

A BILL FOR AN ACT

To further amend title 55 of the Code of the Federated States of Micronesia, as amended, by repealing sections 102, 103, 106, 204, 215, 225 and 226 in their entirety; by enacting new sections 102, 103, 103A to 103G, 106, 106A to 106D, 201A, 204, 205A to 205G, 223, 223A to 223D and 226; by amending section 202; and by renumbering sections 216 to 223 as sections 215 to 222; for the purpose of enhancing effective and responsible management by government; and for other purposes.

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

1 Section 1. Purpose. The purposes of the amendments contained
2 herein are to foster and enhance effective and responsible economic and
3 fiscal management by government, including adherence to policy; and to
4 provide enhanced accountability arrangements; thereby requiring the
5 Executive to produce:

6 (1) statements of proposed policy;

7 (2) confirmation of adherence to fiscal disciplines;

8 (3) economic and fiscal statements, including economic and
9 fiscal forecasts and updates; and

10 (4) financial management information, including comprehensive
11 annual reports.

12 Section 2. Section 102 of title 55 of the Code of the Federated
13 States of Micronesia is hereby repealed in its entirety and a new
14 section 102 is hereby enacted to read as follows:

15 "Section 102. Definitions. In this title, unless otherwise
16 expressly provided and unless the context otherwise requires:

17 (1) 'Agency' or 'Agencies' means any agency, commission,

1 authority, board, bureau, or other organization of the
2 National Government established by law and not specifically
3 part of one of the three branches of the National Government.

4 (2) 'Allotment' means the delegation of authority to a
5 person to create legally enforceable financial obligations in
6 accordance with applicable law on behalf of the Federated
7 States of Micronesia, within specified limits set forth in an
8 appropriation act of the Federated States of Micronesia or as
9 may be required by the terms of funding available from other
10 sources.

11 (3) 'Allot' means to make an allotment.

12 (4) 'Allottee' means any person or entity to whom an
13 allotment is made.

14 (5) 'Annual budget proposal' means the annual request for
15 new obligation and expenditure authority during the ensuing
16 fiscal year by all branches and agencies of the National
17 Government for all purposes, including but not limited to,
18 Government operations, development programs and projects,
19 special programs, contributions, grants and subsidies.

20 (6) 'Appropriation' or 'appropriation act' means a law
21 enacted by Congress which authorizes the National Government
22 to incur obligations and make payments out of the National
23 Treasury in accordance with law.

24 (7) 'Borrowing' means money loaned to the National
25 Government and not required to be repaid in full within the

1 current fiscal year and 'borrowing expenses' are expenses
2 related to such a borrowing.

3 (8) 'Congress' means the Congress of the Federated States
4 of Micronesia.

5 (9) 'Department' means a department or office of the FSM.

6 (10) 'Fiscal year' means the twelve month period from
7 October 1 of one calendar year through September 30 of the
8 succeeding calendar year.

9 (11) 'FSM' means the Federated States of Micronesia.

10 (12) 'Head of department' or 'department head' means a
11 secretary or head of a department or agency, however called.

12 (13) 'National Government' means the department and offices
13 of the executive branch, Congress, the judicial branch and
14 agencies of the National Government.

15 (14) 'Output' and 'outcome' means the production of goods
16 and services by a department, Congress, the judicial branch,
17 an agency of the National Government or an allottee.

18 (15) 'Person' means any natural person, company,
19 corporation, partnership, trust, incorporated or
20 unincorporated society, charitable body, or other
21 organization or entity recognized by law.

22 (16) 'Public funds' means all the funds, resources and
23 entitlements owned by, owed to, or held by the National
24 Government, or held by any person for or on behalf of the
25 National Government, and includes public resources.

1 (17) 'Public resources' means real or personal property that
2 is the property of the National Government, and includes
3 public funds.

4 (18) 'Secretary' or 'Secretary of Finance' means the
5 Secretary of Finance and Administration or his successor."

6 Section 3. Section 103 of title 55 of the Code of the Federated
7 States of Micronesia is hereby repealed in its entirety and a new
8 section 103 is hereby enacted to read as follows.

9 "Section 103. Annual budget.

10 (1) No later than June 30 of each year, the President shall
11 submit to the Congress the annual budget proposal for the
12 National Government for the ensuing fiscal year. The annual
13 budget proposal shall contain a statement of anticipated
14 revenues from all sources, details of operations and
15 development expenditures, and planned expenditures for all
16 sources of funds.

17 (2) The annual budget proposal shall be in a form that will
18 provide for a separate appropriation for each department,
19 Congress, the judicial branch, and agencies of the National
20 Government for each of the following categories:

21 (a) each category of output;

22 (b) each category of benefits, grants or subsidies;

23 (c) each category of borrowing expenses or repayment
24 of debts;

25 (d) each category of other non-operating expenses; and

1 (e) each category of capital acquisitions or capital
2 contributions.

3 (3) The authority to expend cash or incur expenses or
4 obligations under an appropriation act will lapse at the end
5 of the fiscal year to which that act relates but any
6 unexpended balance of any appropriation may be dealt with in
7 accordance with this act.

8 (4) The President shall submit the following with the
9 annual budget proposal:

10 (a) a budget message, which shall include such
11 supporting financial, statistical, output performance, and
12 other information, data and recommendations as the President
13 may determine are in the public interest and consistent with
14 the principles of fiscal responsibility set out in section
15 201A of this title;

16 (b) proposed legislation to appropriate funds for the
17 National Government for the ensuing fiscal year, reflecting
18 the President's recommendations as contained in the proposed
19 budget and in accordance with the requirements specified
20 under section 106A of this title;

21 (c) a statement, including forecasts, providing a
22 projection of expenditures for each category of outputs for
23 the ensuing fiscal year and the two years following that
24 fiscal year including:

25 (i) the details of the estimated revenue of the

1 National Government;

2 (ii) the details of the estimated expenditures for
3 each department or agency;

4 (iii) the National Government's debt management
5 responsibilities and, where necessary, the details of a
6 financial plan to meet those responsibilities; and

7 (iv) that the annual budget proposal is fiscally
8 responsible in accordance with the principles set forth in
9 section 201A of this title, particularly, and in title 55,
10 generally."

11 Section 4. Title 55 of the Code of the Federated States of
12 Micronesia, as amended, is hereby further amended by enacting a new
13 section 103A to read as follows:

14 "Section 103A. Fiscal strategy report.

15 (1) The President shall submit to Congress, at the same
16 time as, and in addition to the annual budget proposal, a
17 report on the Executive's fiscal strategy.

18 (2) The fiscal strategy report shall:

19 (a) include an assessment of the extent to which the
20 annual budget proposal is consistent with the economic and
21 fiscal policy statement required under section 103B of this
22 title;

23 (b) include an explanation of the reasons for any
24 significant differences between the current economic and
25 financial situation of the National Government and the

1 information and intentions presented in the previous economic
2 and fiscal policy statement required under section 103B of
3 this title;

4 (c) where the circumstances have changed, present an
5 amended set of intentions;

6 (d) provide projections of movements in the variables
7 specified in sections 103F and 103G of this title which
8 demonstrate intended progress towards achieving the longer
9 term objectives specified in the economic and fiscal policy
10 statement most recently published and state the significant
11 assumptions on which the projections are based."

12 Section 5. Title 55 of the Code of the Federated States of
13 Micronesia, as amended, is hereby further amended by enacting a new
14 section 103B to read as follows:

15 "Section 103B. Economic and fiscal policy statement.

16 (1) The President shall submit to Congress and publish, not
17 later than March 31 of each year, an economic and fiscal
18 policy statement for the fiscal year commencing on October 1
19 after publication, and forecasts for the two years following
20 that fiscal year, and this economic and fiscal policy
21 statement shall:

22 (a) specify the economic and fiscal policy that the
23 executive branch and agencies will follow in all economic and
24 fiscal dealings, and disciplines that each will adhere to;

25 (b) specify or re-affirm the President's long-term

1 fiscal policy objectives and in particular, provide for the
2 principle variables specified in sections 103F and 103G of
3 this title;

4 (c) specify the broad strategic priorities by which
5 the executive branch and agencies will be guided in preparing
6 the budget for that fiscal year;

7 (d) indicate by use of ranges, ratios, or other means,
8 the President's intentions regarding the variables specified
9 in sections 103F and 103G of this title; and

10 (e) indicate other expenditures that the President
11 anticipates will be in the budget.

12 (2) The economic and fiscal policy statement shall also:

13 (a) assess the extent to which the objectives,
14 priorities, and intentions referred to under subsection (1)
15 of this section are consistent with the requirement to
16 produce a balanced budget under section 104 of this title;
17 and

18 (b) assess the consistency of the objectives,
19 priorities, and intentions referred to under subsection (1)
20 of this section with the objectives, priorities, and
21 intentions indicated in the immediately preceding economic
22 and fiscal policy statement; or, if amended, the amended
23 statement and, where these are not consistent, justify the
24 departure.

25 (3) Any member of the public may, within twenty-eight days

1 of the economic and fiscal policy statement being published,
2 deliver in writing to the office of the President any
3 submission that person may have in respect of that statement.
4 The President shall consider any submission made in
5 accordance with this section."

6 Section 6. Title 55 of the Code of the Federated States of
7 Micronesia, as amended, is hereby further amended by enacting a new
8 section 103C to read as follows:

9 "Section 103C. Economic and fiscal update.

10 (1) The President shall, no later than October 1 in each
11 fiscal year, publish a report updating the economic and
12 fiscal policy statement for the fiscal year beginning from
13 that day.

14 (2) The economic and fiscal update report shall contain:

15 (a) an economic and fiscal update for the current
16 fiscal year, and forecasts for the following two fiscal
17 years, containing the information specified in sections 103F
18 and 103G of this title; and

19 (b) a statement of the date on which the contents of
20 the report were finalized."

21 Section 7. Title 55 of the Code of the Federated States of
22 Micronesia, as amended, is hereby further amended by enacting a new
23 section 103D to read as follows:

24 "Section 103D. Information to be supplied by Congress, the
25 judicial branch, and agencies.

1 The Congress, the judicial branch, and agencies shall
2 transmit to the President, no later than June 1 of each year,
3 details of planned operational and development expenditures
4 and projected revenue. The Congress, the judicial branch,
5 and agencies shall also transmit budget projections for each
6 of the two subsequent fiscal years and such other information
7 as may be required by law. The President shall include such
8 planned expenditures, projected revenue, and budget
9 projections in the annual budget proposal without revision,
10 and subject to his or her recommendations."

11 Section 8. Title 55 of the Code of the Federated States of
12 Micronesia, as amended, is hereby further amended by enacting a new
13 section 103E to read as follows:

14 "Section 103E. Information to be supplied by governments,
15 entities and others.
16 Each State Government, municipality, or other government
17 organization or official who seeks National Government funds
18 for development programs or projects shall transmit to the
19 President, no later than June 1 of each year, planned
20 developmental expenditures for the ensuing fiscal year.
21 State Governments shall also transmit a statement of the
22 State's general economic and fiscal plan, including a
23 priority schedule of the development projects the State plans
24 to undertake and the reasons therefor, developmental budget
25 projections for each of the two subsequent fiscal years, and

1 such other information as may be required by law. The
2 President shall include such planned expenditures, economic
3 and fiscal plans, and budget projections in the annual budget
4 proposal, without revision, but subject to his or her
5 recommendations."

6 Section 9. Title 55 of the Code of the Federated States of
7 Micronesia, as amended, is hereby further amended by enacting a new
8 section 103F to read as follows:

9 "Section 103F. Economic and fiscal data.

10 (1) Economic reports required under chapters 1 and 2 of
11 title 55 shall include forecasts depicting movements in the
12 Federated States of Micronesia of:

13 (a) gross domestic product, including the major
14 components of gross domestic product;

15 (b) consumer prices;

16 (c) employment levels;

17 (d) balance of payments; and

18 (e) such other information deemed necessary by the
19 President (after consultation with the Secretaries of
20 Economic Affairs and the Department of Finance and
21 Administration) to provide a comprehensive economic forecast.

22 (2) Fiscal forecasts required under chapters 1 and 2 of
23 title 55 shall include:

24 (a) forecast information with respect to the
25 statements required under section 103G of this title;

1 (b) forecast information with respect to the current
2 fiscal year update and comparative budgeted and actual
3 figures for the fiscal year immediately preceding the first
4 of the fiscal years to which the fiscal forecast relates; and

5 (c) details of fiscal risks and, where they cannot be
6 quantified, a description of possible impacts.

7 (3) Economic forecasts shall include a statement of all
8 significant assumptions underlying them."

9 Section 10. Title 55 of the Code of the Federated States of
10 Micronesia, as amended, is hereby further amended by enacting a new
11 section 103G to read as follows:

12 "Section 103G. Reporting requirements.

13 (1) Any forecast or statement required under chapters 1 and
14 2 of title 55 shall include details of:

15 (a) the total operating expenditures;

16 (b) the total benefits, grants or
17 subsidies;

18 (c) all other expenditures;

19 (d) the total operating revenues;

20 (e) all other revenue;

21 (f) the difference between all expenditure and all
22 revenue;

23 (g) the level of total debt; and

24 (h) the level of asset holdings.

25 (2) Each report shall also include:

- 1 (a) a statement of financial position;
2 (b) a statement of financial performance;
3 (c) a statement of cash flows;
4 (d) a statement of borrowings;
5 (e) a statement of obligated but unexpended funds
6 (excluding borrowings);
7 (f) such other statements as are required to be
8 consistent with generally accepted accounting principles and
9 practice; and
10 (g) a statement of accounting policies."

11 Section 11. Section 106 of title 55 of the Code of the Federated
12 States of Micronesia is hereby repealed in its entirety and a new
13 section 106 is hereby enacted to read as follows:

14 "Section 106. Appropriations by Congress.

15 (1) The Congress, after receipt of the proposed budget from
16 the President shall, no later than August 29 of each year, by
17 act, adopt the annual budget of the National Government for
18 the ensuing fiscal year.

19 (2) Congress may alter the budget submitted by the
20 President, in any respect.

21 (3) Prior to altering the annual budget proposal submitted
22 by the President, Congress shall first advise the President
23 what specific part or parts it intends to alter, and the
24 reasons therefor, and give the President (or his designee)
25 the opportunity, within no less than seven days, to address

1 Congress on the alterations proposed.

2 (4) The budget alteration authority of Congress shall be
3 executed by means of appropriation legislation.

4 Appropriations or authorizations for the expenditure of funds
5 shall be made by law, except as provided in section 108 of
6 this title.

7 (5) Congress may restrict, by law, the expenditure of funds
8 for a specific purpose.

9 (6) Notwithstanding section 217 of this title and unless
10 otherwise specified by law:

11 (a) appropriations of National Government funds for
12 National Government development projects shall be allotted
13 through the President or the Governor of the State where the
14 project is being undertaken;

15 (b) appropriations of National Government funds for
16 non-National Government development projects shall be
17 allotted through the Governor of the State where the project
18 is being undertaken; and

19 (c) The President, or the Governor, as the case may
20 be, may only obligate funds where he or she is satisfied that
21 the project is in accordance with the appropriation, is
22 planned with realistic estimates of proposed expenditures,
23 and shall release funds where appropriate, by progress
24 payments, upon obtaining satisfactory evidence of the
25 obligation to incur such expenditure.

1 (7) If Congress does not appropriate National Government
2 funds through the President or Governor in accordance with
3 subsection (6) of this section, it shall record in the
4 Congress journal or in a committee report the reasons for the
5 departure and, shall record the details of the project, the
6 project plan, and the result intended to be achieved, and
7 ensure that the appropriation act reflects those details."

8 Section 12. Title 55 of the Code of the Federated States of
9 Micronesia, as amended, is hereby further amended by enacting a new
10 section 106A to read as follows:

11 "Section 106A. Appropriations format.

12 (1) No expense or liability will be incurred by the
13 National Government unless the expenditure, in relation to
14 such expense or obligation, is capable of being charged to a
15 category specified in subsection (2) of this section.

16 (2) Within an appropriation act, separate appropriation
17 lines shall be made for each of the following categories:

18 (a) each category of output;

19 (b) each category of benefits, grants, or subsidies;

20 (c) each category of borrowing expenses or repayment
21 of debts;

22 (d) each category of other non-operating expenses; and

23 (e) each category of capital acquisitions or capital
24 contributions."

25 Section 13. Title 55 of the Code of the Federated States of

1 Micronesia, as amended, is hereby further amended by enacting a new
2 section 106B to read as follows:

3 "Section 106B. Reprogramming.

4 (1) A department head may, from time to time, make
5 transfers between outputs where:

6 (a) the transfer does not conflict with performance of
7 the outputs specified in the budget policy;

8 (b) the total appropriation for that fiscal year for
9 that department is unaltered.

10 (2) The department head must advise the Secretary who shall
11 ensure that sufficient details to explain any transfer made
12 pursuant to subsection (1) of this section will be included
13 in a report to the President.

14 (3) The President may reprogram up to ten percent to and
15 from the funds appropriated to each department and office in
16 the annual budget act, after first specifying the outputs for
17 which funding is either increased or decreased."

18 Section 14. Title 55 of the Code of the Federated States of
19 Micronesia, as amended, is hereby further amended by enacting a new
20 section 106C to read as follows:

21 "Section 106C. Net appropriations.

22 (1) An appropriation may be shown in the appropriation act
23 to be off-set by an amount of revenue where that revenue
24 applies to the recovery costs of the relevant budget output
25 and meets the criteria set for that output by the Secretary.

1 (2) Where an appropriation is for a net appropriation, all
2 estimated expenditures and revenue, from all sources, must be
3 included in the budget statement and provided for in the
4 annual budget proposal to reflect how the net appropriation
5 figure was ascertained."

6 Section 15. Title 55 of the Code of the Federated States of
7 Micronesia, as amended, is hereby further amended by enacting a new
8 section 106D to read as follows:

9 "Section 106D. Transfer and subsequent expenditure of
10 unexpended appropriations.

11 Where provision has been made in any appropriation act for
12 expenditure, but that expenditure was not incurred during
13 the fiscal year to which the act relates, the President may,
14 after consultation with the Cabinet, direct that the
15 unexpended amount, or a portion thereof, be reappropriated
16 for the next fiscal year to the department or government
17 agency that did not expend the amount appropriated to it for
18 expenditure in accordance with the outputs specified in the
19 original appropriation."

20 Section 16. Title 55 of the Code of the Federated States of
21 Micronesia, as amended, is hereby further amended by enacting a new
22 section 201A to read as follows:

23 "Section 201A. Fiscal responsibility.

24 (1) The National Government shall pursue its policy
25 objectives in accordance with the principles of responsible

1 fiscal management specified in subsection (2) of this
2 section.

3 (2) The principles of responsible fiscal management are:

4 (a) managing and keeping the total debt at such levels
5 that a balanced budget is achieved;

6 (b) achieving and maintaining levels of FSM net worth
7 that provide a buffer against factors that may adversely
8 impact the FSM's net worth in the future;

9 (c) prudently managing the fiscal risks facing the
10 FSM; and

11 (d) pursuing policies that are consistent with a
12 reasonable degree of predictability about the level and
13 stability of tax rates for future years."

14 Section 17. Section 202 of title 55 of the Code of the Federated
15 States of Micronesia is hereby amended to read as follows:

16 "Section 202. [Declaration of policy] Disclosure of
17 accounting policy.

18 ~~[It is the declared policy of the Government of the Federated~~
19 ~~States of Micronesia that:]~~

20 (1) The accounting of the Federated States of Micronesia
21 Government shall provide full disclosure of the results of
22 financial operations, adequate financial information needed
23 in the management of operations, and the formulation and
24 execution of the national budget and shall ensure effective
25 control over income, expenditures, funds, property, and other

1 assets, whether tangible or intangible.

2 (2) The accounting of the Federated States of Micronesia
3 shall be performed in a manner consistent with generally
4 accepted accounting principles [~~as established by the United~~
5 ~~States Governmental Accounting Standards Board~~].

6 (3) Full consideration shall be given to the needs and
7 responsibilities of both the legislative and executive
8 branches of the Government in the establishment of accounting
9 and reporting systems and such other fiscal requirements.

10 (4) It is the responsibility of the executive branch to
11 maintain accounting systems and to produce financial reports
12 with respect to the operations of the executive departments
13 and staff offices, including central facilities which gather
14 and disseminate information on the results of the financial
15 operations of the Federated States of Micronesia Government
16 as a whole.

17 (5) Emphasis shall be placed on effectuating systematic and
18 orderly improvements in financial management of the Federated
19 States of Micronesia Government in order to formulate, adopt,
20 and maintain simplified and more effective accounting
21 systems, financial reporting procedures, budget processes,
22 auditing requirements, and procedures, [~~and~~] to safeguard
23 against duplication and to eliminate systems and processes
24 that do not serve a purpose commensurate with the costs
25 involved.

1 (6) The Secretary of Finance, together with the Budget
2 Officer, shall conduct a continuous review program for the
3 improvement of accounting and financial reporting in the
4 Government of the Federated States of Micronesia."

5 Section 18. Section 204 of title 55 of the Code of the Federated
6 States of Micronesia is hereby repealed in its entirety and a new
7 section 204 is hereby enacted to read as follows:

8 "Section 204. Secretary of Finance - general duties.

9 (1) The Secretary of Finance shall be the principal
10 financial adviser for the Government and shall, in addition,
11 prepare and review plans for the improvement and management
12 of revenue and for the support of the public credit; shall
13 supervise the collection of all revenues; prescribe the forms
14 of keeping and rendering all public accounts and returns;
15 grant, subject to statutory provisions, all warrants for
16 money to be issued from the National Treasury in pursuance of
17 appropriations by law; prepare and issue reports and fiscal
18 information as may be required by law; and generally perform
19 all such services as he or she may be directed to perform
20 from time to time.

21 (2) Subject to the provisions of this act, or any other
22 enactment or any regulations, the Secretary may, from time to
23 time, issue instructions to ensure compliance with the
24 financial disciplines and rules provided for in title 55.

25 (3) The Secretary may delegate the authority for such

1 functions to such extent as he or she may deem practical and
2 permissible by law."

3 Section 19. Title 55 of the Code of the Federated States of
4 Micronesia, as amended, is hereby further amended by enacting a new
5 section 205A to read as follows:

6 "Section 205A. Statements of account.

7 (1) The Secretary must as soon as practical after the end
8 of each fiscal year, but no later than the end of the third
9 month of the next succeeding fiscal year, prepare and send to
10 the Public Auditor a financial statement of transactions
11 affecting the funds established under this act and
12 encompassing the information required under section 103G of
13 this title.

14 (2) The financial statement of transactions, together with
15 the report thereon by the Public Auditor, must be forwarded
16 to the Speaker of the Congress within one month of it being
17 received by the Public Auditor, and the Speaker shall
18 circulate the statement to members and offer the members the
19 opportunity to debate the statement in open session.

20 (3) When the Public Auditor has not completed his or her
21 report on the financial statement of transactions, he or she
22 must report on those which are accountable and list those
23 which are accountable that cannot yet be reported, state why,
24 and when they can be expected."

25 Section 20. Title 55 of the Code of the Federated States of

1 Micronesia, as amended, is hereby further amended by enacting a new
2 section 205B to read as follows:

3 "Section 205B. Reporting, responsibilities of officials for
4 reporting; other relevant matters under this act.

5 (1) The Secretaries of the Department of Finance and
6 Administration and Economic Affairs are jointly responsible
7 for preparing and delivering to the President the financial
8 information required under chapters 1 and 2 of title 55.

9 (2) Every department head shall, at intervals fixed by the
10 Secretary, but in any event at the end of each quarter in
11 each fiscal year, report in accordance with the instructions
12 of the Secretary, on the variables specified in section 103G
13 of this title as they relate to the applicable department or
14 agency.

15 (3) At the conclusion of each fiscal year, all heads of
16 departments and agencies shall present to the Secretary an
17 annual report as specified by the Secretary and covering all
18 the information required under section 103G of this title as
19 it applies to the department or agency.

20 (4) Such annual report shall specify the results achieved
21 in comparison with the budget message and the provision of
22 outcomes in the annual budget proposal for which all
23 appropriation was provided under the appropriation act.

24 (5) The financial statements of each department or agency
25 shall at the end of the fiscal year, be examined and reported

1 upon by the Public Auditor and transmitted to the Speaker of
2 Congress as soon as practical after forwarding the financial
3 statement of transactions required under section 205A(2) of
4 this title."

5 Section 21. Title 55 of the Code of the Federated States of
6 Micronesia, as amended, is hereby further amended by enacting a new
7 section 205C to read as follows:

8 "Section 205C. Responsibilities of heads of
9 departments and agencies.

10 (1) Each department head is responsible for ensuring, in
11 addition to meeting the reporting requirements specified in
12 section 205B of this title, that:

13 (a) all activities of the department or agency are
14 undertaken in a manner consistent with National Government
15 financial and fiscal policies, guidelines, directions and
16 sound financial management; and

17 (b) adequate arrangements exist within the department
18 or agency to ensure the requirements of section 205B of this
19 title are met.

20 (2) Each department head shall ensure that all financial
21 management obligations are met including:

22 (a) that forecasts provided for budgetary purposes are
23 as accurate as possible, take account of all relevant
24 information available at the time they are prepared, are free
25 from methodological and arithmetic error, and are subjected

1 to appropriate internal and external quality assurance with
2 respect to methodology and timeliness;

3 (b) that material required by the responsible
4 department heads for the preparation of the annual budget
5 proposal will meet stated requirements with respect to
6 timeliness, completeness, accuracy and format;

7 (c) achievement at a minimum of the forecast levels
8 of revenue most recently supplied for budgetary purposes;

9 (d) that sound financial management systems and
10 internal controls exist and are operating so as to provide:

11 (i) timely and accurate financial information;

12 and

13 (ii) reasonable assurances that the transactions
14 recorded are within statutory authority and properly disclose
15 the use of all public financial resources administered by the
16 department or agency on behalf of the National Government;

17 and

18 (e) providing all information required by the
19 department or agency to enable it to meet reporting
20 requirements.

21 (3) When the Secretary of Finance and Administration draws
22 to the attention of the department head a case of non-
23 compliance with any of the sections of this title, the
24 department head shall immediately take action to remedy the
25 failure, explain the failure and the remedial action taken."

1 Section 22. Title 55 of the Code of the Federated States of
2 Micronesia, as amended, is hereby further amended by enacting a new
3 section 205D to read as follows:

4 "Section 205D. Statements of responsibility.

5 (1) All reports prepared under chapters 1 and 2 of this
6 title shall be accompanied by statements of responsibility.

7 (2) A statement of responsibility for the financial
8 statements of the Executive branch must be prepared and
9 signed separately by:

10 (a) the Secretary; and

11 (b) the President.

12 (3) A statement of responsibility for the financial
13 statements of a department or agency must be prepared and
14 signed separately by:

15 (a) the department head responsible for that
16 department or agency; and

17 (b) the Secretary.

18 (4) A statement of responsibility for the financial
19 statements of Congress or the Judiciary branch must be
20 prepared and signed by the head of the respective branch.

21 (5) It shall be the responsibility of the President to
22 produce the required reports for the Executive branch to
23 Congress.

24 (6) It shall be the responsibility of the Speaker of
25 Congress to ensure compliance with title 55 as it applies to

1 the role and responsibilities of Congress.

2 (7) At a minimum, all statements shall warrant the:

3 (a) integrity of the disclosures; and

4 (b) consistency with all the requirements of chapters

5 1 and 2 relevant to the department, agency or branch."

6 Section 23. Title 55 of the Code of the Federated States of
7 Micronesia, as amended, is hereby further amended by enacting a new
8 section 205E to read as follows:

9 "Section 205E. Publication, inspection and purchase of
10 statements and reports.

11 (1) The Secretary shall, in respect of every statement and
12 report required to be published under any provision of title
13 55, arrange for a notice to be posted in a prominent position
14 in every field office of the Department of Finance and
15 Administration in every State stipulating:

16 (a) that it has been published;

17 (b) where it can be inspected free; and

18 (c) where it can be purchased and the cost thereof.

19 (2) The Secretary shall, for at least two months after the
20 date of giving notice under subsection (1) of this section,
21 ensure that opportunities for free inspection or purchase are
22 available in each field office of the Department of Finance
23 and Administration in each State of the Federated States of
24 Micronesia."

25 Section 24. Title 55 of the Code of the Federated States of

1 Micronesia, as amended, is hereby further amended by enacting a new
2 section 205F to read as follows:

3 "Section 205F. Availability of financial figures.
4 Where financial figures are to be reported or published,
5 actual, rather than estimated figures, shall be used
6 whenever available."

7 Section 25. Title 55 of the Code of the Federated States of
8 Micronesia, as amended, is hereby further amended by enacting a new
9 section 205G to read as follows:

10 "Section 205G. Disclosure of policy decisions and other
11 matters that may influence future fiscal situations.

12 (1) Every economic and fiscal update prepared under this
13 act shall incorporate all Government decisions that may have
14 a material effect on the economic and fiscal outlooks.

15 (2) Where the fiscal implications of Government decisions
16 referred to in subsection (1) of this section cannot be
17 quantified, they must be disclosed in the statement of fiscal
18 risks required under section 103F(2)(c) of this title and the
19 said statement shall specify that they cannot be quantified,
20 and the reasons why."

21 Section 26. Section 215 of title 55 of the Code of the Federated
22 States of Micronesia is hereby repealed in its entirety.

23 Section 27. Sections 216 to 223 of title 55 of the Code of the
24 Federated States of Micronesia are hereby renumbered as sections 215 to
25 222 respectively.

1 Section 28. Title 55 of the Code of the Federated States of
2 Micronesia, as amended, is hereby further amended by enacting a new
3 section 223 to read as follows:

4 "Section 223. Offenses.

5 (1) A person commits a National offense who, without
6 reasonable excuse:

7 (a) refuses or fails to produce any material
8 information that is in that person's control, in relation to
9 the financial management, financial performance, or banking
10 activities of an allottee or in relation to the management or
11 control of any public resource or liability when required to
12 do so pursuant to this title; or

13 (b) resists or obstructs any person acting in the
14 discharge of that person's functions or duties or in the
15 exercise of that person's powers under this title.

16 (2) A person commits a National offense who:

17 (a) without reasonable excuse, refuses or neglects to
18 pay any public funds into a bank account of the General Fund
19 or any other fund established under this title; or

20 (b) makes any statement or declaration, or gives any
21 information or certificate, required by or pursuant to title
22 55, without adequate investigation or knowing it to be false
23 or misleading; or

24 (c) does any act for the purpose of procuring for that
25 person or for any other person or organization:

1 (i) the improper payment of any public funds or
2 trust money; or

3 (ii) the improper use of any public resource; or

4 (d) willfully fails to carry out any duty or
5 obligation imposed on that person under title 55."

6 Section 29. Title 55 of the Code of the Federated States of
7 Micronesia, as amended, is hereby further amended by enacting a new
8 section 223A to read as follows:

9 "Section 223A. Obligation to report.

10 (1) A person who has knowledge of any circumstances which
11 may cause him or her to consider that an offense under
12 section 223 of this title may have occurred must report those
13 circumstances to the Secretary.

14 (2) A person who alleges a breach of title 55 to the
15 Secretary shall not be penalized in any way whether the
16 allegation is proved or not."

17 Section 30. Title 55 of the Code of the Federated States of
18 Micronesia, as amended, is hereby further amended by enacting a new
19 section 223B to read as follows:

20 "Section 223B. Penalties for offenses.

21 (1) A person who commits an offense under section 223(1) of
22 this title is liable upon conviction:

23 (a) in the case of an individual, to a fine not
24 exceeding \$2,000 or imprisonment for a term not exceeding
25 three years or both; and

1 (b) in the case of a person or organization other than
2 an individual, to a fine not exceeding \$5,000.

3 (2) Every person who commits an offense under section
4 223(2) of this title is liable upon conviction:

5 (a) in the case of an individual to a fine not
6 exceeding \$3,000 or imprisonment for a term not exceeding
7 five years or both;

8 (b) in the case of a person other than an individual,
9 to a fine not exceeding \$7,000.

10 (3) Where any body corporate commits an offense against
11 this title, every director, secretary, manager and other
12 officer of the body corporate and every person purporting to
13 act in any such capacity shall also be guilty of an offense
14 unless that person satisfies the Court that either:

15 (a) the offense was committed without that person's
16 knowledge or consent or not through that person's gross
17 negligence; or

18 (b) that person took all reasonable steps to prevent
19 the commission of the offense."

20 Section 31. Title 55 of the Code of the Federated States of
21 Micronesia, as amended, is hereby further amended by enacting a new
22 section 223C to read as follows:

23 "Section 223C. Transitional.

24 (1) No person, in the preparation of financial statements,
25 reports, annual budget proposals or forecasts, unless it is

1 proved that the person acted intentionally, shall be
2 convicted of any offense under section 223 of this title for
3 any failure by that person to produce the economic and fiscal
4 data required under section 103F of this title or the
5 information required under the reporting requirements of
6 section 103G of this title during a period of two years from
7 the coming into force of this act.

8 (2) Where, during the two years from the coming into force
9 of this act, any of the information required to be produced
10 under sections 103F and 103G of this title is not able to be
11 produced, the person responsible for producing the statement,
12 report, annual budget proposals or forecasts will record in
13 writing the reasons why the information cannot be produced at
14 the beginning of the statement, report, annual budget
15 proposals or forecasts, as the case may be."

16 Section 32. Sections 225 and 226 of title 55 of the Code of the
17 Federated States of Micronesia are hereby repealed in their entirety.

18 Section 33. Title 55 of the Code of the Federated States of
19 Micronesia, as amended, is hereby further amended by enacting a new
20 section 226 to read as follows:

21 "Section 226. Allottees' reports required.

22 (1) No later than May 1 of each year, each allottee shall
23 submit a report to the Congress which shall provide for a
24 performance assessment, as of the end of the second quarter
25 of the fiscal year, against all sums appropriated by the

1 Congress or made available to that allottee from another
2 source. The performance assessment shall evaluate whether
3 the outcomes delivered are consistent with the outputs
4 specified in the appropriation obligating the funds, and,
5 where the performance is not delivered, justify why not.

6 (2) No later than October 31 of each year, each allottee
7 shall submit a report to the Congress which shall provide for
8 a performance assessment, as of the end of the fiscal year,
9 against all sums appropriated by the Congress or made
10 available to that allottee from another source. The
11 performance assessment shall evaluate whether the outcomes
12 delivered are consistent with the outputs specified in the
13 appropriation obligating the funds, and, where the
14 performance is not delivered, justify why not."

15 Section 34. This act shall become law upon approval by the
16 President of the Federated States of Micronesia or upon its becoming
17 law without such approval.

18
19
20 Date: _____

Introduced by: _____

Joseph J. Urusemal
(by request)