

A BILL FOR AN ACT

To further amend title 55 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 5-16, 5-88, 5-119, 5-121, 5-136, and 6-22, by amending sections 502, 505, 506 and 507 to authorize the Public Auditor to audit certain nonprofit and foreign corporations, and for other purposes.

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

1       Section 1. Section 502 of title 55 of the Code of the Federated  
2 States of Micronesia is hereby amended to read as follows:

3           "Section 502. Definitions. As used in this chapter, For  
4           purposes of this chapter only, the following terms shall  
5           have the following meanings:

6               (1) 'Foreign corporation' means any corporation, other  
7               than a nonprofit corporation, registered with the National  
8               Government or any State of the Federated States of  
9               Micronesia which operates in foreign or interstate  
10              commerce, and which has its headquarters outside of the  
11              Federated States of Micronesia, or which is owned more than  
12              50 percent by a corporation which has its headquarters  
13              outside of the Federated States of Micronesia.

14              (2) 'Nonprofit corporation' means any corporation  
15              registered as a nonprofit corporation with the National  
16              Government or any State of the Federated States of  
17              Micronesia which operates in foreign or interstate commerce.

18              (3) 'Public funds from the National Government'  
19              means funds or reimbursements from the National Government  
20              arising from the National tax revenues, including National  
21              tax revenue shared with the States pursuant to article IX,  
22              section 5 of the Constitution of the Federated States of  
23              Micronesia, and all grants, subsidies, or contributions in  
24              the form of money, goods, or services from any source which  
25              are received from the National Government by appropriation

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1 law, or otherwise."

2 Section 2. Section 505 of title 55 of the Code of the Federated  
3 States of Micronesia is hereby amended to read as follows:

4 "Section 505. Duties. The duties of the Public Auditor  
5 shall be as follows:

6 (1) The Public Auditor shall inspect and audit  
7 transactions, accounts, books, and other financial records  
8 of every branch, department, office, agency, board,  
9 commission, bureau, and statutory authority of the National  
10 Government and of other public legal entities, including,  
11 but not limited to, States, subdivisions thereof, and  
12 nonprofit organizations receiving public funds from the  
13 National Government.

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

19 (3) The Public Auditor shall perform audits as  
20 otherwise specifically required by statute, including  
21 audits of nonprofit and foreign corporations doing business  
22 in the Federated States of Micronesia.

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

1                   (5) The Public Auditor shall have the exclusive audit  
2 jurisdiction over public funds of the National Government  
3 of the Federated States of Micronesia, but he shall have  
4 the authority to contract for independent auditing services  
5 to be performed under his supervision in instances where  
6 specialized expertise is required, or where auditing  
7 requirements are beyond the capacity of the Public  
8 Auditor's staff and separate funding is available.

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

14                   (7) The Public Auditor may submit recommendations  
15 with his audit reports which shall be confined to matters  
16 within the jurisdiction of the Public Auditor, including  
17 compliance or noncompliance with laws governing the  
18 expenditure of public moneys, and the need for amendments  
19 or new laws to secure the efficient expenditure of public  
20 funds.

21                   (8) The Public Auditor shall keep a complete and  
22 accurate record or file of all audit reports, inspections,  
23 investigations, releases, audit work papers, and other  
24 materials pertaining to the work of the Office of the  
25 Public Auditor."

1 Section 3. Section 506 of title 55 of the Code of the Federated  
2 States of Micronesia is hereby amended to read as follows:

3 "Section 506. Powers. The powers of the Public Auditor  
4 shall be as follows:

5 (1) The Public Auditor may examine and inspect all  
6 books, records, files, papers, documents, and all financial  
7 affairs of every branch, department, office, agency, board,  
8 commission, bureau, and statutory authority of the National  
9 Government, as well as other public legal entities,  
10 including States and nonprofit organizations receiving  
11 funds from the National Government, as well as nonprofit  
12 and foreign corporations as defined in section 502 of this  
13 chapter.

14 (2) The Public Auditor may audit the records of any  
15 contractor performing public work on a cost-reimbursement-  
16 type contract for the National Government of the Federated  
17 States of Micronesia to verify the cost charged to the  
18 public contract. Any contractor performing public work  
19 pursuant to a contract with the National Government of the  
20 Federated States of Micronesia shall keep and maintain  
21 records adequate to establish the validity of costs charged  
22 to the National Government.

23 (3) The Public Auditor may by subpoena summon persons  
24 to appear at a reasonable time before him and administer  
25 oaths to such persons. He may question such persons, under

1 oath, regarding receipts and expenditures of money and any  
2 other reasonable and relevant matters necessary for the due  
3 execution of the duties vested in the Public Auditor by  
4 this chapter.

5 (4) The Public Auditor may issue subpoenas duces  
6 tecum within a reasonable time requiring the production of  
7 books, records, documents, or other relevant financial  
8 papers or objects necessary for the performance of his  
9 duties.

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

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

25 (7) Any person who willfully fails or refuses to

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

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

20 Section 4. Section 507 of title 55 of the Code of the Federated  
21 States of Micronesia is hereby amended to read as follows:

22 "Section 507. Types of audits and audit standards. The  
23 types of audits and applicable audit standards shall be as  
24 follows:

25 (1) ~~Three~~ Four types of audits may be performed:

1 (a) Financial and compliance. This type of  
2 audit determines whether the financial statements of  
3 an audited entity present fairly the financial  
4 position and results of financial operations in  
5 accordance with generally accepted accounting  
6 principles and whether the entity has complied with  
7 laws and regulations that may have a material effect  
8 upon the financial statements.

9 (b) Economy and efficiency. This type of audit  
10 determines whether an entity is managing and utilizing  
11 its resources economically and efficiently, the causes  
12 of inefficiencies or uneconomical practices, and  
13 whether the entity has complied with laws and  
14 regulations concerning economy and efficiency.

15 (c) Program results. This type of audit  
16 determines whether the desired results or benefits  
17 established by the Congress or other authorizing body  
18 are being achieved and whether the program  
19 administrators have considered alternatives that might  
20 yield desired results at a lower cost.

21 (d) Public Interest. This type of audit  
22 determines whether the financial statements of a  
23 nonprofit or foreign corporation relating to its  
24 operations in or in connection with the Federated  
25 States of Micronesia indicate a financial position

1 consistent with the public interest of the Federated  
2 States of Micronesia.


3 (2) Any given audit or review may include one or more  
4 of the objectives in subsection (1) of this section in the  
5 reasonable exercise of the Public Auditor's discretion.

6 (3) The Public Auditor shall perform audits in  
7 conformity with generally accepted audit standards as  
8 established by the American Institute of Certified Public  
9 Accountants."

10 Section 5. This act shall become law upon approval by the  
11 President of the Federated States of Micronesia or upon its becoming  
12 law without such approval.

13  
14 Date: 7 Nov, 89

Introduced by:

  
Wagner Lawrence

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