



PUBLIC HEARING

I Mina Bente Ocho na Liheslaturan Guahan  
COMMITTEE ON EDUCATION & COMMUNITY DEVELOPMENT

Sen. Larry F. Kasperbauer, Chairman

Hearing to be held at I Liheslatura Public Hearing Room, Hagåtña

Friday January 21, 2005, 2:30p.m.

AGENDA

**BILL NO. 3 (LS)**, AN ACT TO ADD A NEW ARTICLE 5 TO CHAPTER 18 OF TITLE 17, GUAM CODE ANNOTATED RELATIVE TO EDUCATOR RECERTIFICATION

**BILL NO. 7 (LS)**, AN ACT TO AMEND §7113 OF CHAPTER 7, TITLE 17, GUAM CODE ANNOTATED RELATIVE TO SETTING MAXIMUM STUDENT ENROLLMENT LIMITS FOR SCHOOL CONSOLIDATION OR MERGERS.

**BILL NO. 17 (LS)**, AN ACT TO ADD A NEW §§(16) TO §3112(a) OF CHAPTER 3, ARTICLE 1 OF TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO THE DUTIES AND RESPONSIBILITIES OF THE GUAM EDUCATION POLICY BOARD; TO AMEND §3121 OF CHAPTER 3, ARTICLE 1 OF TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO MANDATING THE INCLUSION OF SPENDING PRIORITIES FOR THE GUAM PUBLIC SCHOOL SYSTEM'S FISCAL YEAR BUDGET; THIS ACT SHALL BE KNOWN AS THE "*STUDENT'S FIRST ACT*".

**BILL NO. 18 (LS)**, AN ACT TO ADD, SECTION 3125, ARTICLE 1, CHAPTER 3, DIVISION 2, TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO THE BASIC OBJECTIVES OF AN ADEQUATE PUBLIC EDUCATIONAL SYSTEM.

**BILL NO. 1 (LS)**, AN ACT TO ADD NEW ITEMS 11, 12, 13, AND 14, TO 1GCA §715; TO AMEND 5 GCA §1302; TO AMEND 5 GCA §1303; TO AMEND 5GCA §3101; TO AMEND 5GCA §3107; TO AMEND GCA §4109; TO AMEND 5 GCA §22203; TO ADD NEW §1116 TO 19 GCA; TO ADD NEW §7116 TO 7 GCA; TO AMEND §11307 OF 7 GCA; TO ADD NEW §12108.1 TO 7 GCA; TO ADD NEW §26603.1 TO 7 GCA; TO AMEND 17 GCA § 3103 (j); TO AMEND 17 GCA §3112(a) 14; TO ADD NEW §3210 TO 17 GCA; TO ADD NEW § 15136 TO 20 GCA PART 4; TO ENACT EVERY CHILD IS ENTITLED TO AN ADEQUATE PUBLIC EDUCATION ACT

The public is invited to attend, persons with disabilities who require special accommodations, auxiliary aid or services are asked to call Sen. Kasperbauer at 475-5437 or email us at lk4kids@ite.net. Information regarding this ad may be obtained at [www.lk4kids.com](http://www.lk4kids.com). This ad paid for with government funds

## GOVERNMENT MEETINGS

### ▲ Continued from Page 6

Legacy Square Commercial Complex, Route 10, Mangilao. Agenda copies will be available. Call Jane Diego, 735-7406/11.

**GUAM BOARD OF MEDICAL EXAMINERS:** Noon, Jan. 19, Guam Memorial Hospital Authority board conference room, Tamuning. For special accommodations, call Roma Basa, 735-7407/08.

**GUAM COMMUNITY COLLEGE BOARD OF TRUSTEES:** 3 p.m. Jan. 19, GCC library conference room, second floor, Foundation Building, Mangilao. Call 735-5637.

**GUAM EDUCATION POLICY BOARD:** Continuation of executive session, 6 p.m. Jan. 19, Department of Education conference room, Hagåtña. Superintendent's evaluation on the agenda. Call 475-0415/57/58.

**MAYORS COUNCIL OF GUAM:** Special meeting 10 a.m. Jan. 19, each third Wednesday, council's conference room, Ada's Commercial and Professional Center, Suite 111F, Hagåtña. Call Elaine Laguarda, 472-6940 or 477-8461.

**Jan. 20**

**CIVIL SERVICE COMMISSION BOARD:** 5:30 p.m. Jan. 20, Hakubotan Building, second floor, Tamuning. Hearing on M.J. Rector v. Department of Education; signing of judgments: W. Combedo v. Guam Police Department; R. Quintanilla v. GPD; R. Manibusan v. GPD; V. Tedaotao v. Guam Memorial Hospital Authority; J. Last v. GMHA; P. Bothello v. Port Authority of Guam. For special accommodations, call Bianca, 647-1855/57 or TDD 647-1872.

**COMMITTEE ON GENERAL AND OMNIBUS MATTERS AND EXECUTIVE COMMITTEE:** Public hearing, 9 a.m. Jan. 20, Legislature's public hearing room, Hagåtña. Bills 2, 10, 12, 23, 24 and 26. For special accommodations, call 472-3407.

**Jan. 21**

**COMMITTEE ON EDUCATION AND COMMUNITY DEVELOPMENT:** Public hearing, 2:30 p.m. Jan. 21, Legislature's public hearing room, Hagåtña. Bill 3, relative to educator recertification; Bill 7, to set maximum student enrollment limits for school consolidation or mergers; Bill 17, relative to duties and responsibilities of the Guam Education Policy Board, and amendment relative to requiring inclusion of spending priorities for the Guam Public School System's fiscal year budget; Bill 18, relative to the basic objectives of an adequate public educational system; Bill 1, enacting Every Child is Entitled to an Adequate Public Education Act. For special accommodations, call 475-1542.



**PUBLIC HEARING**

I Mina Bente Ocho na Liheslaturan Guahan

**COMMITTEE ON EDUCATION & COMMUNITY DEVELOPMENT**

**Sen. Larry F. Kasperbauer, Chairman**

Hearing to be held at I Liheslatura Public Hearing Room, Hagåtña

**Friday January 21, 2005, 2:30p.m.**

**AGENDA**

**BILL NO. 3 (LS), BY SEN. LARRY F. KASPERBAUER:** AN ACT TO ADD A NEW ARTICLE 5 TO CHAPTER 18 OF TITLE 17, GUAM CODE ANNOTATED RELATIVE TO EDUCATOR RECERTIFICATION  
**BILL NO. 7 (LS), BY SEN. LARRY F. KASPERBAUER:** AN ACT TO AMEND §7113 OF CHAPTER 7, TITLE 17, GUAM CODE ANNOTATED RELATIVE TO SETTING MAXIMUM STUDENT ENROLLMENT LIMITS FOR SCHOOL CONSOLIDATION OR MERGERS.

**BILL NO. 17 (LS), BY SEN. RAY TENORIO:** AN ACT TO ADD A NEW §§(16) TO §3112(a) OF CHAPTER 3, ARTICLE 1 OF TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO THE DUTIES AND RESPONSIBILITIES OF THE GUAM EDUCATION POLICY BOARD; TO AMEND §3121 OF CHAPTER 3, ARTICLE 1 OF TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO MANDATING THE INCLUSION OF SPENDING PRIORITIES FOR THE GUAM PUBLIC SCHOOL SYSTEM'S FISCAL YEAR BUDGET; THIS ACT SHALL BE KNOWN AS THE "*STUDENT'S FIRST ACT*".

**BILL NO. 18 (LS), SEN. JUDI WON PAT:** AN ACT TO ADD, SECTION 3125, ARTICLE 1, CHAPTER 3, DIVISION 2, TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO THE BASIC OBJECTIVES OF AN ADEQUATE PUBLIC EDUCATIONAL SYSTEM.

**BILL NO. 1 (LS), SEN. ROBERT KLITZKIE:** AN ACT TO ADD NEW ITEMS 11, 12, 13, AND 14, TO 1GCA §715; TO AMEND 5 GCA §1302; TO AMEND 5 GCA §1303; TO AMEND 5GCA §3101; TO AMEND 5GCA §3107; TO AMEND GCA §4109; TO AMEND 5 GCA §22203; TO ADD NEW §1116 TO 19 GCA; TO ADD NEW §7116 TO 7 GCA; TO AMEND §11307 OF 7 GCA; TO ADD NEW §12108.1 TO 7 GCA; TO ADD NEW §26603.1 TO 7 GCA; TO AMEND 17 GCA § 3103 (j); TO AMEND 17 GCA §3112(a) 14; TO ADD NEW §3210 TO 17 GCA; TO ADD NEW § 15136 TO 20 GCA PART 4; TO ENACT EVERY CHILD IS ENTITLED TO AN ADEQUATE PUBLIC EDUCATION ACT

The public is invited to attend, persons with disabilities who require special accommodations, auxiliary aid or services are asked to call Sen. Kasperbauer at 475-5437 or email us at [lk4kids@ite.net](mailto:lk4kids@ite.net). Information regarding this ad may be obtained at [www.lk4kids.com](http://www.lk4kids.com). This ad paid for with government funds

## VII. PRESS CLIPPINGS

guampdn.com PACIFIC SUNDAY NEWS, January 2, 2005

### *Our View*

# Priorities

## Build new schools, further privatization, pass the Adequate Education Act

**O**ur elected officials always say that education is one of their top priorities, and some point to how much of the GovGuam budget goes toward education to help illustrate the point.

But to truly make education a priority calls for more than simply spending money. It requires spending it wisely so that all the bases are covered. It requires producing results rather than excuses. It requires the political courage to try new solutions to perennial problems. With the new year and a new Legislature and Guam Education Policy Board, our elected officials have the opportunity to show that education truly is one of their top priorities.

One of the things they can do in 2005 is to pass Sen. Robert Klitzkie's Bill 162, the Every Child is Entitled to an Adequate Education Act. The bill sets basic minimum standards for an "adequate education," which the Organic Act also orders that GovGuam provide. The legislation would add a measure of accountability that is currently lacking.

Furthering the measures to outsource and privatize non-education services is another priority issue for the year. Moving services such as food preparation and service, janitorial and maintenance work, and security services from the government purview to the private sector will allow the Department of Education to focus solely on providing a quality education to Guam's students. Privatization has also proven to be a more efficient and less costly way to provide the same level of service, if not better.

The overcrowding situation in many schools is only going to get worse if it's not addressed quickly. That's why it's imperative for elected officials to expedite the construction of new schools. Gov. Felix Camacho's plan to have the private sector build and maintain schools, and to have the leases paid by compact-impact funds, still seems like a very workable solution to the overcrowding problem.

Deliberating different plans for building schools is fine — if it's done quickly. The longer we put off taking action to get new schools built, the more our students and community will suffer.

# Republicans re-file bills ignored by past Legislature

By Mar-Vic Cagurangan  
Variety News Staff

TWO Republican senators have re-introduced several bills that were brought in but not taken up by the Democrat-led 27th Legislature. Most of the bills filed by the Sens. Bob Klitzkie and Larry Kasperbauer on the first day of the Republican dominated 28th Legislature's session on Monday were related to education and business.

Republicans, who complained that Democrats had swept several minority bills under the rug during the past Legislature, are hoping to get most of their bills passed this time now that their party is in charge. Klitzkie's Bill 1, titled Every Child is Entitled

to an Adequate Public Education Act of 2005, seeks to establish at least a minimal definition of an adequate education.

"The bill provides that resources of the whole government must first be directed toward providing an adequate public educational system. The legislation directs GovGuam agencies that are directly and indirectly involved in providing education to children, be responsible for providing an adequate public educational system," Klitzkie said.

Through Bill 12, Klitzkie also insists on transferring savings from his office, amounting to \$135,360, to the Public School Library Resources Funds.

He offered to transfer these savings when the 27th Legislature was discussing the 2005 budget bill, but his proposal didn't make it to the final budget law.

Three other bills filed by Klitzkie are as follows:

- Bill 13, titled the Educator Appreciation Act, which extends the functional equivalent of the Qualifying Certificate (The Educator's Qualifying Certificate and tax rebate, on a much smaller scale, to teachers.

- Bill 14, which proposes to allow government employees to participate in business opportunities by allowing them to bid on outsourcing contracts.

This bill was publicly heard

during the last Legislature, but didn't make it to the floor.

- Bill 15 allows the governor to reorganize the government through executive order.

Kasperbauer, chairman of the education committee, meanwhile, reintroduced a bill that prohibits the employment of offenders in government agencies and government contracted businesses frequented by children.

He also filed Bill 4, which appropriates \$4 million from the education facilities fund of the Department of Education for repair of air conditioning in public schools.

Kasperbauer also introduced the following bills:

- Bill 6, which proposes to regulate the sale of butane propane and other

- inhalants to minors;

- Bill 7, which sets the maximum student enrollment limits for school consolidations or mergers.

- Bill 8, which adds investment banking and security trading to the list of eligible activities for Qualifying Certificates;

- Bill 10, which would authorize a land exchange for the development of recreational facilities in Dededo; and

- Bill 11, which would exempt the wholesale of telecommunication services and off-island sales from Gross Receipt Taxes.

# Klitzkie introduces two measures on public education

By Trina A San Agustín  
Variety News Staff

JUST two days after being inaugurated for his second term, Sen. Robert Klitzkie went right to work by introducing a couple of measures to assist with the islands' educational system.

One of the measures, Bill #1, introduced on Monday would establish at least a minimal definition of an adequate education system. The bill name "The Every Child is entitled to an Adequate Public Education Act of 2005," sets guidelines for Guam public schools to provide adequate education.

Klitzkie's proposed legislation defines adequate education as "a system of public schools that provides an adequate public education to public school students."

Bill #1 also reads that in order to provide children with adequate education in Guam's public schools, the government of Guam must provide: a certified teacher for every classroom,

certified professional administrators, a certified guidance counselor for each school, a certified school health counselor for every school, properly ventilated classrooms with a sensible air temperature, a supply of potable water sufficient to provide each student a daily ration of drinking and washing water, a reliable source of electricity, proper sanitation including flushable toilets, clean restrooms, dining areas and classrooms.

The measure would also allow for adopted textbooks and workbooks to be issued to each public school student for the classes in which they are enrolled, libraries that are up to par with standards of the American Association of School Librarians (ASL) and have at each public school a certified librarian, a healthful, safe, sanitary learning environment and have at the least 180-instructional days in each school year with school years ending no later than

June 10 to allow for an adequate education.

According to the measure, "The legislature finds that the Organic Act requires the government of Guam to provide an adequate system of public education. The Organic Act Bill of Rights mandates compulsory education for children between six and 16. The interplay of these provisions creates a right to an adequate public education for children that is analogous to a constitutional civil right."

The measure would rename the Department of Education to the Guam Public School System effective Oct. 1 if signed into law by the governor. The measure would keep the Guam Education Policy Board in existence.

Another measure introduced by Klitzkie would create tax rebates to teachers for educator expenses and would enact the Educator Appreciation Act of 2005.

The measure states that teach-

ers spend their own money to purchase supplies they need for educating the islands public school students and although the expenses are deductible as unreimbursed business expenses for a teacher on their income tax return, the election of the standard deduction means that most teachers bore the entire cost of their purchases.

United States Congress in tax year 2002 recognized the predicament of teachers and allowed a deduction of \$250 from the adjusted gross income line in tax forms that allowed teachers and other educators to deduct these qualified expenses, even if the educator did not itemize the deductions on their tax return.

The measure recognizes that the \$250 tax deduction for educators may be sufficient in some areas however it is inadequate for many educators in the Guam Public School System.

The measure, if passed into Guam law, would allow educators to receive \$500 of personal

expenditures, which is over and above the \$250 deduction allowed by the Internal Revenue Code, according to Bill #13.

Klitzkie also introduced Bill #12 which would deappropriate \$135,360 of his office savings to be reappropriated into the Public School Library Resources Fund.

According to Klitzkie's site at [www.bobsoffice.org](http://www.bobsoffice.org), he began government service 31 years ago as a social studies and history teacher at George Washington High School. He got his Master's in Education at the UOG and went on to get his Juris Doctor, graduating Magna Cum Laude, from the University of New Mexico.

He describes himself as "recovering lawyer," having practiced on Guam from 1974 to 1985. From his site, "Bob retired from the position of Director of Education (when school started on time and the textbooks were ordered early) in February 1995 having guided the more than 4000 employee department for a year."

Pacific Daily News- January 21, 2005

## Bill aims to increase accountability in education

By Oyaol Ngirairiki

Pacific Daily News  
[ongirairiki@guampdn.com](mailto:ongirairiki@guampdn.com)

A public hearing will be held today on legislation that would allow parents to sue the government if certain materials and learning conditions are provided for in schools by the government and the Department of Education.

Now called Bill 1, Sen. Robert Klitzkie's bill defines adequate education that the government is required to provide children. According to the bill, parents can sue

### IF YOU GO

▲ Residents who wish to comment on Bill 1, The Every Child Is Entitled to an Adequate Public Education Act, can do so at a hearing scheduled for 2:30 p.m. today in the Legislature Building's Pub-

lic Hearing Room in Hagåtña.

### INSIDE

▲ Editorial: Show education is a top priority by testifying for Bill 1.

Page 32

the government for failure to provide their children with adequate education.

The bill states that "the act recognizes the civil right to an adequate education and gives school

children access to the courts to vindicate that right, with the parent of a child empowered to conduct litigation on behalf of the child."

Bill 1 is a resurrection of Bill 162, which was introduced on

Aug. 7, 2003, in the previous legislature, dominated by a Democratic majority.

The bill never made it through the legislative process, having been waylaid in then-Sen. Carmen Fernandez's Committee on Education.

Several Democratic senators in the previous Legislature, including Fernandez, had said that while they support Klitzkie's intent to ensure public school children are in classrooms that are cool and have textbooks and certified teachers among other needs, they felt the bill was too litigious.

*Our View*

# Support

## Show education is a top priority — give testimony for Bill 1

Today, this community has the opportunity to show our elected officials just how important education is to all of us. At 2:30 p.m., the Legislature's Education Committee will hold a public hearing for Bill 1, the Every Child is Entitled to an Adequate Public Education Act, at the Legislature's public hearing room.

This legislation, written by Sen. Robert Klitzkie and originally introduced during the 27th Guam Legislature, creates a definition of "adequate education," which the Organic Act orders the government of Guam to provide to public school students. It also would allow parents to file suit, on behalf of their children, against agencies and individuals in the government who fail to meet the standards of an adequate education, which are:

▲ Certified teachers, professional administrators, guidance counselors and health counselors.

▲ Properly ventilated classrooms, in which the air temperature is no greater than 78 degrees.

▲ A supply of potable water sufficient to provide each student a daily ration of drinking and washing water.

▲ A reliable source of electricity.

▲ Proper sanitation to include flushable toilets, clean restrooms, dining areas and classrooms.

▲ Adopted textbooks and workbooks issued to each public school student for the classes in which he or she is enrolled.

▲ Libraries, operated by certified librarians, that meet the standards of the American Association of School Librarians.

Many of these standards are so basic you would think they wouldn't have to be required by law. But the government has historically failed to provide some of these basics at the public schools. Bill 1 will finally instill some accountability into the system, which will go a long way toward providing each and every student in Guam public schools with the adequate education promised in the Organic Act.

We encourage everyone to get behind this bill and to express your support by testifying in favor of its passage.

### How to submit testimony

▲ Show up to the Legislature's Education Committee public hearing and speak your piece.

▲ E-mail written testimony to: lk4kids@ite.net

▲ Fax written testimony to: 475-2000

▲ Drop off written testimony at Sen. Larry Kasperbauer's office, located in Sinajana Shopping Mall, Suite 16B.





## VIII. WRITTEN TESTIMONIES

January 21, 2005

**Committee on Education and Community Development  
Senator Larry F. Kasperbauer, Chairman  
28<sup>th</sup> Guam Legislature**

**RE: Testimony in reference to Bill No. 1 – The Every Child is Entitled to an Adequate Public Education Act**

**Chairman Kasperbauer and committee members, my name is Monty McDowell and I'm the President of Advance Management Inc. and Pacific Technical Services Guam, Inc. I am also a proud alumnus of the University of Guam and an honorary graduate of John F. Kennedy High School.**

**I write this testimony for your committee in support of Bill No. 1 – The Every Child is Entitled to an Adequate Public Education Act.**

**As Section 3 of the Bill indicates, the Organic Act requires GovGuam to provide an adequate system of public education and the Organic Act Bill of Rights mandates compulsory education for children between ages of 6 and 16. In simple terms the children of Guam have a constitutional civil right to an education.**

**This act recognizes this civil right and protects this right by allowing our education system customers – the students, the children of Guam – the ability to access courts, through their parents, for legal relief when and/or if these civil rights are violated.**

**The definition of an adequate education is difficult at best but this Bill sets up some extremely simple parameters that I find to be basic building blocks that support the premise of a good education. Lets briefly look at these basic building blocks:**

- a) a certified teacher for every class in a ratio established by relevant collective bargaining agreements,
- b) certified professional administrators
- c) a certified guidance counselor for each school
- d) a certified school health counselor for every school
- e) properly ventilated classrooms in which the sensible air temperature is no greater than 78° F.,

- f) a supply of potable water sufficient to provide each student a daily ration of drinking and washing water,
- g) a reliable source of electricity
- h) proper sanitation to include flushable toilets, clean restrooms, dining areas and classrooms,
- i) adopted textbooks and workbooks issued to each public school student for the classes in which he or she is enrolled,
- j) libraries, which meet the standards of the American Association of School Librarians, at each school, operated by certified librarians
- k) a healthful, safe, sanitary learning environment
- l) at least 180 instructional days each school year with school years ending no later than June 10.
- m) regular, timely transportation to and from the school for his attendance area as established by 17 GCA §6102 for every child in accordance with policies adopted by the Education Policy Board.

**What simplex building blocks! Why, I wonder, do we actually need to legislate such basis adequate education criteria? We have failed year after year in meeting these objectives to the point that the Federal Department of Defense built their own schools and now the Department of Education has lost the military community as customers.**

**Bill 1 places education as a true GovGuam priority. Bill 1 places responsibility for fiscal commitments along with the necessary operational planning and management research with BBMR. Bill 1 further requires that the Department of Administration support a public education system as required by the Organic Act and that the Guam Public School System mission along with all executive branch officials, is to actually provide the “adequate public education system.”**

**Bill 1 is beautifully written to include the necessary aspects to get THERE! It has a section that requires many within the government to perform areas of responsibility to ensure DOE’s customers, our island’s children, receive an adequate public education. Sections of the Bill include:**

- **Program Execution**
- **Duties of the Director of Administration**
- **Exceptions to Central Account Act**
- **Guam Guam’s Waiver of Immunity from suit**

- **Public School students standing to sue**
- **Duties of the Superintendent**
- **Duties and Responsibilities of the Guam Education Policy Board**
- **and others**

**I applaud Senator Robert Klitzkie for thoroughly understanding what an adequate education is and with his legal expertise has crafted an excellent piece of legislation.**

**I urge you, the Committee on Education and all the members of the 28<sup>th</sup> Guam Legislature to support and pass Bill 1 into law expeditiously, the children of Guam certainly deserve much better than we've been providing this past decade.**

**Dangulu Na Si Yu'us Ma'ase,**



**Monty A. McDowell**

January 21, 2005

The Honorable Lawrence F. Kasperbauer  
Chair, Committee on Education  
28<sup>th</sup> Guam Legislature

RE: Support Bill 1 Adequate Public Education  
Testimony at it's public hearing

Dear Senator Kasperbauer:

My name is Mark "paps" Martinez and I served on Guam's School Board for over four (4) years (November 1994 to March, 1999). In the 27<sup>th</sup> Guam Legislature I testified in favor of Bill 162 a bill similar to this bill. Today I am in favor of Bill 1; An Act to provide an adequate public education to all school students on Guam.

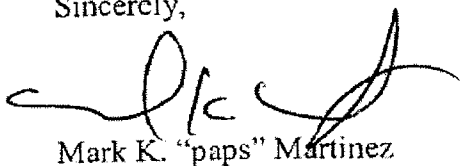
What really impressed bill about this bill is the way it is written compared to other laws or case law from other states I found out in doing research for today's hearing. For example, New Hampshire, Kentucky and Kansas all define what is meant by adequate public education. However, none of them have a definition as simple and clear as bill 1.

If we look at Guam's Organic act we find the following: 1) those between the ages of 6 and 16 are required to attend school; 2) our government must provide an adequate public educational system; and 3) the Legislature is required to appropriate funds to provide such education.

This Senator's is your only constitutional duty. Bill 1 simply says that in funding our government the first thing we always do is: make sure every student has a textbook and certified teacher for each class. Each school has a certified administrator, counselor, nurse and librarian. There will be a decent supply of water, power, sanitation and cool air in all schools.

Senators, this is not legislation, it is not bad legislation, it is not good legislation, nor is it great legislation. Rather this is HISTORIC LEGISLATION. For once we will have a legislature that truly places education as the top priority.

Sincerely,



Mark K. "paps" Martinez

Nerissa Bretania-Shafer, Ph.D.  
Testimony on Bill 1  
January 21, 2005

Good afternoon Senators. My name is Nerissa Bretania-Shafer, administrator of Research, Planning and Evaluation at Department of Education.

I want to express my support for the direction that Bill 1 will take the Department of Education in the future. For years, we have dealt with a number of problems and dismal conditions under which students learn and teachers deliver instruction. If we really were serious about education, we would not have to spend much time discussing cafeteria ratings and the needed maintenance of our facilities. Instead, we would be talking about changes in the curriculum and discussing instructional methods and services.

But we can't get there without addressing the problems that plague our facilities and the conditions that our children face every day. The time has come to put these problems aside so that educators can educate, parents can participate and, most importantly, children can learn. This can only happen when the stage for adequate education has been set. Bill 1 moves us in that direction.

By setting the standards for an adequate education, we can all agree that real education will have a chance. By setting the standards for adequate facilities and minimum conditions, we will be giving our children the opportunity to learn. The bill sets the stage for an adequate education in the clearest and most detailed manner possible. We all wish that it didn't have to come to this. But it has. To actually place these items into law seems like a failure of will and leadership by all of us. It is. But now is the time to really put education first. Now is the moment to put our children first.

Passing this legislation is tantamount to making education a constitutional or a legal right. We feel free to require attendance in schools until the age of 16. We feel free to require students to take certain courses in schools. We feel free to punish parents if they neglect to attend to their children's education. But we run away from responsibility when it comes to holding ourselves responsible for providing safe schools and minimum conditions for the children that attend under penalty of law. We need to restore the

Nerissa Bretania-Shafer, Ph.D.  
Testimony on Bill 1  
January 21, 2005

balance between responsibility and obligation for us as a community. We can do that only by ensuring that the schools are really places for learning and teaching. We can do that by passing Bill 1.

There are those who might say that Bill 1 will lead to excessive litigation or that the Government of Guam will simply ignore another mandate. I am not competent enough in legal affairs to respond to those criticisms. But, I do know that federal laws allowing parents of special education children to litigate on behalf of their children have improved those services dramatically. The right to litigate is based on the right to get educated. While there have been abuses of this litigation, most educators would acknowledge that the difference between special education today and 30 years ago is more than money. It is the sense of legitimacy to argue for better services, which special education parents feel today.

Bill 1 was introduced By Senator Klitzkie in 2004 as Bill 162. Public hearings were held and those who testified pointed to sections of the bill that were problematic. The original bill, for example, took away the financial services activities of the Department and placed them in the Department of Administration. This was a mistake. If we want to obligate the Department of Education to minimum standards and hold them responsible, then they must have the authority to carry out certain functions. The two that come to mind are personnel and financial resources. Absent the ability to manage those functions, there can be no real executive leadership. We will simply start a new round of finger pointing.

Senator Bob Klitzkie, addressed the public comments relative to Bill 162 and drafted a substitute bill, which was forwarded to the Committee on Education. Unfortunately, Senators of the 27th Guam Legislature were never given the opportunity to vote on Bill 162.

Nerissa Bretania-Shafer, Ph.D.  
Testimony on Bill 1  
January 21, 2005

I hope that the committee on education and legislative leadership will at least provide our senators the opportunity to debate the merits of Bill 1 by placing it on the next legislative session agenda. Every child is entitled to an adequate education.

I congratulate the sponsor of this bill, Senator Bob Klitzkie and the efforts he has made to craft a bill that clearly defines the minimum standards for providing Guam's children and adequate education. I congratulate Senator Klitzkie for his perseverance.

Sincerely,



NERISSA BRETANIA-SHAFER, Ph.D.

P.O. Box 3159

Hagatna, Guam 96932

Phone: 565-5834 (h)

Email: [nerissa\\_shafer@yahoo.com](mailto:nerissa_shafer@yahoo.com)

[nshafer@doc.edu.gu](mailto:nshafer@doc.edu.gu)



## University of Guam - Learning Resources

Senator Larry F. Kasperbauer  
Chairman, Committee on Education and Housing  
155 Hester Place  
Hatagna, Guam 96910

January 18, 2005

Re: Bill 1

Dear Senator Kasperbauer,

As a past President of the Guam Library Association and also an Academic Librarian at UOG, I am writing this letter in strong support of Bill 1, an initiative that clearly demonstrates and insists that education is a number one priority on Guam. This Bill, introduced by Senators R. Klitzkie, M. Forbes, L. Kasperbauer, J.M.S. Brown, J.A. Lujan, R. Tenorio, E.B. Calvo, A.R. Unpinco and M. Cruz is what this community has been crying for, a mandate that would deliver the core basics for our children in terms of fundamental entitlements as a student citizen.

Bill 1 relating to education is not extraordinary or elaborate. In terms of school library services, this Bill calls for basics, the adoption of the American Association of School Librarian's standards, that each school shall have a library, operated by a certified librarian. The education professionals acknowledge that a well run library has extensive impact on reading skills, academic accomplishment, and the developing of curious minds that in turn ultimately enrich the entire community. By having access to current and appropriate materials, both teachers with curriculum support and students alike will benefit. We are talking about "life long skills" and "life altering skills", where the ability for information access is essential. Its actually quite simple. You can't do the job without the tools. School libraries and certified librarians are the tool kits for an acceptably educated community. Bill 1 offers this opportunity, we all deserve it.

Respectfully,

Suzanne T. Bell  
Government Documents Librarian

See attached: American Library Association Resolution (passed June 2003)



## ALA Resolution

# School Libraries and Librarians are Critical to Educational Success

WHEREAS, Throughout the United States school librarians and library support staff are being eliminated as a cost saving measure to school districts that face diminishing funding; and

WHEREAS, Numerous research studies conducted in the states of Alaska, Colorado, Iowa, Kentucky, Massachusetts, Michigan, New Mexico, Oregon, Pennsylvania, and Texas have shown a high correlation between exemplary school library programs led by a certified school librarian and student achievement on state standardized tests; and

WHEREAS, School librarians instruct students and provide the school community on going experiences in accessing, evaluating, and utilizing information sources; and

WHEREAS, NCREL's (North Central Regional Educational Laboratory) EnGauge document, 21st Century Skills: Digital Literacies for a Digital Age, states these literacies include Reading Literacy, Technology Literacy, and Information Literacy, which are skills taught and supported by school library programs and personnel; and

WHEREAS, The No Child Left Behind legislation regarding "Reading First" states that school districts provide "instruction based on scientifically based reading research that includes the essential components of reading instruction" will require a library professional whose job it is to keep current with new materials for children and make appropriate selections based on critical reviews by previewing for age appropriateness and fitting the curriculum needs and interests of students; and

WHEREAS, School librarians collaborate with teachers for optimal instructional design to improve student achievement, now, therefore, be it

RESOLVED, That the American Library Association Council directs its President and Executive Director to convey to Governors, State Boards of Education, National Association of School Administrators, Chief State School Officers, National Association of Independent Schools, National Council of PTA, National Educational Association, American Federation of Teachers, and National Association of School Boards of Education the urgent need to support and maintain school library programs and certified school librarians and encourage them to pass this concern along to their state affiliates; and, be it

further

RESOLVED, That the ALA President and Executive Director encourage state associations to influence state legislation requiring adequate funding and appropriate staff of school libraries in schools at all levels; and, be it further

RESOLVED, That the ALA Executive Director arrange a process to support ALA members to advocate for school libraries and librarians.

Adopted by the  
Council of the American Library Association  
Sunday, June 22, 2003  
Toronto, Canada

Keith Michael Fiels  
Secretary to the ALA Council

**AMERICAN LIBRARY ASSOCIATION**

**F.K. MEMORIAL LIBRARY**  
UOG Station, Mangilao, Guam 96923  
Telephone: (671) 735-2331/2332 \*Fax: (671) 734-6882  
A Land Grant Institution Accredited by the Western Association of Schools and Colleges  
UOG is an equal opportunity employer and provider.

## Larry F. Kasperbauer

---

**From:** "Oliver W. Shilling" <pete@pacificindemnity.com>  
**To:** <k4kids@ite.net>; <bob@bobsoffice.org>  
**Sent:** Tuesday, January 18, 2005 8:36 AM  
**Subject:** Bill 1

Dear Senator Kasperbauer,

As the General Manager of a small business I am personally aware, through the hiring function, of how our public school system is failing to provide our students with an adequate education. Too many high school graduates applying for jobs can not complete a job application. Too many job applicants have very poor oral and written communication skills. Too many job applicants lack the ability to organize work and follow instruction.

These are basic skills acquired through 12 years of education that all public high school graduates should have. Unfortunately far too many Guam public high school graduates do not.

On the other hand, private high school graduates in general have these skills and much more. What accounts for the difference between students graduating from public high schools and graduating from private high schools? I believe much of the difference can be found in the term "accountability".

Accountability rests with parents, school administrators, teachers and students. Any weak link in the chain will lead to students not acquiring the education they deserve.

Bill 1 is an attempt to bring a greater sense of accountability within the public school system. It will make all aspects of Guam's government accountable for seeing to it that students have the tools they need to acquire an adequate education. I hope that you will join Senator Klitzkie in supporting Bill 1.

Sincerely,  
Oliver (Pete) Shilling

Joseph P. Claveria  
142 Chafo Court  
Santa Rita, GU 96915

17

January 21, 2005

Senator Larry F. Kasperbauer  
Chairperson, Committee on Education and  
Community Development  
28<sup>th</sup> Guam Legislature

**Re: Support of Bill No. 17 (Students First Act)**

Dear Chairperson Kasperbauer:

I would like to take this opportunity to express to the Committee of my support in Bill No. 17, introduced by Senator Ray Tenorio.

The main reason of my support is that it provides for greater participation and accountability to the people of the Territory. I commend Senator Tenorio for his effort.

Additionally, the Bill hits home for me since I currently have two children attending OceanView Middle School in Agat.

I greatly will appreciate the Committee's kind and favorable consideration along with the entire legislative body on Bill No. 1.

Sincerely,



Joseph P. Claveria

**Larry F. Kasperbauer**

---

**From:** "Philip Isaac" <bticry10@hotmail.com>  
**To:** <lk4kids@ite.net>  
**Cc:** <bob@bobsoffice.org>  
**Sent:** Tuesday, January 18, 2005 9:20 AM  
**Subject:** Bill 1

Gentlemen:

While I applaud the goals and purposes of Bill 1, I cannot support it until and unless it includes enforcement teeth presently lacking. It is simply unrealistic to expect parents or guardians acting individually to go through the enforcement process provided in the Bill. I would add provision and funding for a Student Advocate similar to the Patient Advocacy system provided under federal law for persons with disabilities administered locally by Guam Legal Services Corporation. Otherwise you are deluding yourselves and the public.

Regards,

Philip Isaac

Page 1 of 1

**Larry F. Kasperbauer**

---

**From:** "Richard Pipes" <pipeslaw@guam.net>  
**To:** <lk4kids@ite.net>  
**Cc:** <bob@bobsoffice.org>  
**Sent:** Tuesday, January 18, 2005 8:55 AM  
**Subject:** Bill No. 1

I support Bill No. 1 and ask that it be reported favorably to the floor for voting as soon as possible. Please accept this statement as testimony in support of Bill No. 1.  
Richard Pipes

Ron McNinch, PhD, SPHR  
PO Box 5224  
Mangilao, Guam 96923

21 January 2005

Letter of Support for Bill 1

Dear Senators,

I am pleased to write this letter of support for Bill 1, the "Every Child Is Entitled To An Adequate Public Education Act." I believe that this bill will improve our public education system.

I have a number of basic comments or views that I would like to share. First are a set of fallacies that have sprung up around this bill.

Fallacy I: This bill is common sense so it is not needed.

Response: If these items were common sense, then why aren't our children learning in safe, clean, and adequate conditions?

Fallacy II: This bill will create a litigation backlog for DOE and the courts.

Response: Anyone familiar with litigation knows that there are a number of potentially very public steps that a complaint would go through prior to filing with a court. In effect, this law creates a window defining and framing the issues. Further, it may bring items to light that may require additional community or legislative effort.

Fallacy III: The Education Policy Board should promulgate this type of policy.

Response: If that were the case, the board would have acted long ago. In effect, this law creates a set of mandates for the board.

I have one other item in that might be included. In the area of teacher and librarian certifications, more flexible language might be used to address ~~personnel~~ bona fide personnel shortages in these areas.

Sincerely,

  
Ron McNinch



Juan P. Flores  
Superintendent

## GUAM DEPARTMENT OF EDUCATION

P.O. Box DE  
Hagatna, Guam 96932  
Telephone: 671-475-0462  
FAX: 671-472-5003  
[juanpflores@doe.edu.gu](mailto:juanpflores@doe.edu.gu)  
[www.doe.edu.gu](http://www.doe.edu.gu)



### **Testimony on Bill No. 1, Mina' Bente Ocho Na Liheslaturan Guahan** **Juan P. Flores** **Superintendent of Education** **January 21, 2005**

**Buenas yan hafa Adai!**

I am here before you this afternoon to support the passage of Bill No. 1 of the First Regular Session of the Mina' Bente Ocho Na Liheslaturan Guahan. This bill calls for enacting the "Every Child Is Entitled to an Adequate Public Education Act." I am in support of the passage of the bill because it starts to define the mandate from the Organic Act for the Government of Guam to provide an adequate public education, it provides a set of minimum standards by which the Government of Guam can address the needs of the schools, and it puts the education of our students in front of all Government of Guam officials when addressing the availability and use of resources.

Bill No. 1 begins to clarify what we as a people define as an adequate public education. Bill No. 1 articulates the physical conditions and the necessary personnel that must be provided by the government in order to facilitate effective and efficient teaching and learning from kindergarten to twelfth grade classrooms. Bill No. 1 highlights conditions that professional educators expect in designing effective lessons, supporting creative thinking, and encouraging responsible behavior in schools.

The people of Guam should not be satisfied with what is adequate, but first must identify and put in place minimal expectations of the government. The enactment of this bill should be the first increment in planning for a world-class education system on Guam. As I have expressed in the past, the Guam Department of Education will become the premiere education system in the Pacific. It will be to this system that others will look when they want to know what it takes to address the needs of a diverse population; how to establish, address, and meet national standards for learning; and how to prepare students for life in the 21<sup>st</sup> century while they enrich their lives with cultural norms set all around them.

Bill No. 1 should be passed and signed into law so that all Government of Guam officials know and understand the needs of the schools in supporting good teaching and learning. The government officials should know and understand what physical conditions are necessary, the number and level of expertise of the personnel involved in and out of the classroom, and the extent to which conditions in the schools serve our students regardless of their cultural backgrounds, economic status, or religious beliefs.

When enacted, Bill No. 1 will provide clear guidelines and standards for performance when evaluations are conducted to determine whether or not the government is providing the education our students are entitled to. The bill will provide families and students the opportunity to formally raise concerns about the government's attention to the education of each and every child and young adult on the island.

On a daily basis, the Government of Guam faces concerns regarding the allocation of resources to carry out the mandates of the Organic Act. Bill No. 1 is a contract with over 30,000 students and their families and clearly designates the legal system as a way to hold the government accountable for an adequate public education. It makes it imperative that the government provide adequate resources to support the education system.

The passage and signing of Bill No. 1 will require resources. It will require approximately five million dollars (\$5M) to make sure that all learning environments will be properly ventilated and in which the sensible air temperature will be no greater than 78 degrees Fahrenheit. It will require approximately fifteen million dollars (\$15M) to ensure that there is proper sanitation of all school facilities and that all facilities meet the minimal public health and OSHA expectations. That figure will also ensure that "all learning environments are healthful, safe, and sanitary." And it will take approximately one and a half million dollars (\$1.5M) to make sure that all current teachers, administrators, guidance counselors, and school health counselors are fully certified in the areas in which they serve. This figure includes a modest amount for the recruitment and relocation of professionals who can be hired from off-island locations. This figure does not include what it will take to retain current professionals who regularly consider other opportunities because of the low salaries in our Government of Guam schools.

Bill No. 1 forces us to think about the availability of resources in the past, the challenges of today, and the opportunities for tomorrow. It makes us mindful of the obligation of the Government of Guam to abide by the expectations of the Organic Act and to set an agenda for meaningful changes in the conditions of our schools. I encourage its enactment as law for the good of over 30,000 public school students.

**Si' Yu'os Ma'ase.**



*Office of the Governor of Guam*

P.O. Box 2950 Hagåtña, Guam 96932  
TEL: (671) 472-8931 • FAX: (671) 477-4826 • EMAIL: governor@mail.gov.gu

JAN 26 2005

Senator Robert Klitzkie  
Chairman, Committee on Judiciary,  
Governmental Operations & Reorganization  
Mina 'Bente Ocho Na Liheslaturan Guahan  
197 Hernan Cortes  
Hagåtña, Guam 96910

Dear Senator Klitzkie:

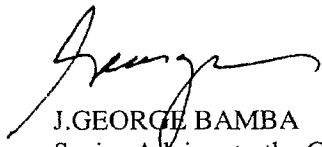
I want to thank you for your continuing interest and concern to ensure that our children receive the best quality education that our government can provide. I can assure you that this Administration shares your concern and is firmly committed to achieving the same goal.

As per our discussion, this is to confirm that our Legislative Review Committee designated the Department of Education to present the Administration's position on your Bill No. 1. The testimony submitted by the Department of Education is the position of the Legislative Review Committee. Should you have any questions or need further clarification, please do not hesitate to call me.

Again, this Administration looks forward to working cooperatively with you on this and other important issues now facing the people of Guam.

With my best personal regards,

Sincerely,



J. GEORGE BAMBA  
Senior Advisor to the Governor

DOUGLAS B. MOYLAN  
ATTORNEY GENERAL



CHARLES H. TROUTMAN  
CONSUMER COUNSEL

## OFFICE OF THE ATTORNEY GENERAL

---

January 21, 2005

Honorable Lawrence F. Kasperbauer, Ph.D.  
Chairman  
Committee on Education & Community Development  
28<sup>th</sup> Guam Legislature  
Hagåtña, Guam

Dear Mr. Chairman,

Today, I wish to oppose Bill No 1, "Every Child is Entitled to An Adequate Public Education Act", for a number of reasons. Generally, this Bill has the potential of causing chaos in most of the government and, in turn, to the people of Guam. It delegates powers where such delegation is not allowed under the Organic Act and it attempts to do indirectly what this Legislature can and should do directly. Such a measure as this may work in jurisdictions such as 49 of the states, where local public education is basically an independent local matter, with operating funds coming from, primarily local taxes, and where the School Boards have authority appropriate and spend. There is may be reasonable for a state to provide a means for enforcement of statewide standards upon the local school districts.

Such is not the case on Guam. Here the final authority for policy and appropriation is the Legislature. Therefore, if the Legislature wishes the standards of this Bill to be put into effect and only it can provide the resources and amend the laws to make such things practical – such as speeding up procurement. This Bill defuses educational authority to the point that it is hard to see just who has the responsibility for adequate education — it certainly would not be the Legislature. Actually, the new Educational Policy Board would be the Superior and Supreme Courts. Such an overall delegation of legislative and executive authority has never worked except for certain pinpoint remedies. Such broad delegations have never worked.

I recognize that the Organic Act does require that the government provide an adequate public education, but, as other cases have said, such provisions must be read in light of the rest of the Act, including the separation of powers and an implied orderly form of government by law, not by a race to the courthouse. This Bill would make actual educational policy by who gets to the Superior Court first. Does the fact that a hot Southern High School student gets an order first put at a disadvantage

an other school which, by direction of the first court, become overcrowded? What about the reverse? Is this how you want to solve educational priorities?

**Specific observations —**

Section 1 – This, I believe, is an incorrect statement of the government's responsibilities. The Organic Act establishes a complete government, one responsible for education and public health (same section), and public safety and responsibility to care for the lands given to the government by the United States., and, other responsibilities as well. Are we to sacrifice all of these for one, albeit, important job? I hope not.

Section 4 - Item 11 — This section is circular. An adequate education is an adequate education. What effect does this have? Perhaps you should refer the term to the definitions that follow.

Section 4 Item - 12 — It is an unlawful delegation of power to delegate to a contract between the executive and a private group, the union, the power to determine a "civil right" not only now, but as may be defined in the future. Courts have held that an outside body, even the federal government, cannot be given the power to have a federal list applied automatically to a state when that federal list (controlled substances) changes. The Legislature cannot give to the union and the Guam School System the right to create a changing civil right.

There are too many specifics here. what will the courts do if air conditioning cannot maintain 78 degrees? Create overcrowding elsewhere? Give students a vacation? The courts are the wrong body to determine this policy.

How are the courts to require reliable power, particularly after a storm when even they do not have GPA power? Order the generators from the wells to the schools? With the priorities mandated in this bill, this is not a far fetched idea.

What will the courts do if, because of unforeseen problems, 180 days cannot be held before June 10<sup>th</sup>?

Section 6. This amendment to 5 GCA §1303 is possibly the most dangerous part of this bill. Considering our cash flow, it is easy to foresee a government-wide shutdown every quart or allotment period while cash os withheld to everyone until the school system is satisfied. You need to amend the laws relating to furloughs and lay-offs. Will we have periods of no police, no fire protection, no Public Health, no criminal prosecutions, vendors refusing to supply the government more than they now do?

Section 8 – You need simply to formally repeal 5 GCA §3107, as it has been repealed by implication and most of what is added here is in 17 GCA Chapter 3, including appointment of the Superintendent, a title which replaced "Director". Anything more should be added to 17 GCA Chapter 3.

Section 9 – §4109(a) — In reality, you are creating a dual governorship here, despite the Organic Act. Some states provide such separation inl their constitution, for instance, Michigan. But Section 29 (b) only said that the "government" controlled education, not just the "Governor". But the "government's" duties are stated elsewhere in the Organic Act, and nowhere does it permit four or more branches of Government.

Testimony - Bill No. 1  
January 21, 2005  
Page 3

Section 9 - §4109(c)(3) — If BBMR has the responsibility to support an adequate education, why can it not exercise due diligence in managing funds? Are there never any lapses in DOE accounts? Are appropriations to DOE always less than are needed for a given project?

Because of these problems, I strongly urge that Bill No. 1 not be passed in this form or in any other. There are many needed legislative reforms for DOE than could be had, and the Legislature, not the courts are responsible for the. I look forward to supporting some substantive reforms, such as making procurement more practical and, of course, adequate resources given to that Department and System, but not at the sacrifice of the rest of the critical parts of this Government. I suggest, first, expanding upon Bill 17 and give the Board clear direction as to some of the standards that are placed in this Bill. Make certain the direction of the School System before, if ever, leaving such policy matters to the courts.

Sincerely yours,

*Charles H. Troutman*  
CHARLES H. TROUTMAN  
Deputy Attorney General and  
Consumer Counsel

DOUGLAS B. MOYLAN  
ATTORNEY GENERAL



CHARLES H. TROUTMAN  
CONSUMER COUNSEL

## OFFICE OF THE ATTORNEY GENERAL

---

January 24, 2005

Honorable Lawrence F. Kasperbauer, Ph.D.  
Chairman  
Committee on Education & Community Development  
28<sup>th</sup> Guam Legislature  
Hagåtña, Guam

Dear Mr. Chairman,

Following Friday's Public Hearing, and after I listened to the testimonies from education officials, I wish to add and, perhaps, modify, my testimony made at that same hearing.

The standards for an "adequate education" are a good idea, but only if those responsible for them are spelled out. Thus, they should first be applied to the Public School System, and to Public Works. In this way both agencies will know how to prioritize their respective budget requests. If the standards are not directed to a specific agency, then the finger-pointing so feared by some to the Bill's sponsors will become more rampant than now.

The Legislature needs to clearly reserve to itself the right of appropriation over all of the government (except for those items excluded, such as federal funds, in the Organic Act) and make it clear that this Bill does not override any of the annual budgets made by the Legislature, or other appropriations made by it. Otherwise, planning will suffer, as will accountability.

If the Superintendent of the Guam Public School System can live with an IDEA-type of judicial review, then the federal procedure, **including the administrative procedure preliminary to bringing suit**, should be made a part of the law so as to give the courts and the government guidance. Coupled with standards in place applying to each agency involved, then such a litigation procedure would not be an unlawful delegation of Legislative powers.

Finally, there needs to be some protection against multiple suits for the same problem. Such as many individual students suing over the temperature at Southern High.

with these modifications, I could support this Bill.  
Sincerely yours,

*Charles H. Troutman*

Deputy Attorney General

CHARLES H. TROUTMAN

DOUGLAS B. MOYLAN  
ATTORNEY GENERAL



CHARLES H. TROUTMAN  
CONSUMER COUNSEL

## OFFICE OF THE ATTORNEY GENERAL

---

April 18, 2005

Senator Robert Klitzkie  
Committee on Judiciary, Governmental Operations,  
& Reorganization  
28<sup>th</sup> Guam Legislature  
Hagåtña, Guam

Re: Bill No. 1 (Substitute)

Dear Senator Klitzkie,

I have read your substitute Bill 1, and you have taken off the hard edges that I thought could cause so much trouble. I think it will work. However, since it is legislation, the next legislature can alter priorities at any time, as can this one. I still wonder what will happen when we are faced with, say, keeping water in the South or air conditioning a school? Or, getting needed drugs for the hospital or funding school books?

Sincerely yours,

*Charles H. Troutman*

CHARLES H. TROUTMAN  
Deputy Attorney General

**From:** Matt Rector [mrector@gftunion.com]  
**Sent:** Friday, January 28, 2005 4:11 PM  
**To:** Lawrence F. Kasperbauer  
**Cc:** imendiola; bob@bobsoffice.org; Judith WonPat  
**Subject:** GFT's Testimony on Bills 1,3,7,17,18

January 28, 2005

Senator L. F. Kasperbauer  
Chairperson, Committee on Education &  
Community Development (CECD)  
Suite 16A & B Sinajana Shopping Mall  
Sinajana, Guam 96926

RE: Testimony for Public Hearing January 21, 2005

Dear Senator Kasperbauer;

This letter is to serve as the written testimony of the Guam Federation of Teachers for the bills to be heard today during the public hearing. GFT would like to applaud the efforts of our new Republican legislature to ensure a cooperative environment with bills from both sides of the aisle receiving prompt public hearings.

GFT has the following comments after reviewing the bill for today's public hearing:

**Bill No. 1 (LS)** – "To Enact Every Child Is Entitled To An Adequate Public Education Act."

GFT applauds the author's intent and encourages any attempt by the Guam legislature to move in a direction of greater accountability for DOE. The author's efforts to define an adequate education will finally give our members and the island's children some guidelines previously only provided for in the DOE teachers contract. Guidelines that GFT has fought for over the years.

GFT suggests that sections 15 and 16 should be modified to include interim dispute resolution measures with solid deadlines to attempt to resolve issues outside of a legal forum first. This system could be set up to force officials to resolve issues through mandatory binding arbitration in matters related to this bill and in the area of employee grievances. This mandatory

binding arbitration should allow for an appeal to be taken to court.

It is unfortunate that it appears necessary to move our island in the direction of more litigation to resolve the current state of affairs at DOE. A current state of affairs that does not give our children and DOE employees the educational environment they deserve. GFT can only speculate that this new legislation as written will not be an inexpensive attempt to resolve issues. Provided the bill includes the use of measures such as mandatory arbitration for employees and children, we may be able to work together to resolve issues and not simply find new ways to litigate.

**Bill No. 3 (LS)** - An Act To Add A New Article 5 To Chapter 18 Of Title 17, Guam Code Annotated Relative To Educator Recertification.

This bill provides much need assistance to educators in the area of recertification and GFT fully supports this legislation. However, the GFT does echo the sentiments of GCC and UOG in stating funding for the classes should be found and that these institutions should not be burdened with the tuition free provisions in the legislation. Further, in saying this GFT would like to suggest the addition of the following language:

§18503. **Structured Curriculum Option: Approval of Course Listing.** The allowable courses for each teaching class or teaching specialty shall be approved by the Dr. Antonio C. Yamashita Educator Corps Council. The educator must meet the admission prerequisite requirements for such courses. The Dr. Antonio C. Yamashita Educator Corps. Council will allow and give favorable consideration for approval to any course taught by the Guam Federation of Teachers for the purposes herein.

**Bill No. 7 (LS)** - An Act To Amend §7113 Of Chapter 7, Title 17, Guam Code Annotated Relative To Setting Maximum Student Enrollment Limits For School Consolidations Or Mergers.

GFT agrees with the intent of the author of the bill in his effort to insure a comfortable environment for all students. GFT suggests the following additional language to add at the end:

"No school shall be designed and constructed with classrooms that can not provide for adequate ventilation for students comfort in the event of the failure of the air-conditioning system. The design should also include provisions for backup power and water supplies in the event of a system failure."

**Bill No. 17 (LS)** - An Act To Add A New §§(16) To §3112(A) Of Chapter 3, Article 1 Of Title 17, Guam Code Annotated, Relative To The Duties And Responsibilities Of The Guam Education Policy Board;



To Amend §3121 Of Chapter 3, Article 1 Of Title 17, Guam Code Annotated, Relative To Mandating The Inclusion Of Spending Priorities For The Guam Public School Systems; Fiscal Year Budget; This Act Shall Be Known As The "Students First Act".

GFT would like to commend Senator Tenorio on this effort to insure the children and classroom teachers of Guam are given top budgetary priority. Nothing is more important to the learning process than those items that directly impact teaching and learning.

**Bill No. 18 (LS)** - An Act To Add, Section 3125, Article 1, Chapter 3, Division 2, Title 17, Guam Code Annotated, Relative To The Basic Objectives Of An Adequate Public Educational System.

GFT appreciates Senator Won Pat's effort to give a basic definition to adequate public education. Perhaps some of her definition can be incorporated into Bill 1. In particular GFT supports her effort to include language that states that personnel should be developed and retained. It is apparent that she understands the importance of cultivating talent. That any successful school system must have adequate compensation and positive working conditions to insure the long term retention of quality personnel.

Thank You for the opportunity to submit this testimony today. Please do not hesitate to call me with any questions or concerns.

Regards,

Matt Rector,  
GFT President  
AFT Local 1581, AFL-CIO

**MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN**  
**2005 (FIRST) Regular Session**

Bill No. 1 <sup>LS</sup>  
(COR)

Introduced by:

R. Klitzkie  
L.F. Kasperbauer  
Mark Forbes  
J.M.S. Brown  
J.A. Lujan  
Ray Tenorio  
E.B. Calvo  
A.R. Unpingco  
M. Cruz

**AN ACT TO ADD NEW ITEMS 11, 12, 13, AND 14, TO 1GCA §715; TO AMEND 5 GCA §1302; TO AMEND 5 GCA §1303; TO AMEND 5GCA §3101; TO AMEND 5 GCA §3107; TO AMEND GCA §4109; TO AMEND 5 GCA §22203; TO ADD NEW §1116 TO 19 GCA; TO ADD NEW §7116 TO 7 GCA; TO AMEND §11307 OF 7 GCA; TO ADD NEW §12108.1 to 7 GCA; TO ADD NEW §26603.1 to 7 GCA; TO AMEND 17 GCA § 3103 (j); TO AMEND 17 GCA §3112(a) 14; TO ADD NEW §3210 TO 17 GCA; TO ADD NEW §15136 TO 20 GCA PART 4; TO ENACT EVERY CHILD IS ENTITLED TO AN ADEQUATE PUBLIC EDUCATION ACT**

**BE IT ENACTED BY THE PEOPLE OF GUAM:**

**Table of Contents**

- 1 Section 1. Short title.
- 2 Section 2. Declaration of Policy.
- 3 Section 3. Statement of legislative findings and purpose.
- 4 Section 4. Adds new items 11, 12, 13, and 14 to 1 GCA §715, Definitions.
- 5 Section 5. Amends 5 GCA §1302, Duties and Responsibilities of BBMR.
- 6 Section 6. Amends 5 GCA §1303, Management of Allotments.
- 7 Section 7. Amends 5GCA §3101, Department of Administration.
- 8 Section 8. Amends 5 GCA §3107, Guam Public School System.
- 9 Section 9. Amends 5 GCA §4109, Program Execution.
- 10 Section 10. Amends 5 GCA §22203, Duties of Director of Administration.
- 11 Section 11. Adds new §7116 to 7 GCA, Expedited Schedule of Discovery.
- 12 Section 12. Amends §11307 of 7 GCA, Limitation of Actions.
- 13 Section 13. Adds new §12108.1 to 7 GCA, Standing to Sue.
- 14 Section 14. Adds new section 26603.1 to 7 GCA, Attorney's fees.
- 15 Section 15. Amends §1116 of 19 GCA, Minors May Sue.
- 16 Section 16. Adds new section 26603.1 to 7 GCA, Attorney's fees.
- 17 Section 17. Amends 17 GCA § 3103 (j), Duties of the Superintendent.
- 18 Section 18. Amends 17 GCA §3112(a) 14, Duties and Responsibilities of the Guam
- 19 Education Policy Board.

1 Section 19. Adds new §3210 to 17 GCA, Construction with Other Laws.

2 Section 20. Transitional provisions and effective dates.

3 Section 21. Adds new §15136 is added to 20 GCA part 4, Every child entitled to an  
4 adequate public education.

5  
6 **Section 1. Short title. This act may be cited as the Every Child is Entitled to  
7 an Adequate Public Education Act.**

8 **Section 2. Declaration of Policy.** *I Liheslaturan* declares that the education of  
9 our children is the top priority of our government. The resources of the government must  
10 first be directed toward providing an adequate public educational system.

11 **Section 3. Statement of legislative findings and purpose.** The legislature finds  
12 that the Organic Act requires the government of Guam to provide an adequate system of  
13 public education. The Organic Act Bill of Rights mandates compulsory education for  
14 children between six (6) and sixteen (16). The interplay of these provisions creates a right  
15 to an adequate public education for children that is analogous to a constitutional civil  
16 right.

17 This act recognizes that civil right and gives school children access to the courts  
18 to vindicate that right with the parent of a child empowered to conduct litigation on  
19 behalf of the child.

20 While the term adequate public education is not easily defined, the legislature  
21 finds that a working definition dealing with the physical aspects of the educational  
22 process is necessary to secure and protect at least the minimal right of children to an  
23 adequate education and to the end has defined that term.

24 Since the Organic Act assigns the responsibility of providing an adequate public  
25 educational system to the entire government and all government officials, the scope of the  
26 act is government-wide.

27 **Section 4. Definitions. New items 11, 12, 13, and 14 are added to 1 GCA §715  
28 to read:**

29 Words and Terms Defined: Significance of Words.

30 11. *Adequate public educational system* means a system of public schools that  
31 provides an adequate public education to public school students.

32 12. *Adequate public education* means public schools which at the minimum  
33 provide:

- 1 a) a certified teacher for every class in a ratio established by relevant  
2 collective bargaining agreements,  
3 b) certified professional administrators  
4 c) a certified guidance counselor for each school  
5 d) a certified school health counselor for every school  
6 e) properly ventilated classrooms in which the sensible air temperature is  
7 no greater than 78° F.,  
8 f) a supply of potable water sufficient to provide each student a daily  
9 ration of drinking and washing water,  
10 g) a reliable source of electricity  
11 h) proper sanitation to include flushable toilets, clean restrooms, dining  
12 areas and classrooms,  
13 i) adopted textbooks and workbooks issued to each public school student  
14 for the classes in which he or she is enrolled,  
15 j) libraries, which meet the standards of the American Association of  
16 School Librarians, at each school, operated by certified librarians  
17 k) a healthful, safe, sanitary learning environment  
18 l) at least 180 instructional days each school year with school years  
19 ending no later than June 10.  
20 m) regular, timely transportation to and from the school for his attendance  
21 area as established by 17 GCA §6102 for every child in accordance with  
22 policies adopted by the Education Policy Board.

23 13. In 12., above, *certified* means that a person holds at least a Professional I  
24 certificate issued in accordance with standards at least as stringent as those in place on  
25 the day this act is effective, for the position he or she holds.

26 14. *Public school* means a facility established, maintained or operated pursuant  
27 §29(b) of the Organic Act, as amended.

28 15. *Public school student* means a child who is required to attend school by  
29 Section 1421b. (r) of the Organic Act or 17 GCA §6102 who is enrolled in a public  
30 school and has not been expelled.

31

1           **Section 5. Duties and Responsibilities of BBMR. 5 GCA §1302 is amended to**  
2 **read:**

3           § 1302. Duties and Responsibilities of the Bureau.

4           In addition to the duties and responsibilities prescribed for the Bureau by any  
5 other provision of law, the Bureau shall also have the following duties and  
6 responsibilities:

7           **(a)** Conduct necessary operational planning and management research and studies  
8 to ensure that effective planning and management methods are utilized by departments  
9 and agencies of the government of Guam and otherwise to ensure that each public school  
10 student receives an adequate public education;

11           **(b)** Subject to the approval of the Governor, prescribe a budget calendar for the  
12 guidance of all executive agencies and a system of quarterly allotments to insure that  
13 appropriations and non-appropriated funds are not exhausted beyond the fiscal period for  
14 which such appropriations and funds are made available; provided that such budget  
15 calendar and quarterly allotments are calculated so as to ensure that every public school  
16 student receives an adequate public education;

17           **(c)** To institute a system of form control; and

18           **(d)** Perform such other duties and responsibilities as may be prescribed by the  
19 Governor or by law.

20           **Section 6. 5 GCA §1303 is amended to read:**

21           § 1303. Management of Allotments.

22           In the release of monthly or quarterly allotments by the Bureau of Budget &  
23 Management Research from appropriation acts, the Director thereof shall base such  
24 allotments on anticipated cash receipts so that the obligations incurred pursuant to such  
25 release of periodic allotments shall have sufficient cash for their payment-, provided that  
26 no cash may be released until sufficient cash has been released to the Guam Public  
27 School System to provide an adequate public education to every public school student.

28           **Section 7. Department of Administration. 5GCA §3101 is amended to read:**

29           § 3101. Department of Administration.

30           There is within the Executive Branch of the government of Guam a Department  
31 of Administration. The Director of Administration is the head of the Department of

1 Administration. The Director of Administration is appointed by the Governor with the  
2 advice and consent of the Legislature. It is the duty of the Director of Administration to  
3 support an adequate public educational system as required by Section 29(b) of the  
4 Organic Act, as amended.

5 **Section 8. Guam Public School System. 5 GCA §3107 is amended to read:**

6 § 3107. ~~Department of Education.~~ Guam Public School System.

7 There is within the Executive Branch of the government of Guam a ~~Department~~  
8 ~~of Education.~~ Guam Public School System. ~~The Director of Education is head of the~~  
9 ~~Department of Education. The Director of Education is appointed by the Territorial~~  
10 ~~Board of Education with the approval of the Governor and with the advice and consent of~~  
11 ~~the Legislature.~~ It is the mission of the Guam Public School System and the duty of all  
12 public officials of the executive branch of the government of Guam to provide an  
13 adequate public educational system as required by Section 29(b) of the Organic Act, as  
14 amended, and to that end provide an adequate public education for all public school  
15 students as those terms are defined at 1 GCA §715.

16 **Section 9. Program Execution. 5 GCA §4109 is amended to read:**

17 § 4109. Program Execution.

18 (a) Except as limited by policy decisions of the Governor, appropriations by the  
19 Legislature, and other provisions of law, the territorial agencies shall have full authority  
20 for administering their program service assignments, and shall be responsible for their  
21 proper management-, provided that the governor's policy decisions shall not limit the  
22 authority of the Guam Public School System.

23 (b) Each territorial agency, (other than the Legislature and the courts), shall  
24 prepare an annual plan for the operation of each of its assigned programs. The operations  
25 plan shall be prepared in the form and content and be transmitted on the date prescribed  
26 by the Bureau of Budget and Management Research.

27 (c) The Bureau of Budget and Management Research shall:

28 (1) Review each operations plan to determine that it is consistent with the  
29 policy decisions of the Governor and appropriations by the Legislature, that it reflects  
30 proper planning and efficient management methods, that appropriations have been made  
31 for the planned purpose and will not be exhausted before the end of the fiscal year.

1 (2) Approve the operations plan if satisfied that it meets the requirements  
2 under Paragraph (1). Otherwise the Bureau of Budget and Management Research shall  
3 require revision of the operations plan in whole or in part.

4 (3) Modify or withhold the planned expenditures at any time during the  
5 appropriation period if the Bureau of Budget and Management Research finds that such  
6 expenditures are greater than those necessary to execute the programs at the level  
7 authorized by the Governor and the Legislature, or that the receipts and surpluses will be  
8 insufficient to meet the authorized expenditure levels, provided that no planned  
9 expenditures necessary to provide every public school student an adequate public  
10 education shall be modified or withheld.

11 (d) No territorial agency (except the Legislature and the courts), may increase the  
12 salaries of its employees, employ additional employees or expend money or incur any  
13 obligations except in accordance with law and with a properly approved operations plan.

14 (e) The Bureau of Budget and Management Research shall report quarterly to the  
15 Governor and the Legislature on the operations of each territorial agency, relating actual  
16 accomplishments to those planned, and modifying, if necessary, the operations plan of  
17 any agency for the balance of the fiscal year.

18 **Section 10. Duties of Director of Administration. 5 GCA §22203 is amended**  
19 **to read:**

20 § 22203. Duties of Director.

21 The Director shall, with due regard for the function of the specific agencies  
22 concerned, organize and operate the accounting system on a fund basis with a self-  
23 balancing set of accounts, recording cash and/or other resources together with all related  
24 liabilities, obligations, reserves and equities which are segregated for the purpose of  
25 carrying on specific activities or attaining certain objectives; establish an accounting  
26 system which provides budgetary control over general governmental revenues and  
27 expenditures; determine fairly and with full disclosure the financial position and results  
28 of financial operations; show that all applicable legal provisions have been complied  
29 with; establish various types of funds as are necessary and as required by law; shall  
30 account in the General Fund all financial transactions not properly accounted for in  
31 another fund; shall account in the Special Revenue Funds all proceeds of specific revenue

1 sources or to finance specific activities as required by law; shall account in the capital  
2 improvements funds all receipts and disbursements of monies used for the acquisition of  
3 capital facilities; shall account in other funds consistent with legal and operating  
4 requirements; classify accounts to insure compliance with budgetary provisions; provide  
5 a basis for financial and administrative control, furnish data required for financial  
6 statements and provide a basis for comparison with similar data for other periods, etc.;  
7 establish standards, procedures and techniques for a central accounting system; conduct a  
8 continuing review of all accounting operations to effect improvements in accordance with  
9 current accounting practices; establish standards for the preparation of financial  
10 statements and other reports as are necessary; maintain all Federal grant award funds  
11 including maintenance of encumbrance and expenditure; and obtain reports from all  
12 departments and agencies as are required for the effective administration of a central  
13 accounting system and take all actions necessary to ensure that an adequate public  
14 education is available to every public school student.

15 **Section 11. Expedited Schedule of Discovery. A new §7116 is added to**  
16 **7 GCA to read:**

17 § 7116. Expedited Schedule of Discovery.

18 At the first hearing before the Superior Court in any action brought under this  
19 Chapter, the court may order an expedited schedule of discovery and pleading, and an  
20 expedited schedule and trial date for the case, if requested by any party.

21 **Section 12. Limitation of Actions. §11311 of 7 GCA is amended to read:**

22 § 11311. Within Six (6) Months.

23 An action against an officer, or officer de facto:

24 (1) to recover any goods, wares, merchandise or other property seized by such  
25 officer in his official capacity as tax collector, or to recover the price or value of any  
26 goods, wares, merchandise or other personal property so seized, or for damages for the  
27 seizure, detention, sale of or injury to any goods, wares, merchandise or other personal  
28 property seized, or for damages done to any person or property in making any such  
29 seizure;

30 (2) to recover stock sold for a delinquent assessment, as provided in [339 of the  
31 Civil Code];



1 (3) to set aside or invalidate any action taken or performed by a majority of the  
2 trustees of any corporation heretofore or hereafter dissolved by operation of law,  
3 including the revivor of any such corporation.

4 (4) to bring an action upon a claim by a public school student for denial of an  
5 adequate public education.

6 **Section 13. Standing to Sue. A new §12108.1 is added to 7 GCA to read:**

7 §12108.1. Public school student: Standing to sue. A public school student shall  
8 have a claim and standing to sue the government of Guam and any officer of the  
9 Executive Branch of the government of Guam in his official capacity only for the purpose  
10 of enjoining such officer from failing to provide an adequate public education to that  
11 public school student but not for money damages.

12 **Section 14. Attorney's fees. A new section 26603.1 is added to 7 GCA to read:**

13 §26603.1. In any action or proceeding to enforce a provision of this Act, the court,  
14 in its discretion, may allow the prevailing party reasonable attorney's fee as part of the  
15 costs.

16 **Section 15. Minors May Sue. §1116 of 19 GCA is amended to read:**

17 § 1116. Minors May Sue.

18 (a) Except as otherwise provided by subsection (b) A minor may enforce his  
19 rights by civil action or other legal proceedings, in the same manner as a person of full  
20 age, except that a guardian must conduct the same.

21 (b) A parent of a public school student may conduct a civil action for injunctive relief,  
22 mandate, prohibition or other legal remedy but not money damages on behalf of the  
23 public school student to secure or maintain the public school student's right to an  
24 adequate public education.

25 **Section 16. Attorney's fees. A new section 26603.1 is added to 7 GCA to read:**

26 §26603.1. In any action or proceeding to enforce a provision of this Act, the court,  
27 in its discretion, may allow the prevailing party reasonable attorney's fee as part of the  
28 costs.

1           **Section 17. Duties of the Superintendent. 17 GCA§ 3103 (j) is amended to**  
2 **read:**

3           (j) to perform other duties as may be required by public law to provide an  
4 adequate public educational system; and

5           **Section 18. Duties and Responsibilities of the Guam Education Policy Board.**  
6 **17 GCA §3112(a) 14 is amended to read:**

7           (14) perform other duties and responsibilities as required by public law to provide  
8 an adequate public educational system; and

9           **Section 19. Construction with Other Laws. A new §3210 is added to 17 GCA**  
10 **to read:**

11           §3210. Construction with Other Laws.

12           Insofar as the provisions of the **Every Child is Entitled to an Adequate Public**  
13 **Education Act** are inconsistent with the provisions of any other law, the provisions of  
14 this Act shall be controlling; and in particular but not by way of limitation, except as may  
15 be provided in this Act, no provision of any law, shall be applicable to the government of  
16 Guam with respect to the provisions of the Adequate Public Education Act unless the  
17 Legislature shall specifically so state.

18           **Section 20. Transitional provisions and effective dates.**

| <b>Effective Dates</b>  |
|---|
| Sections of this act shall be effective as set out in tabular form below: |
| §10 shall be effective thirty (30) days after enactment.                  |
| §§ 5, 6, 7, 8 and 9 shall be effective October 1, 2005.                   |
| §§ 11,12,13, 14, 15 and 16 shall be effective October 1, 2006.            |

19  
20           **Section 21. Every child entitled to an adequate public education. A new**  
21 **§15136 is added to 20 GCA part 4 to read:**

22           §15136. Every child is entitled to an adequate public education.