

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, 251, 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3 of the Code of the Federated States of Micronesia are hereby repealed in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



1 provide its citizens with the social, political, professional
2 and vocational skills required to develop the Nation."

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

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

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

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

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

20 (4) 'Children with disabilities' means those individuals
21 from birth through age 21 who are evaluated as having mental
22 retardation, hearing impairments including deafness, speech or
23 language impairments, visual impairments including blindness,
24 serious emotional disturbance, orthopedic impairments, autism,
25 traumatic brain injury, other health impairments, specific

1 learning disabilities, deaf-blindness, or multiple impairments,
2 and who, because of those impairments, need special education
3 and related services.

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

7 (6) 'Compact' means the Compact of Free Association
8 between the Federated States of Micronesia and the United
9 States of America.

10 (7) 'Congress' means the Congress of the Federated States
11 of Micronesia.

12 (8) 'Department' means the Department of Education of
13 the Federated States of Micronesia.

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

17 (10) 'FSM' means the Federated States of Micronesia.

18 (11) 'FACSSO' means the FSM Association of Chief State
19 School Officers.

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

25 (13) 'National Government' means the National Government

1 of the Federated States of Micronesia.

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

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

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

11 (17) 'President' means the President of the Federated
12 States of Micronesia.

13 (18) 'School' means an FSM accredited public or private
14 institution of learning at the elementary or secondary level,
15 including a school with a religious affiliation.

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

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

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

- 1 (a) in classrooms;
2 (b) in the home;
3 (c) in hospitals and institutions;
4 (d) in other settings; and
5 (e) in physical education.

6 (22) 'State' means a State within the Federated States of
7 Micronesia.

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

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

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

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

23 "Section 103. Powers.

24 (1) The Secretary of Education shall have the authority
25 to administer and coordinate the educational system of the

1 Federated States of Micronesia consistent with the National
2 powers set forth in the FSM Constitution to do the following:

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

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

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

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

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

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

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

25 (c) Opportunities and programs to transfer FSM

1 students to specialized programs in other colleges; and

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

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

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

24 Section 5. Title 40 of the Code of the Federated States of
25 Micronesia is hereby further amended by adding a new section 104 of

1 chapter 1 to read as follows:

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

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

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

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

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

24 (3) Failure to send a child to school. Any person who
25 knowingly permits a child who is under his control to be absent

1 from school, or who knowingly prevents any child from attending
2 school during the instructional period, for all or any
3 significant part of a day, unexcused and in violation of
4 applicable laws or regulations, is in violation of this
5 section.

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

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

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

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

21 "Section 105. Teacher certification.

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

1 obtained a National teacher certificate from the Department.
2 The certificate shall be issued without cost to the teacher, in
3 such form as the Secretary determines. The qualification
4 requirements for such certification shall be established by the
5 Secretary in cooperation and consultation with the state
6 Directors of Education.

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

11 (2) Existing certificates remain in effect.

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

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

1 subsequent enactment.

2 (4) Assurance; Penalty. Each State Director of Education
3 shall ensure that all teachers, at both public and private
4 schools in the Federated States of Micronesia, shall be
5 appropriately certified and in possession of a valid teacher
6 certificate as required. Upon a finding, after notice and a
7 hearing conducted consistent with the provisions of section 109
8 of title 17 of the Code of the Federated States of Micronesia,
9 that any person has served as a teacher without a valid
10 certificate issued under this act, the FSM Secretary of
11 Education may withhold or withdraw accreditation, under section
12 108 of this act, of the school where such person has served."

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

16 "Section 106. Gifted and talented students.

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

21 (2) Educational programs for talented and gifted
22 children shall be designed and implemented, as appropriate, to
23 assist these children to take advantage of especially demanding
24 and challenging educational programs and opportunities in
25 Micronesia and abroad.

1 (3) In designing educational programs for the talented
2 and gifted, the Secretary and the State Directors will seek to
3 maintain a balance between Micronesian culture and tradition,
4 and international or non-Micronesian learning and technologies,
5 so that the benefits of exceptional opportunities do not come
6 at the expense of cultural alienation."

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

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

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

17 (2) These procedures will be consistent with the
18 policies and requirements of the FSM Special Education Act of
19 1993.

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

24 (4) Nothing in this section shall be construed or deemed
25 to create or impose any duty, obligation, or liability

1 whatsoever, either financial or otherwise, on the States to
2 provide or finance an education for any person beyond the
3 territory and borders of the Federated States of Micronesia."

4 Section 9. Title 40 of the Code of the Federated States of
5 Micronesia is hereby further amended by adding a new section 108 of
6 chapter 1 to read as follows:

7 "Section 108. Accreditation of elementary and secondary
8 schools.

9 (1) Criteria for accreditation. Criteria for
10 accrediting elementary and secondary schools in the Federated
11 States of Micronesia shall be established by the Secretary of
12 the Department of Education in cooperation and consultation
13 with the State Directors of Education, and shall include those
14 factors necessary to provide an adequate classroom environment
15 conducive to learning, including but not limited to the
16 following:

- 17 (a) Philosophy, goals and objectives;
18 (b) Organization;
19 (c) Staff and teachers;
20 (d) School plant and physical facilities;
21 (e) Library;
22 (f) Student counseling services;
23 (g) Curricular program;
24 (h) Co-curricular program;
25 (i) Community and parent involvement;

1 (j) Finance; and

2 (k) Student-teacher ratio.

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

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

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

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

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

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

19 (3) Certificate of accreditation. The Secretary shall
20 issue a National Certificate of Accreditation to respective
21 elementary and secondary schools which substantially comply
22 with accreditation standards, and which have a plan or program
23 in effect to remedy any defects or shortcomings within an
24 agreed upon period of time, based on appropriate
25 recommendations from the accreditation committee.

1 (4) National-State consultation. The Secretary shall
2 consult with the respective State Directors of Education for
3 appropriate technical assistance to be provided by both
4 National and State Governments to the respective elementary and
5 secondary schools based on appropriate recommendations from the
6 accreditation committee.

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

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

17 Section 10. Title 40 of the Code of the Federated States of
18 Micronesia is hereby further amended by adding a new section 109 of
19 chapter 1 to read as follows:

20 "Section 109. Private schools.

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

24 (2) Any person or persons desiring to establish and
25 operate a private school, including a school with a religious

1 affiliation, within the Federated States of Micronesia shall,
2 prior to the establishment thereof, make written application
3 for a charter to the Secretary.

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

8 (b) The application shall include:

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

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

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

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

20 (v) The criteria applicable to accreditation of
21 all primary and secondary schools; and

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

1 operation; and

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

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

17 (4) No private school shall be established except in
18 conformity with this section; PROVIDED however, that any
19 private school existing in the Federated States of Micronesia
20 under a valid charter on the effective date of this act shall
21 be deemed to have complied with requirements set forth herein
22 and shall be granted a charter automatically.

23 (5) Any person or persons who knowingly permit or engage
24 in the establishment and operation of a private school within
25 the FSM in violation of applicable laws or regulations, shall

1 be guilty of a violation of this section and upon conviction
2 thereof, shall be fined not more than \$500.

3 (6) The Secretary shall withhold funds for failure to
4 comply with the provisions of this act, and shall, after a
5 hearing, suspend or revoke a charter upon a finding that the
6 school has operated contrary to the representations contained
7 in its charter application, or has operated contrary to the
8 policies and provisions of this act."

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

12 "Section 110. National Curriculum Minimum Standards.

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

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

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

23 "Section 111. Certification of home learning programs.

24 The Secretary of Education and the State Boards of Education
25 may set minimum standards for home learning.

1 (1) The Secretary and the State Boards of Education may,
2 upon application, review and approve a course of study of home
3 learning as meeting those minimum standards.

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

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

12 "Section 112. Gifts; Grants; Requests for funding.

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

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

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

25 (c) This subsection shall not be construed to apply

1 to any gifts received by a State.

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

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

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

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

19 "Section 113. FACSSO.

20 (1) The FSM Department of Education will periodically as
21 necessary convene meetings of the Chief State School Officers
22 for the purpose of increasing cooperation and coordination
23 between the States and National Government and ensuring quality
24 educational programs and facilities for students, in the
25 following areas:

1 (a) Setting and attaining minimum standards for
2 educational administration, programs and facilities;

3 (b) Obtaining and equitably distributing national
4 and external financial assistance for education;

5 (c) Providing technical assistance to the States and
6 sharing experience and data on how to improve the
7 administration of educational programs; and

8 (d) Anticipating and meeting the needs of FSM
9 students in the area of post-secondary education.

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

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

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

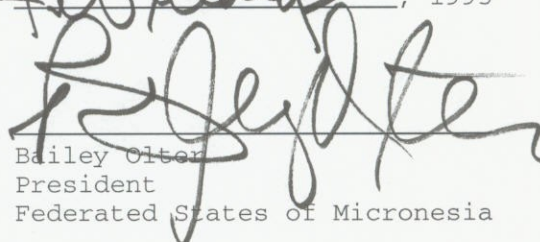
21 (5) The Secretary of Education shall maintain a book of
22 FACSSO resolutions arranged consecutively according to date of
23 adoption, and indexed according to subject matter."

24 Section 15. Title 40 of the Code of the Federated States of
25 Micronesia is hereby further amended by adding a new section 114 of

1 chapter 1 to read as follows:

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

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

10
11 ~~February 3~~, 1995
12 
13 Bailey Olter
14 President
15 Federated States of Micronesia

