

## AN ACT

To establish the Office of Fiscal Accountability and the position of State Auditor as authorized by Article VI, Section 10 of the Truk State Charter, to amend Title 21 of the Truk State Code to add Chapter 20A thereto, and to provide for the duties and powers of the State Auditor, and for other purposes.

BE IT ENACTED BY THE LEGISLATURE OF TRUK STATE:

1           Section 1. Amendment. Title 20 of the Truk State Code is amended  
2           to include Chapter 20A, to read as follows:

3           "Chapter 20A. Office of Fiscal Accountability.

4                     Section 1. Office of Fiscal Accountability. There is  
5           hereby created the Office of Fiscal Accountability for the State  
6           of Truk which shall be headed by a person known as the State  
7           Auditor. The position of State Auditor shall be exempt from  
8           the provisions of the Executive Branch Organization Act of  
9           1980 (TSL No. 3-25, 3rd. Regular Session, 1980; as amended  
10          by TSL No. 5-46, 1st. Regular Session, 1982); and exempt from  
11          the provisions of the Truk State Public Service System Act  
12          (TSL No. 3-43, 3rd. Regular Session, 1981), as provided in  
13          Section 8(d), of that Act.

14          Section 2. State Auditor, Selection, Appointment.

15                   (a) The State Auditor shall be selected on the  
16                   basis of merit and qualifications;

17                   (b) No person shall be appointed State Auditor  
18                   unless that person:

19                             i) is a certified public accountant; and  
20                             ii) has a minimum of five years experience  
21                   in auditing and accounting and government finance.

22                   (c) The Speaker shall name a committee of three  
23                   Senators which shall be charged with the responsibility to  
24                   advertise, recruit and interview applicants for the position  
25                   of State Auditor. The committee shall make a report and  
26                   recommendation to the Legislature of the top three candidates  
27                   for the position and their qualifications. The Legislature  
28                   shall select the State Auditor by majority vote and confirm  
29                   by Resolution.  
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(d) The State Auditor shall serve for a term of four years. No person may serve as State Auditor for more than two consecutive full four year terms or the balance of an unexpired term plus two full four-year terms.

Section 3. State Auditor - Removal.

(a) The State Auditor may, at any time, be removed from office for good cause, shown by a vote of fifteen (15) members of the Legislature. In that event the Committee appointed by the Speaker pursuant to 2(c) shall select an acting State Public Auditor for ninety (90) days. If necessary this appointment may be extended once for an additional ninety (90) days.

(b) The State Auditor shall be independent of administrative control except that he shall report at least once a year to the Legislature on the full activities of his office. His salary shall not be reduced during his term of office.

Section 4. State Auditor-Staff. The State Auditor may hire such employees as are required to assist in performing the duties of the Office of Fiscal Accountability and shall be able to expend money for necessary expenses of the Office, subject to budgetary appropriation and applicable salary acts, including the State Financial Management Act. The State Auditor may remove employees in the Office subject to the provisions of the State Public Service System which shall apply to employees and staff of the Office.

Section 5. Powers and Duties of State Auditor.

(a) The State Auditor shall be responsible for an annual inspection and audit of:

- i) Each department and office in the Executive Branch of the State Government;
- ii) The Truk State Legislature;
- iii) The Truk State Judiciary;
- iv) Each authority, commission, bureau, municipality or other agency created by Truk State Law;

1 v) Any other recipient of funds otherwise appro-  
2 priated by the State including, but not limited to, other  
3 public legal entities or non-profit organizations receiving  
4 public funds from the State.

5 (b) If there is a reasonable suspicion of misuse of  
6 government funds or other fiscal improprieties the Auditor,  
7 alone or at the Speaker's direction, shall investigate all  
8 relevant information and report the findings to the Legislature.

9 (c) Any public or private entity receiving State  
10 Funds shall submit to an audit of those funds by the State  
11 Auditor, at the Auditor's discretion. Failure to comply with  
12 reasonable requests for information from the State Auditor  
13 shall be cause for the cancellation of any contracts or  
14 agreements with the State and for the withholding of State funds  
15 already allocated or appropriated.

16 (d) The State Auditor shall review the system of  
17 accounts proposed to be established by any branch, department,  
18 office, agency, or instrumentality of the State, including public  
19 corporations.

20 (e) The State Auditor shall have access to all books,  
21 accounts, financial records, reports, files, papers, things  
22 and property belonging to or in use by the entities listed  
23 in Section 5(a) so long as they are within the scope of the  
24 financial audit. The State Auditor shall have the right to  
25 subpoena through the Legislature the production of things if  
26 they are not provided by the entities listed above.

27 (f) The State Auditor shall make available in a  
28 timely fashion copies of all audits conducted to the agency  
29 audited, the Governor, the State Legislature, and to the  
30 public.

31 (g) The State Auditor shall monitor and investi-  
32 gate all contracts to which the State is a party to ensure  
33 compliance with all State bidding laws.  
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(h) The State Auditor shall inform the Attorney General and any other legal entity of all cases of suspected misuses of government funds, including but not limited to bidding violations, violations of Budget Law, and violations of the State Financial Management Act. The State Auditor shall, if requested, cooperate in further investigation and prosecution of such cases.

(i) The State Auditor shall submit to the Legislature at least thirty (30) days prior to its budget setting session, the annual budgetary requirements of the Office of Fiscal Accountability.

(j) The State Auditor shall inform the Truk State Legislature of such legislation as is necessary to ensure the proper accountability of government funds.

Section 6. State Auditor: Government Contract. The audit duties and responsibilities of the State Auditor shall extend to persons, partnerships, corporations, associations or other entities having contracts with Truk State with respect to all books, accounts and other relevant materials arising from or related to such contracts. If a Contractor fails to make available to the State Auditor, or to his representative, such information as requested, such contract with the State, shall be cancelled immediately by the contracting authority or by the Attorney General. No contract may be executed on behalf of the State unless it contains a provision, acceptable to the Attorney General as to form and the State Auditor as to substance authorizing the audit of books and accounts of the contractor by the State Auditor or his representative.

Section 7. Job Protection for Public Servants who Disclose Misuse of Government Funds to State Auditor. Any disciplinary, negative, or punitive personnel action against a state employee who:

1 (a) Has in good faith disclosed to the State Auditor  
2 an actual or attempted misuse of government funds or violation  
3 of State Budget, contracting, bidding or financial laws; or

4 (b) Has refused to participate in an actual or  
5 attempted violation but was unable to report such activity  
6 prior to the imposition of disciplinary, negative, or punitive  
7 job action, shall be presumptively in retaliation against  
8 such employee.

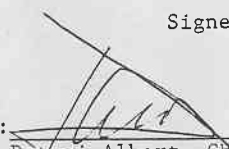
9 (c) In any appeal for relief from retaliation, the  
10 burden shall be upon the government to show that the job action  
11 was in response to a genuine failure of performance of lawful  
12 duties; such showing must be made by clear and convincing  
13 evidence.

14 (d) Any employee who prevails in an appeal for  
15 relief from a retaliatory personnel action shall be entitled  
16 to reinstatement with back pay and restoration of full benefits,  
17 all costs and reasonable attorney fees.


18 Section 8. Office of Fiscal Accountability: Rules and  
19 Regulations. The Office of Fiscal Accountability may adopt  
20 rules and regulations not inconsistent with law regarding those  
21 matters within its jurisdiction."

22 Section 2. Effective Date. This Act shall take effect upon approval  
23 by the Governor, or upon its becoming law without such approval.  
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27 Signed by:   
28 Kisanke K. Sos, Speaker  
Truk State Legislature

29 Attested to:   
30 Davasi Albert, Chief Clerk  
Truk State Legislature

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32 Date: 8/6/87

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34 Dis- Approved by:   
Gideon K. Doone, Governor  
Truk State Government

35 It became law on 8/16/87  
and received 11/18/87

Date: 8/14/87