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A BILL FOR AN ACT

To further amend title 55 of the Code of the Federated States of Micronesia, as amended, by amending sections 505 and 506 to authorize the FSM Public Auditor to audit any nonprofit organization, and for other purposes.

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

1       Section 1. Section 505 of title 55 of the Code of the Federated  
2 States of Micronesia is hereby amended to read as follows:

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

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

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

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

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

23              (5) The Public Auditor shall have the exclusive audit  
24 jurisdiction over public funds of the National Government  
25 of the Federated States of Micronesia, but he shall have

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

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

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

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

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

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

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1                   (1) The Public Auditor may examine and inspect all  
2 books, records, files, papers, documents, and all financial  
3 affairs of every branch, department, office, agency, board,  
4 commission, bureau, and statutory authority of the National  
5 Government, as well as other public legal entities,  
6 including States ~~and nonprofit organizations~~ receiving  
7 funds from the National Government and nonprofit  
8 organizations.

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

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

25                  (4) The Public Auditor may issue subpoenas duces tecum

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1           within a reasonable time requiring the production of books,  
2           records, documents, or other relevant financial papers or  
3           objects necessary for the performance of his duties.

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

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

19          (7) Any person who willfully fails or refuses to  
20          appear upon receiving service of a subpoena, or who  
21          willfully fails or refuses to produce any books, records,  
22          documents, or other relevant financial papers or objects  
23          designated in a subpoena duces tecum properly issued by the  
24          Public Auditor, upon conviction thereof, shall be fined not  
25          more than \$1,000, or imprisoned for not more than one

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1 year, or both. Failure by the Public Auditor to comply in  
2 any material respect with the requirements of this chapter  
3 shall relieve any person of the obligation to appear or the  
4 obligation to produce designated materials, and such  
5 failure shall be defense in any proceeding against such  
6 person for punishment.

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

14 Section 3. This act shall become law upon approval by the  
15 President of the Federated States of Micronesia or upon its becoming  
16 law without such approval.

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Date: 10-13-93

Introduced by:   
Wagner Lawrence