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A BILL FOR AN ACT

To provide for the appointment, tenure, removal, salary, benefits, duties, and powers of the National Public Auditor of the Federated States of Micronesia; for the authorized types of audits and applicable audit standards; for exemptions for senior auditors; for authorization for expenditure of funds and reimbursement; and for other purposes.

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

1 Section 1. Short title. This act shall be known as the "National
2 Public Auditor Act of the Federated States of Micronesia."

3 Section 2. Definitions. As used in this act "public funds from
4 the National Government" means funds or reimbursements from the National
5 Government arising from the National tax revenues, including National
6 tax revenues shared with the States pursuant to article IX, section 5,
7 of the Constitution of the Federated States of Micronesia, and all grants,
8 subsidies, or contributions in the form of money, goods, or services from
9 any source which are received from the National Government by appropriation
10 law, or otherwise.

11 Section 3. Public Auditor-Appointment, tenure, removal, salary, and
12 benefits. The appointment, tenure, removal, salary, and benefits of the
13 Public Auditor for the National Government of the Federated States of
14 Micronesia shall be as follows:

15 (1) Appointment. The Public Auditor shall be appointed by
16 the President with the advice and consent of Congress.

17 (2) Tenure. The Public Auditor shall serve for a term of
18 4 years and until a successor is confirmed. An individual may be
19 reappointed for an additional term or terms with the advice and consent
20 of Congress.

21 (3) Removal. The Congress may remove the Public Auditor from
22 office for treason, bribery, or conduct involving corruption in office
23 by a two-thirds vote. In the event of such removal, the Chief Justice
24 shall appoint an Acting Public Auditor until a successor is confirmed.

25 (4) Salary. The Public Auditor shall receive a salary as

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1 determined by an employment contract signed by the President of the
2 Federated States of Micronesia. Such salary shall not be reduced
3 during his term of office. In the event of removal or of a vacancy in
4 the office, the successor shall be entitled to the salary attendant to
5 the office as of the date of succession.

6 (5) Other benefits. The Public Auditor shall be entitled to
7 such other employment benefits as his employment contract shall allow.

8 Section 4. Duties of the Public Auditor. The duties of the Public
9 Auditor shall be as follows:

10 (1) The Public Auditor shall inspect and audit transactions,
11 accounts, books, and other financial records of every branch, depart-
12 ment, office, agency, board, commission, bureau, and statutory authority
13 of the National Government and of other public legal entities, including,
14 but not limited to, States, subdivisions thereof, and nonprofit organi-
15 zations receiving public funds from the National Government.

16 (2) The Public Auditor shall inspect and audit transactions,
17 accounts, books, and other financial records associated with any project,
18 program, and activity receiving funding in whole or in part from public
19 funds of the National Government.

20 (3) The Public Auditor shall perform audits as otherwise
21 specifically required by statute.

22 (4) The Public Auditor shall have the discretion to perform
23 audits, or assist in the performance of audits, upon request by the States.

24 (5) The Public Auditor shall have the exclusive audit juris-
25 diction over public funds of the National Government of the Federated

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1 States of Micronesia, but he shall have the authority to contract for
2 independent auditing services to be performed under his supervision in
3 instances where specialized expertise is required, or where auditing
4 requirements are beyond the capacity of the Public Auditor's staff and
5 separate funding is available.

6 (6) The Public Auditor shall file a report at least once a
7 year with the Congress. The Public Auditor may file other reports at
8 such other times as he may determine. All reports of the Public Auditor
9 shall be made available to the public.

10 (7) The Public Auditor may submit recommendations with his
11 audit reports which shall be confined to matters within the jurisdiction
12 of the Public Auditor, including compliance or noncompliance with laws
13 governing the expenditure of public monies, and the need for amendments
14 or new laws to secure the efficient expenditure of public funds.

15 (8) The Public Auditor shall keep a complete and accurate record
16 or file of all audit reports, inspections, investigations, releases, audit
17 work papers, and other materials pertaining to the work of the Office of
18 the Public Auditor.

19 Section 5. Powers. The powers of the Public Auditor shall be as
20 follows:

21 (1) The Public Auditor may examine and inspect all books,
22 records, files, papers, documents, and all financial affairs of every
23 branch, department, office, agency, board, commission, bureau, and
24 statutory authority of the National Government, as well as other public
25 legal entities, including States and nonprofit organizations receiving

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1 funds from the National Government.

2 (2) The Public Auditor may audit the records of any contractor
3 performing public work on a cost reimbursement-type contract for the
4 National Government of the Federated States of Micronesia to verify the
5 cost charged to the public contract. Any contractor performing public
6 work pursuant to a contract with the National Government of the Federated
7 States of Micronesia shall keep and maintain records adequate to establish
8 the validity of costs charged to the National Government.

9 (3) The Public Auditor may by subpoena summon persons to
10 appear before him and administer oaths to such persons. He may question
11 such persons, under oath, regarding receipts and expenditures of money
12 and any other reasonable and relevant matters necessary for the due
13 execution of the duties vested in the Public Auditor by this act.

14 (4) The Public Auditor may issue subpoena duces tecum requiring
15 the production of books, records, documents, or other relevant finan-
16 cial papers or objects necessary for the performance of his duties.

17 (5) Any subpoena or subpoena duces tecum issued under the
18 authority of the Public Auditor shall run in the name of the Federated
19 States of Micronesia and shall be addressed to the chief or other officer
20 of the Division of Security and Investigation of the Office of the
21 Attorney General of the National Government of the Federated States of
22 Micronesia. The subpoena or subpoena duces tecum shall be signed by the
23 Public Auditor and shall identify the witness to be served or the books,
24 records, documents, or other relevant financial papers or objects to be produced,
25 together with a reference to the account subject to inspection and audit.

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

4 (7) Any person who fails or refuses to appear upon receiving
5 service of a subpoena, or who fails or refuses to produce any books,
6 records, documents, or other relevant financial papers or objects
7 designated in a subpoena duces tecum properly issued by the Public
8 Auditor, upon conviction thereof, shall be fined not more than \$1,000,
9 or imprisoned for not more than 1 year, or both. Failure by the Public
10 Auditor to comply in any material respect with the requirements of this
11 act shall relieve any person of the obligation to appear or the
12 obligation to produce designated materials, and such failure shall be
13 a defense in any proceeding against such person for punishment.

14 (8) Any person subject to a subpoena duces tecum shall have
15 only those privileges against producing books, records, documents, or
16 other relevant financial papers or objects which are authorized under
17 the rules of evidence of the Supreme Court of the Federated States of
18 Micronesia, the Constitution of the Federated States of Micronesia, the
19 Trust Territory Bill of Rights, or other applicable law.

20 Section 6. Types of audits and audit standards. The types of
21 audits and applicable audit standards shall be as follows:

22 (1) Three types of audits may be performed:

23 (a) Financial and compliance. This type of audit
24 determines whether the financial statements of an audited entity present
25 fairly the financial position and results of financial operations in

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1 accordance with generally accepted accounting principles and whether
2 the entity has complied with laws and regulations that may have a
3 material effect upon the financial statements.

4 (b) Economy and efficiency. This type of audit determines
5 whether an entity is managing and utilizing its resources economically
6 and efficiently, the causes of inefficiencies or uneconomical practices,
7 and whether the entity has complied with laws and regulations concerning
8 economy and efficiency.

9 (c) Program results. This type of audit determines
10 whether the desired results or benefits established by the Congress or
11 other authorizing body are being achieved and whether the program
12 administrators have considered alternatives that might yield desired
13 results at a lower cost.

14 (2) Any given audit or review may include one or more of the
15 objectives in subsection (1) in the reasonable exercise of the Public
16 Auditor's discretion.

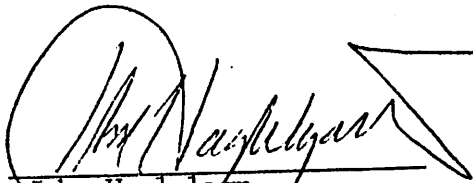
17 (3) The Public Auditor shall perform audits in conformity
18 with generally accepted audit standards as established by the American
19 Institute of Certified Public Accountants.

20 Section 7. Senior auditors - Exemption. Senior auditors on the
21 staff of the National Public Auditor shall be exempt from the provisions
22 of the National Public Service System Act. Senior auditors are those
23 auditors who have discretionary responsibilities in the conduct of
24 audits of the other branches of the National Government of the Federated
25 States of Micronesia.

1 Section 8. Authorization for expenditure of funds and reimbursements.
2 The Public Auditor is hereby authorized to receive and expend funds or
3 reimbursements from States, federal programs, or other National agencies
4 to help the cost of audits, including necessary travel for audit purposes.
5 The Public Auditor shall make an annual accounting to the Congress
6 showing the amount of such funds or reimbursement received and expended
7 for audit purposes.

8 Section 9. Effective date. This act shall become law upon approval
9 by the President of the Federated States of Micronesia or upon its
10 becoming law without such approval.

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12 Date: 5/28/83

Introduced by: 
John Haglelgam
(by request)

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