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 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 and subdivisions thereof, receiving public funds from the National Government and nonprofit organizations.

(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 as otherwise specifically required by statute.

(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 moneys, 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 2. 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 municipalities receiving funds from the National Government and nonprofit organizations.

(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 3. 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: 10-13-93

Introduced by: Wagner, Lawrence