

*Government of Guam  
Gobierno de Guam*

ESP 10

The Honorable Joe T. San Agustin  
Speaker, Twenty-First Guam Legislature  
155 Hesler Street  
Agana, Guam 96910



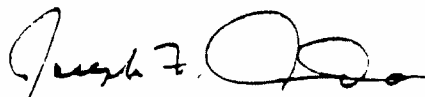
Dear Mr. Speaker:

Returned herewith is Substitute Bill No. 923 which I have signed into law as Public Law 21-137 with the following exceptions:

(a) Section 11. I have vetoed the appropriation to be consistent with my action in Public Law 21-136.

(b) Section 27. I have vetoed because funds are available in the Survey Revolving Fund of the Department of Land Management to complete surveying and mapping of government owned land.

Cordially,

  
JOSEPH F. ADA  
Governor

Attachment

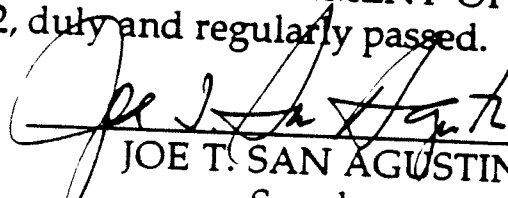
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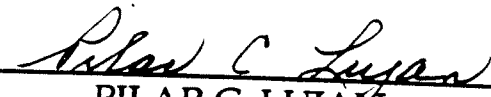
TWENTY-FIRST GUAM LEGISLATURE  
1992 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

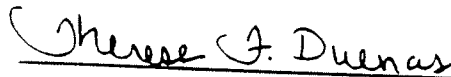
This is to certify that Substitute Bill No. 923 (LS), "AN ACT TO AMEND SUBPARAGRAPH (b) OF §6500.4 OF THE GOVERNMENT CODE TO INCLUDE UNIVERSITY OF GUAM AND GUAM COMMUNITY COLLEGE NURSING STUDENTS AS EMPLOYEES OF THE GOVERNMENT OF GUAM FOR PURPOSES OF THE GOVERNMENT CLAIMS ACT AND TO MAKE TECHNICAL AMENDMENTS TO THE FISCAL YEAR 1993 BUDGET ACT OF THE GOVERNMENT OF GUAM," was on the 29th day of September, 1992, duly and regularly passed.

  
JOE T. SAN AGUSTIN  
Speaker

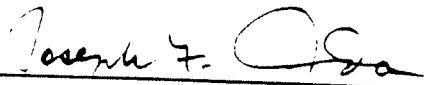
Attested:

  
PILAR C. LUJAN  
Senator and Legislative Secretary

-----  
This Act was received by the Governor this 29th day of September, 1992,  
at 4:05 o'clock P.M.

  
Cheresse J. Duenas  
Assistant Staff Officer  
Governor's Office

APPROVED:

  
JOSEPH F. ADA  
Governor of Guam

with the exceptions noted  
herein.

Date: SEP 29 1992 5:45 p.m.



Public Law No. 21-137

TWENTY-FIRST GUAM LEGISLATURE  
1992 (SECOND) Regular Session

Bill No. 923 (LS)

As substituted by the Committee on  
Education and as further substituted  
by the principal author and as  
further substituted on the floor

Introduced by:

D. L. G. Shimizu  
J. P. Aguon  
M. Z. Bordallo  
C. T. C. Gutierrez  
H. D. Dierking  
E. P. Arriola  
P. C. Lujan  
G. Mailloux  
D. Parkinson  
J. T. San Agustin  
F. R. Santos  
J. G. Bamba  
A. C. Blaz  
D. F. Brooks  
E. M. Espaldon  
M. D. A. Manibusan  
M. J. Reidy  
M. C. Ruth  
T. V. C. Tanaka  
A. R. Unpingco

AN ACT TO AMEND SUBPARAGRAPH (b) OF §6500.4 OF THE  
GOVERNMENT CODE TO INCLUDE UNIVERSITY OF  
GUAM AND GUAM COMMUNITY COLLEGE NURSING  
STUDENTS AS EMPLOYEES OF THE GOVERNMENT OF  
GUAM FOR PURPOSES OF THE GOVERNMENT CLAIMS  
ACT AND TO MAKE TECHNICAL AMENDMENTS TO THE  
FISCAL YEAR 1993 BUDGET ACT OF THE GOVERNMENT OF  
GUAM.

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

2 **Section 1.** Subparagraph (b) of §6500.4 of the Government Code is  
3 hereby amended to read:

4 "(b) for claims in tort, arising from the negligent acts of its  
5 employees acting for and at the direction of the government of  
6 Guam, even though occurring in an activity to which private  
7 persons do not engage. For the purposes of this chapter, any  
8 officer or enlisted person of the Guam National Guard on  
9 territorial duty or any nursing student acting for and at the  
10 direction of the University of Guam or of the Guam Community  
11 College shall be deemed an employee of the government."

12 **Section 2.** Subsection (h) of Section 6 of Chapter I, GENERAL  
13 PROVISIONS of the General Appropriation Act of 1993 (Substitute Bill  
14 No. 856, passed by the Legislature on September 17, 1992) is hereby  
15 amended to read:

16 "(h) Payment for overtime claims shall be prepared only if  
17 the claims are properly documented. Overtime shall be paid not  
18 later than the second pay period after the period in which it was  
19 earned."

20 **Section 3.** Subsection (m) of Section 6 of Chapter I, GENERAL  
21 PROVISIONS of the General Appropriation Act of 1993 (Substitute Bill  
22 No. 856, passed by the Legislature on September 17, 1992) is hereby  
23 amended to read:

24 "(m) Notwithstanding any other provision of law, it is  
25 prohibited to expend General, Other, or Federal Funds for in-

1 service training or other professional development training,  
2 excluding seminars, to persons occupying unclassified or  
3 temporary positions within the Executive Branch, except  
4 attorneys and physicians."

5 **Section 4.** (a) Volume V of Chapter II ("University of Guam"), of  
6 the General Appropriation Act of 1993 (Substitute Bill No. 856, passed by  
7 the Legislature on September 17, 1992), within the Office of the Academic  
8 Affairs for the College of Business and Public Administration, one (1) full-  
9 time employee under the position of Word Processing Secretary I is hereby  
10 eliminated and under the Object Classification category 111, NEW  
11 SALARY is hereby amended to read:

12 "111. NEW SALARY 84,348 84,348"

13 (b) Volume V of Chapter II ("University of Guam"), of the  
14 General Appropriation Act of 1993 (Substitute Bill No. 856, passed by the  
15 Legislature on September 17, 1992), within the Office of the Academic  
16 Affairs for the College of Business and Public Administration, one (1) full-  
17 time employee under the position of Word Processing Secretary I is hereby  
18 eliminated and under the Object Classification category 113,  
19 RETIREMENT is hereby amended to read:

20 "113. RETIREMENT 205,320 205,320"

21 (c) Volume V of Chapter II , ("University of Guam"), of the  
22 General Appropriation Act of 1993 (Substitute Bill No. 856, passed by the  
23 Legislature on September 17, 1992) within the Office of the Academic  
24 Affairs for the College of Business and Public Administration, one (1) full-  
25 time employee under the position of Word Processing Secretary I is hereby

1 eliminated and under the Object Classification category 113, LIFE  
2 INSURANCE is hereby amended to read:

3 "113. LIFE INSURANCE 408 408"

4 (d) Volume V of Chapter II ("University of Guam"), of the  
5 General Appropriation Act of 1993 (Substitute Bill No. 856, passed by the  
6 Legislature on September 17, 1992), within the Office of the Academic  
7 Affairs for the College of Business and Public Administration, one (1) full-  
8 time employee under the position of Word Processing Secretary I is hereby  
9 eliminated and under the Object Classification category 113, HOSPITAL  
10 INSURANCE is hereby amended to read:

11 "113. HOSPITAL INSURANCE 38,359 38,359"

12 (e) Volume V of Chapter II ("University of Guam"), of the General  
13 Appropriation Act of 1993 (Substitute Bill No. 856, passed by the  
14 Legislature on September 17, 1992), within the Office of the Academic  
15 Affairs for the College of Business and Public Administration, one (1) full-  
16 time employee under the position of Word Processing Secretary I is hereby  
17 eliminated and under the Object Classification category 113, DENTAL  
18 INSURANCE is hereby amended to read:

19 "113. DENTAL INSURANCE 7,250 7,250"

20 (f) Volume V of Chapter II ("University of Guam"), of the General  
21 Appropriation Act of 1993 (Substitute Bill No. 856, passed by the  
22 Legislature on September 17, 1992), within the Office of the Academic  
23 Affairs for the College of Business and Public Administration, one (1) full-  
24 time employee under the position of Word Processing Secretary I is hereby

1 eliminated and under the TOTAL SALARIES & BENEFITS is hereby  
2 amended to read:

3 "TOTAL SALARIES & BENEFITS 2,222,433 2,222,433"

4 (g) Volume V of Chapter II ("University of Guam"), of the General  
5 Appropriation Act of 1993 (Substitute Bill No. 856, passed by the  
6 Legislature on September 17, 1992), within the Office of the Academic  
7 Affairs for the College of Business and Public Administration, under the  
8 OBJECT CLASSIFICATION, category 290, TOTAL MISCELLANEOUS is  
9 hereby amended to read:

10 "TOTAL MISCELLANEOUS 27,000 27,000"

11 (h) Volume V of Chapter II ("University of Guam"), of the General  
12 Appropriation Act of 1993 (Substitute Bill No. 856, passed by the  
13 Legislature on September 17, 1992), within the Office of the Academic  
14 Affairs for the College of Business and Public Administration, one (1) full-  
15 time employee under the position of Word Processing Secretary I is hereby  
16 eliminated and under the OBJECT CLASSIFICATION, TOTAL  
17 APPROPRIATION is hereby amended to read:

18 "TOTAL APPROPRIATION 2,498,709 2,498,709."

19 Section 5. (a) Volume III of Chapter II ("Department of Labor"),  
20 of the General Appropriation Act of 1993 (Substitute Bill No. 856, passed by  
21 the Legislature on September 17, 1992), within the Office of GOSH, under  
22 the OBJECT CLASSIFICATION, CLASSIFIED is hereby amended to  
23 read:

24 "CLASSIFIED 9 9"

1 (b) Volume III of Chapter II ("Department of Labor"),  
2 of the General Appropriation Act of 1993 (Substitute Bill No. 856, passed by  
3 the Legislature on September 17, 1992), within the Office of GOSH, under  
4 the OBJECT CLASSIFICATION, FILLED/VACANT/NEW is hereby  
5 amended to read:

6 "FILLED/VACANT/NEW 8/1/0 8/1/0."  
7

8 **Section 6.** Section 11 of Chapter III, MISCELLANEOUS  
9 APPROPRIATIONS of the General Appropriation Act of 1993 (Substitute  
10 Bill No. 856, passed by the Legislature on September 17, 1992) is hereby  
11 repealed.

12 **Section 7.** Section 12 of Chapter III, MISCELLANEOUS  
13 APPROPRIATIONS of the General Appropriation Act of 1993 (Substitute  
14 Bill No. 856, passed by the Legislature on September 17, 1992) is hereby  
15 amended to read:

16 "Section 12. One Hundred Seventeen Thousand Six  
17 Hundred Seventy Four Dollars (\$117,674) are appropriated  
18 from the Tourist Attraction Fund to the Department of  
19 Agriculture to plant Ifit, Ahgao, Pahong, and other trees in  
20 order to perpetuate the Chamorro culture through the arts by  
21 wood carving, weaving and other cottage industries as  
22 contemplated by P.L. 21-54."

23 **Section 8.** Section 19 of Chapter III, MISCELLANEOUS  
24 APPROPRIATIONS of the General Appropriation Act of 1993 (Substitute  
25 Bill No. 856, passed by the Legislature on September 17, 1992) is hereby  
amended to read:



1           "Section 19.       Thirty Five Thousand Dollars (\$35,000)  
2 are appropriated from the Tourist Attraction Fund to the  
3 Umatac Municipal Planning Council for the Discovery Day  
4 Festivities. The Discovery Day Committee shall justify the  
5 expenses to the Umatac Municipal Planning Council. This  
6 appropriation may also be used to pay any prior year's  
7 obligations.

8           Notwithstanding any other provision of law, the  
9 Governor is authorized to allow the conduct of cockfights for  
10 the three (3) day weekend period consisting of Friday,  
11 Saturday, and Sunday for every annual village fiesta, for  
12 Discovery Day, and for Fiestan Tasi, with the net proceeds of  
13 such cockfights to be given to the Municipal Planning Council  
14 of the village in which the cockfight is held."

15       **Section 9.** Section 21 of Chapter III, MISCELLANEOUS  
16 APPROPRIATIONS of the General Appropriation Act of 1993 (Substitute  
17 Bill No. 856, passed by the Legislature on September 17, 1992) is hereby  
18 amended to read:

19           "Section 21.       Six Hundred Thousand Dollars  
20 (\$600,000) are appropriated from the General Fund to the  
21 Department of Youth Affairs for Sanctuary Inc. for its Fiscal  
22 Year 1993 operations. The recipient of this appropriation shall  
23 make a report of the expenditures of the funds in this  
24 appropriation to the Governor and the Legislature."

1           **Section 10.**       Section 26 of Chapter III, MISCELLANEOUS  
2 APPROPRIATIONS of the General Appropriation Act of 1993 (Substitute  
3 Bill No. 856, passed by the Legislature on September 17, 1992) is hereby  
4 amended to read:

5           "Section 26. Five Million Dollars (\$5,000,000) are  
6 appropriated from the General Fund to provide the  
7 infrastructure needed at the Talofoyo Subdivision, Lot No. 402-  
8 R11 and at the Pigua Subdivision expansion project in Merizo,  
9 to be expended as follows:

10           (a) One Million Two Hundred Thousand Dollars  
11 (\$1,200,000) to the Public Utility Agency of Guam for water  
12 installation at the Talofoyo Subdivision, Lot No. 402-R11;

13           (b) One Million One Hundred Forty-seven Thousand  
14 Two Hundred Dollars (\$1,147,200) to the Guam Power  
15 Authority for power installation at the Talofoyo Subdivision,  
16 Lot No. 402-R11;

17           (c) Three Hundred Fifty Thousand Dollars (\$350,000)  
18 to the Department of Public Works for road paving and  
19 improvements at the Talofoyo Subdivision, Lot No. 402-R11;

20           (d) One Million Dollars (\$1,000,000) to the Department  
21 of Public Utility Agency of Guam for water installation at the  
22 Pigua Subdivision expansion project, Lots Nos. 440-1 and 505-  
23 10, Merizo;

24           (e) One Million Dollars (\$1,000,000) to the Guam  
25 Power Authority for power installation at the Pigua

1 Subdivision expansion project, Lots Nos. 440-1 and 505-10,  
2 Merizo;

3 (f) Three Hundred Two Thousand Eight Hundred  
4 Dollars (\$302,800) to the Department of Public Works for road  
5 paving and improvements at the Pigua Subdivision expansion  
6 project, Lots Nos. 440-1 and 505-10, Merizo.

7 The respective agencies shall coordinate the projects  
8 authorized in this Section with the Mayors of Talofofu and  
9 Merizo and shall submit a report to the Governor and the  
10 Speaker of the Legislature on the status of these projects  
11 within one hundred twenty (120) days after the effective date of  
12 this Section."

13 **Section 11.** Section 34 of Chapter III, MISCELLANEOUS  
14 APPROPRIATIONS of the General Appropriation Act of 1993 (Substitute  
15 Bill No. 856, passed by the Legislature on September 17, 1992) is hereby  
16 amended to read:

17 "Section 34. <sup>250</sup> ~~Eighty-One Thousand Dollars (\$81,000)~~ <sup>- 0 -</sup> *J. Aida*  
18 are appropriated from the General Fund to the Department of  
19 Parks and Recreation Sports Fund for Guam Youth Football  
20 League's on-island supplies and equipment for FY 1993. The  
21 recipient of this appropriation shall make a report of the  
22 expenditures from this appropriation to the Governor and to  
23 the Legislature."

24 **Section 12.** Section 2 of Chapter IV, MISCELLANEOUS  
25 PROVISIONS of the General Appropriation Act of 1993 (Substitute Bill No.

1 856, passed by the Legislature on September 17, 1992) is hereby amended to  
2 read:

3 "Section 2. Section 1103 of Chapter 1, Title 10, Guam Code  
4 Annotated in repealed and reenacted to read:

5 Section 1103. There are created Medical  
6 Referral Assistance Offices in Honolulu, Hawaii, in Los  
7 Angeles, California, and in Metro Manila, Philippines,  
8 which shall be within the responsibility of the Office of  
9 the Governor. The Offices shall assist in coordinating  
10 appropriate medical appointments, as well as  
11 coordinating temporary housing and transportation."

12 Section 13. Section 11 of Chapter IV, MISCELLANEOUS  
13 PROVISIONS of the General Appropriation Act of 1993 (Substitute Bill  
14 No. 856, passed by the Legislature on September 17, 1992) is hereby  
15 amended to read:

16 "Section 11. A new code section, to be appropriately  
17 placed by the Compiler of Laws, is added to Title 17 of the  
18 Guam Code Annotated to read:

19 "§\_\_\_\_ (a) The Director of the Department of  
20 Education (the "Department") is authorized to enter into one  
21 (1) or more contracts with one or more architectural and  
22 engineering firms to provide the following services to the  
23 Department;

24 (1) evaluating and reporting on the conditions of  
25 Department plant facilities;

1 (2) preparing architectural and engineering  
2 plans for repairs, renovations, improvements, demolition, and  
3 construction of plant facilities;

4 (3) assisting in the procurement by the  
5 Department, of architectural and engineering services, and  
6 construction services, through preparation of requests for  
7 proposals and scope of services documents, evaluation of  
8 designs, review of construction documents, and coordination  
9 of compliance of construction documents with all applicable  
10 laws, rules, and regulations;

11 (4) performing construction management  
12 services for construction projects undertaken; and

13 (5) providing consultation on prices of  
14 architectural and engineering services and construction.

15 (b) The Director of the Department may solicit  
16 requests for proposals and enter into one (1) or more contracts  
17 for the procurement of architectural, engineering and  
18 construction management services for the Department, and for  
19 construction contracts in excess of One Million Dollars  
20 (\$1,000,000), one (1) or more contracts for value engineers.  
21 Contracts shall be awarded on forms approved by the Attorney  
22 General.

23 (c) Nothing herein shall be construed as exempting the  
24 Department from the government of Guam Procurement Laws  
25 as they pertain to the Department."

26 **Section 14.** Section 16 of Chapter IV, MISCELLANEOUS  
27 PROVISIONS of the General Appropriation Act of 1993. (Substitute Bill

1 No. 856, passed by the Legislature on September 17, 1992) is hereby  
2 repealed.

3 **Section 15.** Section 17 of Chapter IV, MISCELLANEOUS  
4 PROVISIONS of the General Appropriation Act of 1993 (Substitute Bill  
5 No. 856, passed by the Legislature on September 17, 1992) is hereby  
6 repealed.

7 **Section 16.** Section 24 of Chapter IV, MISCELLANEOUS  
8 PROVISIONS of the General Appropriation Act of 1993 (Substitute Bill  
9 No. 856, passed by the Legislature on September 17, 1992) is hereby  
10 amended to read:

11 "Section 24. During Fiscal Year 1994 the Tax  
12 Collection Task Force of the Department of Revenue and  
13 Taxation (the "Department") shall become a division of the  
14 Department. The Director shall prepare an organizational  
15 chart, position descriptions and budget. Once the  
16 appropriation for the division is made then recruitment of  
17 personnel for the division shall be pursuant to the personnel  
18 laws."

19 **Section 17.** Section 26 of Chapter IV, MISCELLANEOUS  
20 PROVISIONS of the General Appropriation Act of 1993 (Substitute Bill  
21 No. 856, passed by the Legislature on September 17, 1992) is hereby  
22 repealed.

23 **Section 18.** Section 27 of Chapter IV, MISCELLANEOUS  
24 PROVISIONS of the General Appropriation Act of 1993 (Substitute Bill

1 No. 856, passed by the Legislature on September 17, 1992) is hereby  
2 repealed.

3 **Section 19.** Section 28 of Chapter IV, MISCELLANEOUS  
4 PROVISIONS of the General Appropriation Act of 1993 (Substitute Bill  
5 No. 856, passed by the Legislature on September 17, 1992) is hereby  
6 repealed.

7 **Section 20.** Section 8 of Chapter V, ADMINISTRATIVE  
8 PROVISIONS of the General Appropriation Act of 1993 (Substitute Bill  
9 No. 856, passed by the Legislature on September 17, 1992) is hereby  
10 repealed.

11 **Section 21.** Section 10 of Chapter V, ADMINISTRATIVE  
12 PROVISIONS of the General Appropriation Act of 1993 (Substitute Bill  
13 No. 856, passed by the Legislature on September 17, 1992) is hereby  
14 repealed.

15 **Section 22.** Section 12 of Chapter V, ADMINISTRATIVE  
16 PROVISIONS of the General Appropriation Act of 1993 (Substitute Bill  
17 No. 856, passed by the Legislature on September 17, 1992) is hereby  
18 repealed.

19 **Section 23.** Section 14 of Chapter V, ADMINISTRATIVE  
20 PROVISIONS of the General Appropriation Act of 1993 (Substitute Bill  
21 No. 856, passed by the Legislature on September 17, 1992) is hereby  
22 amended to read:

23 **"Section 14. Governor's Transfer Authority.**  
24 Notwithstanding any other provision of law, the Governor is  
25 authorized to transfer up to ten percent (10%) of funds

1 appropriated by the Legislature for Fiscal Year 1993 which  
2 expires September 30, 1993 to the various departments or  
3 agencies of the government of Guam; provided, that not more  
4 than ten percent (10%) of the funds of any department or  
5 agency shall be transferred out of the department or agency;  
6 and provided, further, that notice of each transfer and  
7 justification therefor are delivered by the end of the month in  
8 which the transfer takes place to the Speaker of the  
9 Legislature."

10 **Section 24.** Notwithstanding any other provision of law,  
11 appropriations made in the General Appropriation Act of 1993 (Substitute  
12 Bill No. 856, passed by the Legislature on September 17, 1992) and in this  
13 Act may be expended for the payment of prior years' obligations. Notice of  
14 each proposed expenditure shall be delivered to the Speaker of the  
15 Legislature by the Governor no less than seven (7) days before the effective  
16 date of such expenditure.

17 **Section 25.** Four Hundred Thousand Dollars (\$400,000) are  
18 hereby appropriated from the General Fund to the Department of Mental  
19 Health and Substance Abuse for contractual expenses in the third program  
20 year to operate the group home for mentally-retarded adults with  
21 behavioral problems, known as the "Mary Claire Home".

22 **Section 26.** One Hundred Fifty Six Thousand Dollars  
23 (\$156,000) are hereby appropriated from the General Fund to the  
24 Department of Administration for the tuition, fees and authorized



1 expenses of the participants in the Dr. Pedro Sanchez Scholarship  
2 program at the University of Guam for Fiscal Year 1993.

3 **Section 27.** ~~One Hundred Thousand Dollars~~ <sup>25,000</sup> ~~(\$100,000)~~ <sup>- 0 - JAA</sup> are  
4 hereby appropriated from the General Fund to the Department of  
5 Agriculture for surveying, mapping and appraisal of agricultural land in  
6 coordination with the Department of Land Management.

7 **Section 28.** Five Hundred Thousand Dollars (\$500,000) are hereby  
8 appropriated from the General Fund to the Department of Mental Health  
9 and Substance Abuse for the purpose of purchasing equipment for the new  
10 Juvenile Wing.

11 **Section 29.** The four volumes of staffing patterns submitted to the  
12 Governor along with Substitute Bill No. 856, passed by the Legislature on  
13 September 17, 1992 are not part of the bill or statute but only supporting  
14 information used to prepare the measure. All notated language in any budget  
15 digest (Chapter II) relating to personnel or positions in government is  
16 stricken from the budget digest.

17 **Section 30.** **Department of Mental Health and Substance Abuse;**  
18 **FTE exemption for employees of Children's Inpatient Unit for Severly**  
19 **Emotionally Disturbed Children and Adolescents.** Notwithstanding any  
20 other provision of law, the FTE restrictions imposed by this Act shall not be  
21 applicable to the Department of Mental Health and Substance Abuse  
22 employees staffing the Children's Inpatient Unit for Severly Emotionally  
23 Disturbed Children and Adolescents, and the Department is authorized to  
24 hire personnel to fill positions in such areas in Fiscal Year 1993.

1           **Section 31.**       Section 13 of Chapter V, ADMINISTRATIVE  
2 PROVISIONS, of the General Appropriation Act of 1993 (Substitute Bill  
3 No. 856, passed by the Legislature on September 17, 1992) is hereby  
4 repealed and reenacted to read:

5                   "Section 13.     Any money paid by the Federal  
6 Government to reimburse the government of Guam for expenses  
7 incurred as a result of Typhoon Omar shall be deposited in the  
8 General Fund and be expended only on legislative  
9 appropriation."

**TWENTY-FIRST GUAM LEGISLATURE**  
**1992 (SECOND) Regular Session**

Date: 9/29/92

**VOTING SHEET**

Bill No. 923  
 Resolution No. \_\_\_\_\_  
 Question: \_\_\_\_\_

NAME	AYE	NO	NOT VOTING	ABSENT/ OUT DURING ROLL CALL
AGUON, John P.				✓
ARRIOLA, Elizabeth P.	✓			
BAMBA, J. George	✓			
BLAZ, Anthony C.	✓			
BORDALLO, Madeleine Z.	✓			
BROOKS, Doris F.		✓		
DIERKING, Herminia D.	✓			
DUENAS, Edward R. (As of 9/18/92)				
ESPALDON, Ernesto M.		✓		
GUTIERREZ, Carl T. C.	✓			
LUJAN, Pilar C.	✓			
MAILLOUX, Gordon	✓			
MANIBUSAN, Marilyn D. A.	✓			
PARKINSON, Don	✓			
REIDY, Michael J.		✓		
RUTH, Martha C.		✓		
SAN AGUSTIN, Joe T.	✓			
SANTOS, Francisco R.	✓			
SHIMIZU, David L. G.	✓			
TANAKA, Thomas V. C.		✓		
UNPINGCO, Antonio R.	✓			

TOTAL 14 5 1



# TWENTY-FIRST GUAM LEGISLATURE

155 Hesler Street  
Agaña, Guam 96910  
Tel: (671) 472-3581-3  
Fax: (671) 472-3585

September 10, 1992

*Senator*  
*Madeleine F. Bordallo*

Chairperson  
COMMITTEE ON  
EDUCATION

## MEMBER

COMMITTEE ON HEALTH,  
ECOLOGY AND WELFARE

COMMITTEE ON YOUTH,  
SENIOR CITIZENS AND  
CULTURAL AFFAIRS

COMMITTEE ON  
ECONOMIC AND  
AGRICULTURAL  
DEVELOPMENT

COMMITTEE ON ENERGY  
UTILITIES AND  
CONSUMER PROTECTION

COMMITTEE ON RULES

The Honorable Joe T. San Agustin  
Speaker  
21st Guam Legislature  
155 Hesler Street  
Agaña, Guam 96910

Dear Speaker San Agustin:

The Committee on Education, to which was referred Bill No. 923: "AN ACT TO AMEND §6500.04 (b) OF PUBLIC LAW 17-29, RELATIVE TO THE "GOVERNMENT CLAIMS ACT" TO PERMIT UNIVERSITY OF GUAM AND GUAM COMMUNITY COLLEGE STUDENTS FROM BEING HELD LIABLE FOR NEGLIGENT ACTS DURING CLINICAL ASSIGNMENTS", does recommend that Bill No. 923 be passed by the Twenty-First Guam Legislature.

Votes of the Committee members are as follows:

To Pass	<u>9</u>
To Not Pass	<u>0</u>
Abstain	<u>0</u>
To Place in Inactive File	<u>0</u>
Off-Island	<u>0</u>
Not Available	<u>6</u>

Respectfully Submitted,

*Madeleine F. Bordallo*  
MADELEINE F. BORDALLO

Enclosures

# COMMITTEE ON EDUCATION 21ST GUAM LEGISLATURE

CHAIRPERSON  
SENATOR M. Z. BORDALLO

COMMITTEE REPORT  
ON  
BILL NO. 923

## "AN ACT TO AMEND §6500.04 (b) OF PUBLIC LAW 17-29, RELATIVE TO THE "GOVERNMENT CLAIMS ACT" TO PERMIT UNIVERSITY OF GUAM AND GUAM COMMUNITY COLLEGE NURSING STUDENTS FROM BEING HELD LIABLE FOR NEGLIGENT ACTS DURING CLINICAL ASSIGNMENTS."

A Public Hearing on Bill No. 923 was conducted by the Committee on Education, 21st Guam Legislature, on Tuesday, August 11, 1992, in the Public Hearing Room, Legislative Building, Agana.

**MEMBERS PRESENT:** Chairperson Madeleine Z. Bordallo; and Committee members, Senators Elizabeth Arriola and Eddie Duenas.

**WITNESSES PRESENT:** Dr. Wilfred P. Leon Guerrero, President, University of Guam; Mark J. Heath, Vice-President for Financial Affairs, University of Guam; Dr. Maureen M. Fochtman, Director, School of Nursing and Allied Health, University of Guam; and Andrea M. Fung, Program Specialist, Allied Health Department, Guam Community College.

### SUMMARY OF TESTIMONY

Dr. Wilfred P. Leon Guerrero  
President, University of Guam

Dr. Wilfred P. Leon Guerrero, President of the University of Guam, appeared before the Committee and presented both oral and written testimony in support of Bill No. 923. Dr. Leon Guerrero stated that the university recently lost its malpractice insurance coverage for its nursing students, and that they have been unable to acquire another malpractice insurance policy. Without

malpractice insurance coverage, the UOG nursing students have been unable to practice in several of the clinical agencies on the island. Because the clinical program is an important element of the nursing program, the university has recognized that if the nursing students are granted the same protection as all government employees, the students would be able to participate in clinical training and complete their nursing education. Bill No. 923, would enable the university to restore the clinical training component to its nursing program for the benefit of its students.

Dr. Maureen M. Fochtman  
Director, School of Nursing & Allied Health  
University of Guam

Dr. Maureen M. Fochtman, Director, School of Nursing & Allied Health, University of Guam, presented both oral and written testimony in support of the provisions of Bill No. 923. Dr. Fochtman stated that the University has been trying to secure malpractice insurance since January, 1992, but have thus far been unsuccessful. She also emphasized that the lack of malpractice insurance has hindered the university's nursing program, particularly with the clinical training that nursing students receive on island. Without malpractice insurance, the students are unable to participate in clinical training, which is an integral aspect of the program. Thus, she encouraged the Guam Legislature to pass Bill No. 923, which will enable the university's nursing students to resume clinical training activities.

Andrea M. Fung  
Program Specialist, Allied Health Department  
Guam Community College

Ms. Andrea Fung, Program Specialist within the Allied Health Department of the Guam Community College, presented a brief oral testimony in support of Bill No. 923. She stated that for many years GCC has been providing nursing assistant training at the high school level. The college is planning to implement a post-secondary nursing assistant training program, which is scheduled to commence in the Fall, 1992, semester. Ms. Fung concluded by stating that the college endorses Bill No. 923 and requests that the nursing students for the Guam Community College be included within the provisions of the bill.

Elizabeth Barrett-Anderson  
Attorney General, Territory of Guam

Written testimony was submitted by Mrs. Elizabeth Barrett-Anderson, Attorney General for the Territory of Guam. Mrs. Barrett-Anderson stated in her testimony that she has indicated to University of Guam officials that students who participate under

the program would fall under the government umbrella to the extent that their acts performed within government-operated clinics would reflect on the government itself. A claim asserted against the government would fall under the Claims Act. She also suggested that if the intent of Bill No. 923 is to clarify those covered under the Claims Act, then the words within the provision should not be specific as to class of persons covered, but the class of persons should be identified as "participants".

In a conversation shortly following the public hearing, Mrs. Elizabeth Barrett-Anderson recommended that the proposed amendment within Bill No. 923, because of its specificity, be placed within the statement pertaining to the Guam National Guard, of the same public law. This would address the concern of the University of Guam nursing program.

After receiving testimonies from the witnesses present, members of the Committee asked questions concerning the need for the provisions within Bill No. 923. UOG officials stated that if the provisions are passed into law, the university may restore the clinical training component of the nursing program. They also clarified the fact that to date they have not been able to acquire malpractice insurance, and that they will continue to seek such insurance coverage.

## COMMITTEE FINDINGS/RECOMMENDATIONS

The Committee on Education finds that the University of Guam School of Nursing and Allied Health has recently lost its malpractice insurance coverage. The previous insurance company has decided to discontinue providing malpractice insurance services to the University of Guam, as well as to Guam customers in general. Due to the lack of malpractice insurance coverage available on the island, the university nursing students have been prohibited from participating in clinical training activities. Clinical training is an integral element of the nurse training program at the university. Additionally, the Guam Community College will be commencing its post-secondary nurse training assistant program in the Fall 1992 semester. Because of the importance of the malpractice insurance for clinical training, GCC is requesting that its nursing assistant students also be included in Bill No. 923. The applicability of the waiver of immunity for the nursing students would enable the university nursing program and the Guam Community College nursing assistant program to provide clinical training, which continues to be a fundamental component of the respective programs. Bill No. 923, as substituted by the Committee on Education, would include the waiver of immunity provision for nursing students within the statement pertaining to the Guam National Guard, as recommended by Mrs. Elizabeth Barrett-Anderson, Attorney General of the Territory of Guam.

THEREFORE, BECAUSE OF THE IMPORTANCE OF CLINICAL TRAINING TO THE UNIVERSITY OF GUAM AND THE GUAM COMMUNITY COLLEGE NURSING PROGRAMS AND THE PRESENT LACK OF MALPRACTICE INSURANCE COVERAGE OFFERED ON ISLAND, THE COMMITTEE ON EDUCATION RECOMMENDS THAT BILL NO. 923, AS SUBSTITUTED BY THE COMMITTEE ON EDUCATION, "AN ACT TO AMEND §6500.04. (b) OF PUBLIC LAW 17-29, RELATIVE TO THE "GOVERNMENT CLAIMS ACT" TO PERMIT UNIVERSITY OF GUAM AND GUAM COMMUNITY COLLEGE NURSING STUDENTS FROM BEING HELD LIABLE FOR NEGLIGENT ACTS DURING CLINICAL ASSIGNMENTS", BE FAVORABLY CONSIDERED AND PASSED BY THE TWENTY FIRST GUAM LEGISLATURE.

#### ATTACHMENTS

1. Voting Sheet on Bill No. 923.
2. Bill No. 923, as substituted by the Committee on Education.
3. Bill No. 923, as introduced.
4. Written testimony by Dr. Wilfred P. Leon Guerrero, President, University of Guam.
5. Written by Dr. Maureen M. Fochtman, Director, School of Nursing & Allied Health, University of Guam.
6. Written testimony by Elizabeth Barrett-Anderson, Attorney General, Territory of Guam.
7. Witness attendance sheet for Public Hearing, Tuesday, August 11, 1992.



**TWENTY FIRST GUAM LEGISLATURE  
1992 (SECOND) REGULAR SESSION**

**BILL NO. 923**

**(SUBST. BY COMM. ON EDUCATION)**

**INTRODUCED BY:**

**D. L. G. SHIMIZU**

**J. P. AGUON**

**M. Z. BORDALLO**

**C. T. C. GUTIERREZ**

**"AN ACT TO AMEND §6500.04 (b) OF PUBLIC  
LAW 17-29, RELATIVE TO THE "GOVERNMENT  
CLAIMS ACT" TO PERMIT UNIVERSITY OF  
GUAM AND GUAM COMMUNITY COLLEGE  
NURSING STUDENTS FROM BEING HELD  
LIABLE FOR NEGLIGENT ACTS DURING  
CLINICAL ASSIGNMENTS"**

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

**Section 1. §6500.04 (b) of Public Law 17-29 is hereby  
amended to read:**

**"§6500.04. Waiver of Immunity.**

**(b) for claims in tort, arising from the negligent acts  
of its employees, or volunteers acting for and at the direction of  
the Government of Guam, even though occurring in an activity  
to which private persons do not engage. For the purposes of  
this chapter, any officer or enlisted person of the Guam National  
Guard on territorial duty or nursing students acting for and at  
the direction of the University of Guam or the Guam  
Community College shall be deemed an employee of the  
government."**

JUL 10 '92

TWENTY-FIRST GUAM LEGISLATURE  
1992 (SECOND) REGULAR SESSION

Bill No. 923(LS)  
Introduced by:

D.L.G. Shimizu  
J.P. Aguon  
M.Z. Bordallo  
C.T.C. Gutierrez

AN ACT TO AMEND §6500.04. (b) OF PUBLIC LAW  
17-29, RELATIVE TO THE "GOVERNMENT CLAIMS ACT"  
TO ALLOW UNIVERSITY OF GUAM NURSING STUDENTS  
FROM BEING HELD LIABLE FOR NEGLIGENT ACTS  
DURING CLINICAL ASSIGNMENTS.

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

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" §6500.04. Waiver of Immunity.

(b) for claims in tort, arising from the negligent acts of its  
employees, or volunteers acting for and at the direction of the  
Government of Guam, or nursing students acting for and at the  
direction of the University of Guam even though occurring in an  
activity to which private persons do not engage. For the purposes of  
this chapter, any officer or enlisted person of the Guam National  
Guard on territorial duty shall be deemed an employee of the  
government."



# University of Guam

OFFICE OF THE PRESIDENT  
U.O.G. Station, Mangilao, Guam 96923  
Cable: "UnivGuam" \* Telex: 721-6275 \* Fax: 734-3118

August 11, 1992

The Honorable Madeleine Z. Bordallo  
Chairperson, Committee on Education  
Twenty-First Guam Legislature  
Agana, Guam 96910

Dear Senator Bordallo and Members of the Committee:

Thank you for this opportunity to testify in favor of Bill 923.

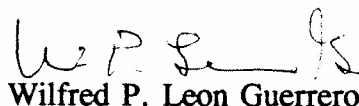
This bill is the solution to a serious problem jeopardizing the clinical nursing program at the University. Its benefits will extend to the 200 students who are presently nursing majors as well as to all future nursing students at the University.

Until recently, nursing students were able to obtain malpractice insurance through the Professional Buyer's Guild. This insurance is no longer available to nursing students in the U.S. territories. To date, efforts by the University to obtain malpractice insurance from other sources have been unsuccessful. Without malpractice coverage, the nursing students are unable to practice in the clinical agencies.

The clinical program is a mandatory component of nursing education. Students are required to participate in the program under the direct supervision of UOG nursing faculty. If the nursing students are afforded the same protection as all government employees, the clinical component of the program will no longer be in jeopardy and our nursing students, who are a critical component to the future health of the island's residents will be able to complete their education.

I appreciate the timely response to our request for this amendment.

Sincerely,

  
Wilfred P. Leon Guerrero  
President



UNIVERSITY OF GUAM  
UNIBETSEDÁT GUAHAN

SCHOOL OF NURSING AND ALLIED HEALTH

Health Science Building, Room 100  
UOG Station, Mangilao, Guam 96923  
Telephone: (671) 734-9505 Fax: (671) 734-1203

August 11, 1992

Senator Madeleine Bordallo  
155 Hesler Street  
Agana, Guam 96910

Dear Senator Bordallo:

Thank you for the opportunity to testify in favor of Bill 923

We have tried to secure malpractice insurance for the University of Guam School of Nursing students in the local, U.S. mainland, and international insurance markets without success since January 1992. The lack of insurance has interfered with our clinical program, which is an essential part of nursing education.

This is the second time that the University of Guam School of Nursing has had to curtail it's clinical program because of insurance within the last five years. Without this bill, this will continue to happen to the program because of the economic uncertainty which affects the insurance business.

I appreciate your consideration of Dr. Wilfred Leon Guerrero's request for this amendment, which will solve this problem.

Sincerely,

MAUREEN M. FOCHTMAN, Ed.D., R.N.  
Director, School of Nursing &  
Allied Health

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Office of the Attorney General  
Territory of Guam

Elizabeth Barrett-Anderson  
*Attorney General*

Phone: (671) 475-3324  
Telefax: (671) 472-2493

Donald L. Paillette  
*Chief Deputy Attorney General*

August 10, 1992

The Honorable Madeleine Bordallo  
Chairperson, Committee on Education  
Twenty-First Guam Legislature  
155 Hesler Street  
Agana, Guam 96910

Re: Bill No. 923

Dear Senator Bordallo:

The Office of the Attorney General is familiar and has had communications with the University of Guam (UOG) regarding coverage under the Government Claims Act for negligence committed by students involved in the student nursing program. We have indicated to the University of Guam that students who participate under the program would fall under the government umbrella to the extent that their acts performed within government-operated clinics would reflect on the government itself. We view their participation under the direction of the University program as sufficient nexus to the government such that a claim asserted against the government would fall under the Claims Act.

If the attempt of Bill No. 923 is to add or clarify those who are covered, then we strongly encourage the Committee not to be specific as to class of persons specifically covered, but to identify the class of persons as "participants". Thus the categories would include "employees, or volunteers or student participants acting for and at the direction...". We strongly recommend against legislative draftmanship that attempts to specifically define this list of persons to whom a Act applies.


Our position is that students in the nursing program while performing in government clinics fall under our umbrella of government protection. This protection, however, is directed

COMMONWEALTH NOW!

Letter to The Honorable Madeleine Bordallo  
August 10, 1992  
Page 2 of 2

towards claims asserted directly against the government, not the individual nurse in their personal capacity. A claim against the student individually would not fall under the gambit of the Act. Thus we leave it to this body to determine as a policy matter whether further coverage is the goal of this territory.

Sincerely,

  
ELIZABETH BARRETT-ANDERSON  
Attorney General





# COMMITTEE ON EDUCATION

TWENTY-FIRST GUAM LEGISLATURE

155 Hesler Street

Agaña, Guam 96910

Tel: (671) 472-3581-2-3 • Fax: (671) 472-3585

*Senators*  
**Madeleine F. Bordallo**  
CHAIRPERSON  
  
COMMITTEE ON  
EDUCATION

## VOTING SHEET ON BILL NO. 923

SEN. DAVID L.G. SHIMIZU  
Vice-Chairperson

**"AN ACT TO AMEND §6500.04 (b) OF PUBLIC  
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### MEMBERS

Vice Speaker John P. Aguon  
Sen. Elizabeth P. Arriola  
Sen. Herminia D. Dierking  
Sen. Carl T.C. Gutierrez  
Sen. J. George Bamba  
Sen. Anthony C. Blaz  
Sen. Doris F. Brooks  
Sen. Edward R. Duenas  
Sen. Marilyn D.A. Manibusan  
Sen. Michael Reidy  
Sen. Thomas V.C. Tanaka

Speaker Joe T. San Agustin  
Ex. Officio

<u>COMMITTEE MEMBER</u>	<u>TO PASS</u>	<u>NOT TO PASS</u>	<u>TO ABSTAIN</u>	<u>TO PLACE IN INACTIVE FILE</u>
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*Madeleine F. Bordallo* ✓  
**MADELEINE F. BORDALLO**  
Chairperson

*David L.G. Shimizu* ✓  
**DAVID L.G. SHIMIZU**  
Vice Chairperson

**SPEAKER JOE T. SAN AGUSTIN**  
(Ex-Officio Member)

*Carl T.C. Gutierrez* ✓  
**CARL T.C. GUTIERREZ**  
Member

*John P. Aguon* ✓  
**JOHN P. AGUON**  
Member

*Herminia D. Dierking* ✓  
**HERMINIA D. DIERKING**  
Member

*Elizabeth P. Arriola* ✓  
**ELIZABETH P. ARRIOLA**  
Member



<u>COMMITTEE MEMBER</u>	<u>TO</u> <u>PASS</u>	<u>NOT TO</u> <u>PASS</u>	<u>TO</u> <u>ABSTAIN</u>	<u>TO</u> <u>PLACE IN</u> <u>INACTIVE</u> <u>FILE</u>
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<u>DON PARKINSON</u> Member	_____	_____	_____	_____
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<u>J. GEORGE BAMBA</u> Member	_____	_____	_____	_____
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<u>ANTHONY C. BLAZ</u> Member	_____ ✓	_____	_____	_____
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<u>DORIS F. BROOKS</u> Member	_____	_____	_____	_____
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<u>EDWARD R. DUENAS</u> Member	_____	_____	_____	_____
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<u>MARILYN D.A. MANIBUSAN</u> Member	_____	_____	_____	_____
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<u>MICHAEL J. REIDY</u> Member	_____ ✓	_____	_____	_____
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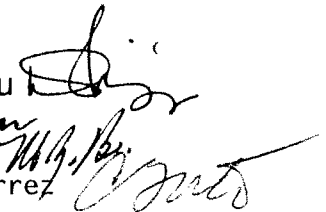
<u>THOMAS V.C. TANAKA</u> Member	_____ ✓	_____	_____	_____
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JUL 10 '92

TWENTY-FIRST GUAM LEGISLATURE  
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Bill No. 923(LS)  
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