A BILL FOR AN ACT

To amend sections 102 and 109 of title 40 of the Code of the Federated States of Micronesia (Annotated) a amended, for the purpose of clarifying the authority of the Secretary of Education to regulate the creation, formation and operation of private schools in the Federated States of Micronesia in the interest of public safety and convenience, and for other purposes.

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

Section 1. Section 102 of title 40 of the Code of the Federated States of Micronesia (Annotated) as amended, is hereby amended to read as follows:

"Section 102. Definitions.

As used in this chapter:

(1) "Accreditation" means the process of evaluating a school in terms of meeting the required minimum standards and the acknowledgment thereof by the FSM National Government through the issuance of an FSM Certificate of Accreditation.

(2) "Board of Education" means each of the four groups of persons having managerial, supervisory, or advisory powers concerning education, as created, appointed and confirmed in office by the duly elected officials of the States of Chuuk, Kosrae, Pohnpei and Yap.

(3) "Chief State School Officer" means the State Director of Education or other highest ranking educator
with day-to-day administrative authority and control
over the educational system of each State.

(4) "Children with disabilities" means those
individuals from birth through age 21 who are evaluated
as having mental retardation, hearing impairments
including deafness, speech or language impairments,
visual impairments including blindness, serious
emotional disturbance, orthopedic impairments, autism,
traumatic brain injury, other health impairments,
specific learning disabilities, deaf-blindness, or
multiple impairments, and who, because of those
impairments, need special education and related
services.

(5) "College of Micronesia–FSM" means an institution
of higher education located in the FSM and established
in 1977 by P.L. No. 7-29 of the Seventh Congress of
Micronesia.

(6) "Compact" means the Compact of Free Association
between the Federated States of Micronesia and the
United States of America.

(7) "Congress" means the Congress of the Federated
States of Micronesia.

(8) "Department" means the Department of Education of
the Federated States of Micronesia.

(9) "Elementary school" means an institution which
imparts teaching and learning from grades one (first grade) through eight (eighth grade).

(10) "FSM" means the Federated States of Micronesia.

(11) "FACSSO" means the FSM Association of Chief State School Officers.

(12) "Home learning" means a private form of education or course of study administered by parents who for personal or religious reasons choose not to send their children to a public or private school but as an alternative provide education within a home setting.

(13) "National Government" means the National Government of the Federated States of Micronesia.

(14) "Person" means an individual, corporation, firm or any other entity or association existing under or authorized by law.

(15) "Post-secondary education" means an attendance at an institution of higher education in the FSM or abroad.

(16) "Preschool" means any nursery school, kindergarten or special program attended by children during the period from infancy to age five or six, preceding attendance at elementary school.

(17) "President" means the President of the Federated States of Micronesia.

(18) "School" means an FSM accredited public or
private institution of learning at the elementary or secondary level, including a school with a religious affiliation. For the purpose of section 109 of this title, a "school" is understood to include post-secondary school that is not chartered directly by Congress. Such post-secondary school shall be subject to accreditation by the Secretary.

(19) "Secondary school" means an institution which imparts teaching and learning beyond the elementary level up to but not including college or university level.

(20) "Secretary" means the Secretary of the Department of Education of the Federated States of Micronesia.

(21) "Special education" means instructional or other services necessary to assist children with disabilities. Special education is specifically designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability, including instruction conducted:

(a) in classrooms;

(b) in the home;

(c) in hospitals and institutions;

(d) in other settings; and

(e) in physical education.

(22) "State" means a State within the Federated States
of Micronesia.

(23) "State Director of Education" means the individual who is appointed by the Governor of the State and granted thereby the direct authority to manage and control the daily affairs of the State Department of Education.

(24) "Teacher" means a classroom instructor who has attained the FSM National Government teacher certification standards and whose primary function is to impart knowledge to students in schools.

(25) "Teacher certification" means the issuance of a certificate to a preschool, elementary, or secondary classroom instructor who has met the National Government qualification requirements set forth in section 105 of this chapter.”

Section 2. Section 109 of title 40 of the Code of the Federated States of Micronesia (Annotated) as amended, is hereby amended to read as follows:

“Section 109. Private schools.

(1) The importance of private schools to the educational development of the Micronesian people is hereby acknowledged and commended.

(2) Any person or persons desiring to establish and operate a private school, including a school with a religious affiliation, within the Federated States of
Micronesia shall, prior to the establishment thereof, make written application for a charter to the Secretary.

(a) The application shall be signed by the applicant or applicants and reviewed by the State Director of Education and the State Board of Education of the State in which the school is to be located.

(b) The application shall include:

(i) the full names of the persons establishing and operating the school, their qualifications, their international affiliations, and their entry permit numbers, if applicable;

(ii) the names and qualifications of the school's instructors and administrators, and their entry permit numbers, if applicable;

(iii) the location of the school and the facilities erected upon the site;

(iv) the course of instruction and the language in which instruction is to be given;

(v) the criteria applicable to accreditation of all primary and secondary schools; and

(vi) a complete financial statement, including but not limited to, sources of funding, capital reserves, if any, and a proposed budget for the pending school year, detailing how the school plans to
meet the anticipated costs of operation; and

(vii) such other information as the Secretary
may require, pertinent to whether the operation of the
school will serve the best interests of the Micronesian
people. The State Directors of Education shall review
applications and make recommendations to the respective
State Governor for concurrence.

(3) Upon receipt and approval of the application by
the Secretary, the Secretary shall issue to the person
or persons applying therefore a charter for up to 15
years duration in the form of a mutual agreement
between the chartered school and the FSM, authorizing
the establishment of the school, and an annual license
to operate the school, renewable by the Secretary upon
a finding by the State Director of Education that the
school is operating consistent with the terms of its
charter and other applicable regulations.

(4) No private school shall be established, or
allowed to continue to operate as such, except in
conformity with this section. [†PROVIDED however, that
any private school existing in the Federated States of
Micronesia under a valid charter on the effective date
of this act shall be deemed to have complied with
requirements set forth herein and shall be granted a
charter automatically.]
(5) In enforcing this section, the Secretary shall have authority to examine and evaluate the qualification of teaching faculty and school support staff, determine the quality, suitability and safety of school facilities and equipment, and require the submission of any additional information or justification in support of an application.

(6) The Secretary may order the closure of any school that is not in compliance with this section.

(5)(7) Any person or persons who knowingly permit or engage in the establishment and operation of a private school within the FSM in violation of applicable laws or regulations, shall be guilty of a violation of this section and upon conviction thereof, shall be fined not more than $500.

(6)(8) The Secretary shall withhold funds for failure to comply with the provisions of this chapter, and shall, after a hearing, suspend or revoke a charter upon a finding that the school has operated contrary to the representations contained in its charter application, or has operated contrary to the policies and provisions of this chapter.”
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: 9/17/18
Introduced by: /s/ Florencio S. Harper
Florencio S. Harper
(by request)