thirty (30) days of enactment hereof, regardless of whether an appeal may
3 be or has been filed, and regardless of whether the case has been sealed.
4 Each candidate who is not an official shall file with the Office of the Public
5 Auditor on the date he files his petition for candidacy, a written report
6 containing the financial information required by this Chapter covering the
7 preceding calendar year (or other year if the individual official files a
8 Commonwealth of the Northern Mariana Islands Income Tax Return
9 covering a period other than the calendar year), and a written report
10 itemizing any and all of his felony convictions, whether public or under seal,
11 that have not been dismissed upon successful appeal, vacated by a court, or
12 cleared by a grant of executive pardon. The felony conviction report is a
13 statement describing each offense for which a felony conviction was entered
14 in a court of law, within or without the United States, sealed or not,
15 including the address of the court, date of conviction, and sentence imposed.
16 The Public Auditor shall grant extensions for the filing of financial reports
17 herein required by officials; provided, however, that such extension shall
18 not exceed sixty days (60) days beyond May 1 or the due date of each
19 calendar year.

1 (b) The reports required to be filed under Subsection (a) of this
2 Section shall be verified in the manner permitted by 7 CMC § 3305
3 (Declaration Under Penalty of Perjury).

4 (c) All reports filed pursuant to this Section shall be maintained by
5 the Office of the Public Auditor as public records available for inspection.
6 Copies of the reports shall be furnished to the public, upon the payment of
7 reasonable copying fees. The Public Auditor shall issue a certificate
8 certifying that an official or candidate has filed his reports as required by
9 this Chapter.

10 (d) If an official or candidate dies after he has been granted an
11 extension for filing the financial disclosure report, the Public Auditor shall
12 have a statement placed in the file of the official or candidate that states:
13 'Unable to file Financial Disclosure Report as a result of death on
14 _____ (date of death)'.

15 **§ 8514. Contents of Report.**

16 (a) The financial report of the official or candidate as required in this
17 Chapter shall include a complete account of the official's or candidate's
18 gross income and that of his spouse and dependent children. For the purpose
19 of this Chapter, gross income shall be defined as set forth in Section 61 of
20 the Internal Revenue Code of 1954, as amended (26 U.S.C 61). The report

1 of income shall specifically indicate, though not to the exclusion of other
2 items listed in Section 61, the following information:

3 (1) The names and addresses of all persons and organizations
4 from whom was received by the official or candidate or on his behalf
5 with his knowledge and consent, any honorarium or compensation
6 for services, including fees, commissions, salaries, and similar
7 items, and the amount of such honorarium or compensation for
8 services, if not money, the substance of the honorarium or
9 compensation and the appraised value thereof;

10 (2) Gross income derived from business enterprises
11 including the amount thereof, the nature of his interest in the
12 business, and the names and addresses of such business;

13 (3) An itemization of all gains derived from dealings in real
14 property, including the names and addresses of seller and purchaser
15 and a brief description of the transaction which took place;

16 (4) The sources from which were derived income from
17 interest and the amounts thereof;

18 (5) The sources from which rents were derived and the
19 amount thereof;

20 (6) The sources from which royalties were derived and the
21 amounts thereof;

1 (7) The sources from which dividends were derived and the
2 amounts thereof;

3 (8) The names and addresses of all persons and organizations
4 from whom he received assistance in the discharge of indebtedness
5 and the aggregate amount of appraised value thereof;

6 (9) Itemization of income or benefits derived from
7 distribution of the official's or candidate's share in any partnership
8 or professional group, and the names and addresses of all persons
9 and organizations from whose payments such distributions are
10 made; provided, however, that no such names and addresses need
11 be furnished when the distribution to the official or candidate from
12 any such person or organization in said year is less than One
13 Thousand Dollars (\$1,000), or when said disclosure is derogation of
14 a privilege granted by law.

15 (10) Itemization of income derived from an estate or trust in
16 which the official or candidate has an interest and the nature of that
17 interest.

18 (b) The report shall list all gifts to the official or candidate which in
19 aggregate value exceed One Hundred Dollars (\$100) in the year from a
20 particular source. Included in the report shall be the name and address of
21 the donor, the amount or value of his gifts, and a description thereof. The

1 report shall also contain the name and address of a donor to the official or
2 candidate, his spouse and/or his dependent children when the amounts or
3 values of such gifts given in the course of a calendar year from a particular
4 source exceed Five Hundred Dollars (\$500), and shall describe each such
5 gift and the value thereof;

6 (c) The report shall list assets held by the official or candidate, by
7 his spouse or dependent children, or by any of them jointly. The list shall
8 include the value of each asset and a brief description thereof, but household
9 furnishings and personal effects need not be reported.

10 (d) The report shall include the names and addresses of each person
11 and organization to whom the official or candidate, his wife, or dependent
12 children, or any of them jointly owe an aggregate amount in excess of Five
13 Thousand Dollars (\$5,000), and include a statement of the total aggregate
14 indebtedness of the official or candidate and such family members.

15 (e) The report shall include a statement of any funds established by
16 the official or candidate or on his behalf, to assist him in defraying expenses
17 which may be incurred by reason of his being an official or candidate. The
18 report shall set forth the names and addresses of all persons contributing to
19 the funds, the amount of each contribution, and the amount of each
20 expenditure from such funds, and the purpose of each such expenditure.

1 **§8514.1 Contents of Reports Filed by Appointees to or Members**
2 **of Boards and Commissions.**

3 Notwithstanding any other provision of Public Law, all appointees
4 to Boards and Commissions of the government of the Commonwealth of
5 the Northern Marianas Islands, shall be required to disclose and submit a
6 financial report containing only information where conflicts of interest or
7 possible conflicts of interest exist at the time of appointment or as may be
8 expected to exist during their tenure of service on the Board or Commission
9 to which they are being appointed. Such information shall include conflicts
10 of interest or possible conflicts of interests with the appointee's or member's
11 place of employment, any entity in which the appointee or member serves
12 as a director or consultant to and any entity to which the appointee or
13 member or a family member of the appointee or member owns an interest
14 of five percent (5%) or more in. A family member shall be defined as any
15 relative by blood or marriage or cohabitation in lieu of marriage; within two
16 (2) degrees of consanguinity. In the event that any conflicts of interests, as
17 defined herein, arise subsequent to a member's appointment, the member
18 shall, within thirty (30) days of the knowledge of such conflicts of interest,
19 file an amended report with the Commonwealth of the Northern Marianas
20 Islands Office of the Public Auditor or by the next filing deadline,
21 whichever is sooner. For purposes of this Subsection, 'conflicts of interest'

1 shall be defined under the provisions of the Commonwealth of the Northern
2 Marianas Islands Code. In the event that no conflicts of interests or possible
3 conflicts of interest exist, the report shall state that 'no conflict exists.' The
4 Office of the Public Auditor shall prepare separate disclosure reports
5 specifically for Board and Commission members. In the event that any
6 Board or Commission is required to approve the purchase of any item from
7 any source in which any of its members may have a conflict of interest as
8 described herein, such member shall disclose for the record, the nature of
9 such conflict and shall append a copy of the minutes of such meeting to the
10 financial disclosure report.

11 **§ 8515. Office of the Public Auditor.**

12 On or before May 1 or the due date of every calendar year, the Office
13 of the Public Auditor shall cause to have published in a newspaper of local
14 circulation for a period of three (3) consecutive days a report containing
15 therein the names of all officials who have not filed their reports as required
16 by this Chapter at least fifteen (15) days preceding the election for which
17 the candidate has filed.

18 **§ 8516. Failure to File: Punishment.**

19 (a) Any official or candidate who fails to file a financial report
20 required by this Chapter, or who knowingly and willfully files a false
21 financial report under this Chapter shall be guilty of a misdemeanor. The

1 Office of the Public Auditor shall report to the Attorney General for
2 appropriate action the name of any official or candidate who fails to file a
3 financial report required by this Chapter, or who in its professional
4 judgment has knowingly filed a false report. This Section shall not be
5 construed to permit prosecution of a person who unintentionally filed an
6 erroneous report, which report shall be subject to correction.

7 (b) Any official or candidate who fails to file a felony conviction
8 report required by this Chapter, or who knowingly and willingly files a
9 felony conviction report that contains false or misleading information, shall
10 be guilty of a felony, punishable by a period of incarceration of not less than
11 ninety (90) days and not more than three (3) years, with a maximum fine of
12 Five Thousand Dollars (\$5,000) for each non-disclosed felony conviction.
13 The statute of limitations for this offense shall be five (5) years from the
14 end of the pertinent period of government service or candidacy.”

15 **Section 3. Severability.** If any provisions of this Act or the application of
16 any such provision to any person or circumstance should be held invalid by a court
17 of competent jurisdiction, the remainder of this Act or the application of its
18 provisions to persons or circumstances other than those to which it is held invalid
19 shall not be affected thereby.

20 **Section 4. Savings Clause.** This Act and any repealer contained herein
21 shall not be construed as affecting any existing right acquired under contract or

1 acquired under statutes repealed or under any rule, regulation, or order adopted
2 under the statutes. Repealers contained in this Act shall not affect any proceeding
3 instituted under or pursuant to prior law. The enactment of the Act shall not have
4 the effect of terminating, or in any way modifying, any liability, civil or criminal,
5 which shall already be in existence on the date this Act becomes effective.

6 **Section 5. Effective Date.** This Act shall take effect upon its approval by
7 the Governor, or its becoming law without such approval.

Prefiled: 5/13/2021

Date: 5-13-21

Introduced by:



Rep. Edwin K. Propst

Reviewed for Legal Sufficiency by:

Joseph D. Taylor
House Legal Counsel



Sheila Babault
Sheila Babault

Christina Sablan
Christina Sablan

Leila Steffler
Leila Steffler