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:

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

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

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

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

(3) 'Public funds from the National Government' means funds or reimbursement from the National Government arising from the National tax revenue, including National tax revenue shared with the States pursuant to article IX, section 5 of the Constitution of the Federated States of Micronesia, and all grants, subsidies, or contributions in the form of money, goods, or services from any source which are received from the National Government by appropriation
law, or otherwise."

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

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

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

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

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

(4) The Public Auditor shall have the discretion to
perform audits, or assist in the performance of audits,
upon request by the States."
(5) The Public Auditor shall have the exclusive audit jurisdiction over public funds of the National Government of the Federated States of Micronesia, but he shall have the authority to contract for independent auditing services to be performed under his supervision in instances where specialized expertise is required, or where auditing requirements are beyond the capacity of the Public Auditor's staff and separate funding is available.

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

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

(8) The Public Auditor shall keep a complete and accurate record or file of all audit reports, inspections, investigations, releases, audit work papers, and other materials pertaining to the work of the Office of the Public Auditor."
Section 3. Section 506 of title 55 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

(1) Four types of audits may be performed:
(a) **Financial and compliance.** This type of audit determines whether the financial statements of an audited entity present fairly the financial position and results of financial operations in accordance with generally accepted accounting principles and whether the entity has complied with laws and regulations that may have a material effect upon the financial statements.

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

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

(d) **Public interest.** This type of audit determines whether the financial statements of a nonprofit or foreign corporation relating to its operations in or in connection with the Federated States of Micronesia indicate a financial position
consistent with the public interest of the Federated States of Micronesia.

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

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

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

Date: 7 Nov, 89

Introduced by: Wagner Lawrence