AN ACT

To further amend title 40 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 6-30, 6-44, 6-45, and 8-21, by repealing sections 121, 122, 123, 124, 125, 126, 127, 128, 211, 212, 213, 214, 215, 221, 222, 241, 242, 243, 252, 253 and 254 relating to the educational system of the Federated States of Micronesia in their entirety; by adding new sections 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113 and 114 to establish the National Education System of the Federated States of Micronesia; and for other purposes.

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

1. Section 1. Sections 121, 122, 123, 124, 125, 126, 127, 128, 211,
2. 212, 213, 214, 215, 221, 222, 241, 242, 251, 252, 253 and 254 of title 40
3. of the Code of the Federated States of Micronesia are hereby repealed in
4. their entirety.

5. Section 2. Title 40 of the Code of the Federated States of
6. Micronesia is hereby further amended by adding a new section 101 of
7. chapter 1 to read as follows:
8. "Section 101. Policy and purposes. It is hereby declared to
9. be the policy of the Federated States of Micronesia to provide
10. for a decentralized educational system in the Federated States
11. of Micronesia which shall enable the citizens of the Federated
12. States of Micronesia to participate fully in the development of
13. the islands as well as to become familiar with the Pacific
14. community and the world. To this end, the purpose of education
15. in the Federated States of Micronesia shall be to develop its
16. citizens in order to prepare them for participation in self-
17. government and economic and social development; to function as
18. a unifying agent; to bring to the people a knowledge of their
19. islands, the economy, the government, and the people who
20. inhabit the islands; to preserve Micronesian culture and
21. traditions; to convey essential information concerning health,
22. safety, and protection of the island environment; and to
provide its citizens with the social, political, professional
and vocational skills required to develop the Nation."

Section 3. Title 40 of the Code of the Federated States of
Micronesia is hereby further amended by adding a new section 102 of
chapter 1 to read as follows:

"Section 102. Definitions. As used in this act:

(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.

(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:
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 title.'

Section 4. Title 40 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 103 of chapter 1 to read as follows:

'Section 103. Powers.

(1) The Secretary of Education shall have the authority to administer and coordinate the educational system of the
Federated States of Micronesia consistent with the National powers set forth in the FSM Constitution to do the following:

(a) Promote education by setting minimum standards for educational administration, programs, and facilities;

(b) Coordinate efforts to obtain foreign assistance for the States and to distribute foreign aid for education in an equitable manner which will provide the maximum benefit to the students of the FSM;

(c) Provide technical assistance to the States concerning educational administration, programs, facilities, and training; and

(d) Coordinate efforts which seek to meet the needs of FSM students in the area of post-secondary education, including FSM students at home and abroad, scholarships, and transfers among colleges.

(2) The Secretary of Education shall advise the Chairperson of the Board of Regents of the College of Micronesia-FSM in educational matters, to include the following:

(a) The educational needs and abilities of student classes or age groups advancing toward post-secondary education;

(b) FSM manpower requirements which might be met through training programs at the College of Micronesia-FSM;

(c) Opportunities and programs to transfer FSM
students to specialized programs in other colleges; and

(d) Problems which inhibit efforts to meet FSM manpower needs, such as the causes of failure of students in completing their training or failure in returning to Micronesia after completing their training.

(3) The Secretary shall communicate and consult with the members of the State Boards of Education, for the purpose of promoting education, setting minimum standards, providing technical assistance, coordinating educational services, building consensus, and otherwise assisting the Boards of Education in the performance of their duties.

(4) The Secretary shall have the administrative authority to implement the provisions of this title, including the authority to issue reports, prepare a National educational plan, establish temporary committees for periods of up to two years to conduct studies and make recommendations, prepare budgets and administer funds, engage in litigation, issue guidelines and procedures, advance the interests of FSM students living abroad, act upon such other educational matters as may be assigned to the Secretary by the President or by law, and undertake any other educational activities reasonable and necessary to accomplish the purposes of this title and contribute to the well-being of the FSM.*

Section 5. Title 40 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 104 of
chapter 1 to read as follows:

"Section 104. Compulsory education; Attendance; Failure to send a child to school; School year.

(1) Compulsory education. Education shall be provided and shall be compulsory for all children, including children with disabilities, from first grade through graduation from the eighth grade, or until the age of 14 years.

(2) Attendance. Attendance at school shall be required of all children between the ages of six and fourteen or until completion of the eighth grade, unless excluded from school or exempted from attendance for sickness or behavioral problems as determined by the appropriate State authorities.

(a) For the purpose of beginning school, a child shall be admitted in the first grade at the beginning of the school year if he has attained or will have attained the age of six, either on or before December 31 of the calendar year in which the school year commences, or as of the date of the commencement of the school year, whichever date is selected by the State Director of Education.

(b) A State legislature may determine a later age for starting mandatory education, provided that children whose parents wish to enroll them at the National standard age of six years are not restricted from doing so.

(3) Failure to send a child to school. Any person who knowingly permits a child who is under his control to be absent
from school, or who knowingly prevents any child from attending
school during the instructional period, for all or any
significant part of a day, unexcused and in violation of
applicable laws or regulations, is in violation of this
section.

(a) The States may impose such penalties as each
deems appropriate for violations of this section.

(b) Good cause for absences shall be determined by
State authorities and may include physical and medical
infirmities, family or social responsibilities, and disruptive
or violent behavior.

(4) School year. The school year in the Federated States
of Micronesia shall consist of not less than 180 days of
instructional days or an equivalent of no fewer than six
hundred fifty hours of classroom instruction for first and
second graders and no fewer than seven hundred sixty five hours
of classroom instruction for third through twelfth graders."

Section 6. Title 40 of the Code of the Federated States of
Micronesia is hereby further amended by adding a new section 105 of
chapter 1 to read as follows:

"Section 105. Teacher certification.

(1) Certificate required. No person shall serve as a
teacher in any elementary or secondary school within the
Federated States of Micronesia, except at the post-secondary
level, for a period exceeding 90 days without first having
obtained a National teacher certificate from the Department.

The certificate shall be issued without cost to the teacher, in
such form as the Secretary determines. The qualification
requirements for such certification shall be established by the
Secretary in cooperation and consultation with the state
Directors of Education.

(a) Upon a finding of good cause shown, the
Secretary of Education may, on an individual basis, issue a
temporary waiver of the certification requirement herein, but
in no case shall such waiver exceed a period of one year.

(2) Existing certificates remain in effect.

Notwithstanding any other provision of law to the contrary,
certificates issued to teachers in the Federated States of
Micronesia pursuant to laws in effect prior to the effective
date of this act shall remain in effect until they expire, at
which time the provisions of this act and regulations
promulgated pursuant thereto, shall control.

(3) Revocation or suspension. Any certificate issued
pursuant to this act may be revoked or suspended by the
Secretary if he determines that the teacher is not in
compliance with the requirements of this act. Such revocation
or suspension proceedings shall comply with the procedures for
agency action set forth in sections 108 through 110 of title 17
of the Code of the Federated States of Micronesia, or with such
other administrative procedures as may be provided by
subsequent enactment.

(4) Assurance; Penalty. Each State Director of Education shall ensure that all teachers, at both public and private schools in the Federated States of Micronesia, shall be appropriately certified and in possession of a valid teacher certificate as required. Upon a finding, after notice and a hearing conducted consistent with the provisions of section 109 of title 17 of the Code of the Federated States of Micronesia, that any person has served as a teacher without a valid certificate issued under this act, the FSM Secretary of Education may withhold or withdraw accreditation, under section 108 of this act, of the school where such person has served.*

Section 7. Title 40 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 106 of chapter 1 to read as follows:

*Section 106. Gifted and talented students.

(1) The Secretary shall establish, in cooperation and consultation with the State Directors of Education, programs to identify and encourage students who demonstrate an extraordinary ability to learn.

(2) Educational programs for talented and gifted children shall be designed and implemented, as appropriate, to assist these children to take advantage of especially demanding and challenging educational programs and opportunities in Micronesia and abroad.
(3) In designing educational programs for the talented and gifted, the Secretary and the State Directors will seek to maintain a balance between Micronesian culture and tradition, and international or non-Micronesian learning and technologies, so that the benefits of exceptional opportunities do not come at the expense of cultural alienation."

Section 8. Title 40 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 107 of chapter 1 to read as follows:

"Section 107. Procedures to ensure education for children with disabilities.

(1) The Secretary shall establish, in cooperation and consultation with the State Directors of Education and Health Services of each State, a procedure to ensure the ongoing identification, diagnosis, certification, and education of children with disabilities.

(2) These procedures will be consistent with the policies and requirements of the FSM Special Education Act of 1993.

(3) These procedures will be designed to provide access to a reasonable, appropriate, and economical elementary and secondary education for children with disabilities, through graduation from grade 12 or age 21.

(4) Nothing in this section shall be construed or deemed to create or impose any duty, obligation, or liability
whatsoever, either financial or otherwise, on the States to
provide or finance an education for any person beyond the
territory and borders of the Federated States of Micronesia."
Section 9. Title 40 of the Code of the Federated States of
Micronesia is hereby further amended by adding a new section 108 of
chapter 1 to read as follows:
"Section 108. Accreditation of elementary and secondary
schools.
(1) Criteria for accreditation. Criteria for
accrediting elementary and secondary schools in the Federated
States of Micronesia shall be established by the Secretary of
the Department of Education in cooperation and consultation
with the State Directors of Education, and shall include those
factors necessary to provide an adequate classroom environment
conducive to learning, including but not limited to the
following:
(a) Philosophy, goals and objectives;
(b) Organization;
(c) Staff and teachers;
(d) School plant and physical facilities;
(e) Library;
(f) Student counseling services;
(g) Curricular program;
(h) Co-curricular program;
(i) Community and parent involvement;
(j) Finance; and

(k) Student-teacher ratio.

(l) Compliance with the minimum standards established by and under this act.

(2) **Accreditation committee.** An accreditation committee may be established by the Secretary to evaluate elementary and secondary schools for accreditation purposes.

(a) If established, this committee may be temporary, intermittent, or standing.

(b) The accreditation committee shall recommend to the Secretary whether a secondary school meets the approved accreditation standards or not.

(c) A recommendation to issue a certificate of accreditation will be made for those elementary and secondary schools meeting the accreditation standards.

(d) A recommendation for technical assistance will be made for those elementary and secondary schools not meeting the accreditation standards.

(3) **Certificate of accreditation.** The Secretary shall issue a National Certificate of Accreditation to respective elementary and secondary schools which substantially comply with accreditation standards, and which have a plan or program in effect to remedy any defects or shortcomings within an agreed upon period of time, based on appropriate recommendations from the accreditation committee.
(4) National-State consultation. The Secretary shall consult with the respective State Directors of Education for appropriate technical assistance to be provided by both National and State Governments to the respective elementary and secondary schools based on appropriate recommendations from the accreditation committee.

(5) National Special Certificate of Achievement. The Secretary shall issue a National Special Certificate of Achievement to elementary and secondary schools which comply with or exceed all FSM accreditation standards.

(6) Contingency as incentive. In order to provide an incentive for the improvement of schools, the Secretary may make eligibility for certain categories of scholarship and other funds contingent upon obtaining certification or special certification, or upon making timely measurable progress toward obtaining certification."

Section 10. Title 40 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 109 of chapter 1 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
concurrency.

(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 fifteen 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 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) 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) The Secretary shall withhold funds for failure to comply with the provisions of this act, 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 act."

Section 11. Title 40 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 110 of chapter 1 to read as follows:

"Section 110. National Curriculum Minimum Standards.

(1) The Secretary shall establish, in cooperation and consultation with the State Boards of Education and the State Directors of Education, National Curriculum Minimum Standards.

(2) State Departments of Education and Boards of Education shall ensure that the National Curriculum Minimum Standards are implemented through their State Curriculum framework."

Section 12. Title 40 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 111 of chapter 1 to read as follows:

"Section 111. Certification of home learning programs. The Secretary of Education and the State Boards of Education may set minimum standards for home learning."
(1) The Secretary and the State Boards of Education may, upon application, review and approve a course of study of home learning as meeting those minimum standards.

(2) The Secretary and State Board of Education shall monitor for compliance with the minimum standards established by the Secretary, any home study programs which are approved under this section, and may revoke its own approval, giving reasonable grounds for such action.*

Section 13. Title 40 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 112 of chapter 1 to read as follows:

*Section 112. Gifts; Grants; Requests for funding.

(1) The Secretary may receive and manage money or other property, both real and personal, which may be given, bequeathed, devised, or in any manner received by the National Government for the purpose of education, from sources other than the Congress.

(a) The Secretary shall manage gifts and grants in a manner consistent with applicable law, including title 55 of the Code of the Federated States of Micronesia, as amended.

(b) The Secretary shall cause to be kept detailed and accurate financial records recording the receipt of each gift or grant, the disposition of each gift or grant and the income therefrom, and the essential facts of management.

(c) This subsection shall not be construed to apply
to any gifts received by a State.

(2) Subject to the powers vested in the President and Congress, the Secretary is designated as the allottee and administrator of any funding that may be provided to the Department of Education for educational purposes. Such funding shall include, but not be limited to, Compact funding, foreign assistance funding, United States federal programs funding, and funding provided by other external agencies, organizations, and assistance programs.

(3) The State Departments of Education will inform the Secretary when they apply for or receive foreign assistance to education, in order to ensure coordination.

(4) When requesting funding for the State Departments of Education, the Secretary shall do so based on requests as submitted by the respective State Departments of Education."

Section 14. Title 40 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 113 of chapter 1 to read as follows:

"Section 113. FACSSO.

(1) The FSM Department of Education will periodically as necessary convene meetings of the Chief State School Officers for the purpose of increasing cooperation and coordination between the States and National Government and ensuring quality educational programs and facilities for students, in the following areas:
(a) Setting and attaining minimum standards for educational administration, programs and facilities;
(b) Obtaining and equitably distributing national and external financial assistance for education;
(c) Providing technical assistance to the States and sharing experience and data on how to improve the administration of educational programs; and
(d) Anticipating and meeting the needs of FSM students in the area of post-secondary education.

(2) The Secretary of Education and the four Chief State School Officers, when meeting in their official capacity, shall be known as the FSM Association of Chief State School Officers, or FACSSO.

(3) Upon discussing and reaching a consensus on educational issues, FACSSO shall formally adopt, in the form of resolutions, its findings and conclusions, as well as the reasons or principles upon which its resolutions are based.

(4) The Secretary of Education shall promptly transmit FACSSO resolutions to the FSM President and to other persons as appropriate.

(5) The Secretary of Education shall maintain a book of FACSSO resolutions arranged consecutively according to date of adoption, and indexed according to subject matter.**

Section 15. Title 40 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 114 of
chapter 1 to read as follows:

"Section 114. Regulations. The Secretary, upon approval by
the President, is hereby authorized to promulgate regulations
in accordance with title 17 of the Code of the Federated States
of Micronesia, implementing the provisions of this act, which
regulations shall have the force and effect of law."

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

Signed, 1995

Bailey Oliseh
President
Federated States of Micronesia