

Secretary of Justice
Territorial Justice

DATE 12/9/93
TIME 3:15 pm
RECD BY R. 107

OFFICE OF THE CLERK OF THE LEGISLATURE
LEGISLATIVE SECRETARIAT
AGANA, GUAM

REFER TO
LEGISLATIVE SECRETARY

DEC 09 1993

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

Dear Mr. Speaker:

Transmitted herewith is Bill No. 351, which has been designated as Public Law
No. 22-42.

Sincerely yours,

JOSEPH F. ADA
Governor

Attachment

220444

COMMITTEE ON RULES

Rec'd by [Signature] Date: 12/9/93 Time: 3:15 pm

Reporting	Date	Sen's Init.
Jackie Blaz	_____	_____
James Meneses	_____	_____
Antonio	_____	_____



Commonwealth Now!

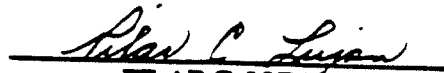
TWENTY-SECOND GUAM LEGISLATURE
1993 (FIRST) Regular Session

CERTIFICATION TO THE GOVERNOR OF PASSAGE OF AN ACT

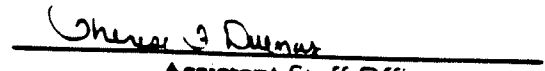
This is to certify that Substitute Bill No. 351 (LS), "AN ACT TO GRANT THE PEOPLE OF GUAM GREATER INFLUENCE IN THE ISLAND'S PUBLIC EDUCATIONAL SYSTEM THROUGH THE ESTABLISHMENT OF AN ELECTED TERRITORIAL BOARD OF EDUCATION; TO REPEAL AND REENACT §§3101, 3102, 3103, 3104, 3106, 3107, 3108, 3109, 3110, 3111, 3113, 3114, AND 3115, OF TITLE 17, GUAM CODE ANNOTATED, TO ADD A NEW §§3102.1, 3102.2, AND 3102.3 THERETO, AND TO REPEAL §§3105 AND 3112 THEREOF; TO INSTRUCT THE BOARD TO ESTABLISH EDUCATIONAL GOALS FOR THE DEPARTMENT AND TO PROVIDE MEANS FOR THE EVALUATION OF THE DEPARTMENT'S PERFORMANCE WITH SUCH GOALS; TO TASK THE BOARD TO ADOPT AN ANNUAL SCHOOL CALENDAR WHICH SHALL PROVIDE FOR MAKE-UP DAYS DUE TO NATURAL DISASTERS OR INCLEMENT WEATHER; TO ESTABLISH A BUDGET PROCESS FOR THE DEPARTMENT WHEREBY SUCH BUDGET IS SUBMITTED DIRECTLY TO THE LEGISLATURE; TO INSTRUCT THE BOARD TO ESTABLISH EDUCATIONAL PROGRAMS WHICH ENCOURAGE STUDENTS TO COMPLETE HIGH SCHOOL, AND REDUCE THE LOCAL HIGH SCHOOL DROP-OUT RATE; TO PROVIDE FOR THE PROPER PLANNING, DEVELOPMENT AND IMPLEMENTATION FOR THE CONSTRUCTION, RENOVATION AND MAINTENANCE OF EDUCATIONAL BUILDINGS AND FACILITIES; AND TO REGULATE THE ADMINISTRATION AND GOVERNANCE OF THE DEPARTMENT OF EDUCATION," returned to the Legislature without the approval of the Governor, was reconsidered by the Legislature and after such reconsideration, the Legislature did, on the 19th day of November, 1993, agree to pass said bill notwithstanding the objection of the Governor by a vote of two-thirds or more of all members thereof, to wit: by a vote of nineteen (19) members.


JOE T. SAN AGUSTIN
Speaker

Attested:


PILAR C. LUJAN
Senator and Legislative Secretary

This Act was received by the Governor this 24th day of November
1993, at 10:00 o'clock A.M.


Assistant Staff Officer
Governor's Office


TWENTY-SECOND GUAM LEGISLATURE
1993 (FIRST) Regular Session

CERTIFICATION TO THE GOVERNOR OF PASSAGE OF AN ACT

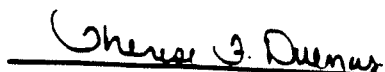
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JOE T. SAN AGUSTIN
Speaker

Attested:


PILAR C. LUJAN
Senator and Legislative Secretary

This Act was received by the Governor this 24th day of November
1993, at 10:00 o'clock A.M.


Theresa J. Duenas
Assistant Staff Officer
Governor's Office

TWENTY-SECOND GUAM LEGISLATURE
1993 (FIRST) Regular Session

Bill No. 351 (LS)

As substituted by the Committee on Education, as further substituted by the sponsor, and as further substituted by the Committee on Rules

Introduced by:

M. Z. Bordallo
J. P. Aguon
C. T. C. Gutierrez
J. T. San Agustin
T. C. Ada
H. D. Dierking
M. D. A. Manibusan
E. P. Arriola
P. C. Lujan
T. S. Nelson
V. C. Pangelinan
D. Parkinson
E. D. Reyes
D. L. G. Shimizu
J. G. Bamba
A. C. Blaz
D. F. Brooks
F. P. Camacho
T. V. C. Tanaka
A. R. Unpingco

AN ACT TO GRANT THE PEOPLE OF GUAM GREATER INFLUENCE IN THE ISLAND'S PUBLIC EDUCATIONAL SYSTEM THROUGH THE ESTABLISHMENT OF AN ELECTED TERRITORIAL BOARD OF EDUCATION; TO REPEAL AND REENACT §§3101, 3102, 3103, 3104, 3106, 3107, 3108, 3109, 3110, 3111, 3113, 3114, AND 3115, OF TITLE 17, GUAM CODE ANNOTATED, TO ADD A NEW §§3102.1, 3102.2, AND 3102.3 THERETO, AND TO REPEAL §§3105 AND 3112 THEREOF; TO INSTRUCT THE BOARD TO ESTABLISH EDUCATIONAL

GOALS FOR THE DEPARTMENT AND TO PROVIDE MEANS FOR THE EVALUATION OF THE DEPARTMENT'S PERFORMANCE WITH SUCH GOALS; TO TASK THE BOARD TO ADOPT AN ANNUAL SCHOOL CALENDAR WHICH SHALL PROVIDE FOR MAKE-UP DAYS DUE TO NATURAL DISASTERS OR INCLEMENT WEATHER; TO ESTABLISH A BUDGET PROCESS FOR THE DEPARTMENT WHEREBY SUCH BUDGET IS SUBMITTED DIRECTLY TO THE LEGISLATURE; TO INSTRUCT THE BOARD TO ESTABLISH EDUCATIONAL PROGRAMS WHICH ENCOURAGE STUDENTS TO COMPLETE HIGH SCHOOL, AND REDUCE THE LOCAL HIGH SCHOOL DROP-OUT RATE; TO PROVIDE FOR THE PROPER PLANNING, DEVELOPMENT AND IMPLEMENTATION FOR THE CONSTRUCTION, RENOVATION AND MAINTENANCE OF EDUCATIONAL BUILDINGS AND FACILITIES; AND TO REGULATE THE ADMINISTRATION AND GOVERNANCE OF THE DEPARTMENT OF EDUCATION.

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

2 **Section 1. §3101 of Chapter 3, Title 17, Guam Code Annotated, is**
3 hereby repealed and reenacted to read:

4 **"§3101. Department of Education. There is in the government**
5 **of Guam a Department of Education (the "Department").**

→ 6 **Section 2. §3102 of Chapter 3, Title 17, Guam Code Annotated, is**
7 hereby repealed and reenacted to read:

8 **"§3102. Administration of the Department. The Department**
9 **shall be administered through the Territorial Board of Education**
10 **(the "Board") which shall be the governing and policy-making body**
11 **of the Department. The Board shall:**

12 **(a) Establish the criteria for the qualifications of, select and**
13 **hire a Director and Deputy Director of Education, set their**

1 **respective salaries and serve as the immediate supervisor of the**
2 **Director of Education;**

3 **(b) Establish policies to provide for a safe and healthful**
4 **environment in all premises under its control and used for the**
5 **education of students;**

6 **(c) Establish instructional priorities consistent with the**
7 **needs of students, their community and the economy;**

8 **(d) Establish policies governing student discipline and**
9 **control, including alternatives to traditional suspension and**
10 **expulsion policies;**

11 **(e) Establish policies to promote an efficient and effective**
12 **nutritional service program for students;**

13 **(f) Establish policies governing extracurricular and**
14 **interscholastic activities which are consistent with educational,**
15 **safety, health and behavioral policies established by the Board;**

16 **(g) Establish and approve rules and regulations for the**
17 **administration of the Department which are consistent with**
18 **recognized sound business principles and management and**
19 **government-wide rules and regulations;**

20 **(h) Establish policies to insure that the budget preparation,**
21 **submission and implementation reflect the Board's instructional**
22 **priorities;**

23 **(i) Develop an annual budget to fund the Department's**
24 **operations, which shall be for an amount no less than the average**
25 **budget for the preceding three (3) years, to be submitted to the**
26 **Legislature not later than July 30th of each fiscal year; within**
27 **forty-five (45) days from the date of such submission, the**

1 Legislature may either approve or disapprove, in whole or in
2 part, such budget, and if the Legislature does not act upon such
3 budget within such period, the budget shall be deemed approved
4 and appropriated from the General Fund. Any supplemental
5 requirements shall also be submitted to the Legislature for
6 appropriation. There shall be reserved, annually, within the
7 General Fund the funds necessary to equal the average budget of
8 the Department for the preceding three (3) years, to fund the
9 Department's budget for the succeeding year's budget;

10 (j) Review periodically Departmental personnel policies
11 and make appropriate changes which shall be transmitted to the
12 Civil Service Commission for final approval;

13 (k) Review an annual audit by the Director of all personnel
14 employed by the Department;

15 (l) Establish and approve a ten- (10-) year plan, which
16 shall be updated annually if deemed necessary by the Board, for
17 the construction, renovation and maintenance of educational
18 buildings and facilities to properly meet the demands of the
19 educational system;

20 (m) Establish to be submitted to the Legislature for approval
21 an annual school calendar, which shall take into consideration
22 make-up days for instructional days lost due to natural disasters
23 or inclement weather, and that specifies the instructional days,
24 teacher workdays, holidays, and days for system-wide events and
25 for other educational activities;

1 (n) Establish educational programs which shall encourage
2 students to complete high school and reduce the local high school
3 dropout rate.

4 (o) Promulgate regulations for the election of members to
5 the Island-wide Board of Governing Students and for the
6 selection of the Board's student representative;

→ 7 (p) Establish a pilot year-round school program by no later
8 than school year 1996-1997 to determine the feasibility of
9 implementing such a program on an island-wide basis."

10 Section 3. §3102.1 is hereby added to Chapter 3, Title 17, Guam Code
11 Annotated, to read:

12 "§3102.1. Director and Deputy Director. The Director of
13 Education (the "Director") and, in his absence, the Deputy Director
14 of Education (the "Deputy Director"), shall be the chief executive
15 officer of the Department. The Director and Deputy Director shall
16 serve in the exempted unclassified service, the qualifications for
17 which offices shall be established by the Board. Their respective
18 terms of office shall be five (5) years each, commencing with the date
19 of Board approval, and their terms may be renewed at the option of
20 the Board. The Board may, by a vote of seven (7) members, remove
21 the Director or Deputy Director from such position for cause. The
22 Director shall:

23 (a) Be the Executive Secretary of the Board;

24 (b) Enforce the policies, rules and regulations of the
25 Department;

26 (c) Attend all meetings of the Board and submit reports on
27 the general affairs of the Department;

1 (d) Prepare and submit an annual budget for the Board's
2 consideration and approval;

3 (e) Submit quarterly reports to the Board showing the
4 financial and budgetary condition of the Department;

5 (f) Hire employees in accordance with established criteria,
6 and assign or transfer employees for efficient and instructionally
7 sound operations;

8 (g) Ensure that employees whose job descriptions require
9 professional certification or professional, non-educational
10 qualifications have the required current credentials;

11 (h) Establish and maintain a list of fully qualified applicants
12 for positions in the Department and select and appoint from such
13 list in a manner consistent with Board policy and Guam law;

14 (i) Plan, coordinate, and control the services of employees
15 in the Department;

16 (j) Enter into contracts on behalf of the Department in
17 accordance with all applicable laws and regulations;

18 (k) Report to the Board, the Governor, and the Legislature
19 annually on the state of public education in Guam;

20 (l) Devote full time and energy to providing
21 administrative leadership as Superintendent; and

22 (m) Perform such other duties as the Board may require."

23 Section 4. §3102.2 is hereby added to Chapter 3, Title 17, Guam Code
24 Annotated, to read:

25 "§3102.2 Establishment of educational goals and annual
26 report. (a) The Board shall establish and properly implement
27 educational goals which shall work towards the continual

1 enhancement of the public educational system. Such goals may
2 include, but are not limited to, the following: (i) To provide adequate
3 facilities to accommodate existing and projected increases in school
4 population; (ii) To properly prepare pre-school children for school;
5 (iii) To insure optimum graduation from high school by establishing
6 programs to reduce the high school dropout rate; (iv) To increase the
7 annual standardized test scores for Guam students; and (v) To
8 provide safe, disciplined, and drug-free schools. Such goals shall be
9 reviewed and revised, if necessary, by the Board annually.

10 (b) Upon the establishment and adoption of such educational
11 goals, copies of such goals shall be transmitted to the Governor and
12 the Legislature.

13 (c) The Board shall annually assess the performance of the
14 Department against such goals, and shall report to the Governor
15 and the Legislature on the activities of the Department in the
16 implementation and realization of these educational goals. Copies
17 of such report shall be made available to the public.

18 (d) The Board may authorize the execution of contracts
19 between the Department and the U. S. Department of Defense in
20 order to assist in reaching the educational goals set by the Board;
21 provided, however, that no such contract may take effect until a copy
22 of the same as proposed to be executed has been delivered to the
23 Speaker of the Legislature and thirty (30) days after such delivery
24 have elapsed."

25 Section 5. §3102.3 is hereby added to Chapter 3, Title 17, Guam Code
26 Annotated, to read:

1 **"§3102.3. Attorney for the Department.** The Board may
2 employ an attorney to assist and represent it in all civil matters
3 which concern the Department. The Board may set the terms and
4 conditions for employment of the attorney or law firm, and the Civil
5 Service Commission shall establish the level of compensation. The
6 Board shall determine whether the appointment is a full-time
7 unclassified employee or an independent consultant.

8 The Attorney General shall assist the Department in all
9 litigation in which the Department is interested; provided, that the
10 Attorney General shall designate the attorney for the Department as
11 a Special Assistant Attorney General for such purpose."

12 Section 6. §3103 of Title 17, Guam Code Annotated, is repealed and
13 reenacted to read:

14 **"§3103. Territorial Board of Education.** (a) The Territorial
15 Board of Education (the "Board") shall consist of twelve (12)
16 members, nine (9) of whom shall be voting members, consisting of
17 seven (7) members who shall be elected by district, one (1) who shall
18 be elected by the Guam Parent-Teacher Association Congress, and
19 one (1) who shall be elected by the Island-wide Board of Governing
20 Students. Of the twelve (12) members, three (3) shall be non-voting,
21 *ex officio* members.

22 (b) The three (3) non-voting *ex officio* members shall be
23 selected by the interests they respectively represent: One (1) to be
24 selected by the Secretary of Defense or his designee to represent U.S.
25 Military personnel on Guam; one (1) to be selected collectively by the
26 administrative heads of non-public schools to represent non-public
27 schools; and one (1) to be selected by the exclusive bargaining unit

1 which represents teachers and other members of the bargaining unit
2 within the Department.

3 (c) The Board shall promulgate regulations for the election of
4 members to the Island-wide Board of Governing Students and for
5 the election of the Board's student representative."

6 Section 7. §3104 of Title 17, Guam Code Annotated, is repealed and
7 reenacted to read:

8 "§3104. Same: elected members; districts. (a) Seven (7)
9 voting members of the Board shall be elected by district in accordance
10 with the Election Law (Title 3, Guam Code Annotated); provided,
11 that candidates for such election shall be nominated only as provided
12 in §3106 of this Chapter. Employees of the Department are not
13 eligible to run.

14 (b) The election provided for in this section shall be non-
15 partisan, and no political party shall directly or indirectly sponsor,
16 nominate or endorse any of the candidates for such office.

17 (c) There shall be the following number of elected Board
18 members for the following districts composed of the municipalities as
19 set out in the following table:

20	Districts:	Municipalities:	No. of Board members:
21	District 1.	Dededo and Yigo,	2,
22	District 2.	Barrigada, Mangilao, and Sinajaña,	1,
23	District 3.	Tamuning, Agaña Heights, 24 Mongmong-Toto-Maite, and Agaña,	2,
25	District 4.	Chalan Pago and Ordot, Yofia, 26 Talofoto, Inarajan, and Merizo,	1,
27			

1 District 5. Umatac, Agat, Santa Rita, Piti,
2 and Asan/Maina, 1."

3 Section 8. §3105 of Title 17, Guam Code Annotated, is hereby repealed
4 and reenacted to read:

5 "§3105. Island-wide Board of Governing Students. (a) The
6 Island-wide Board of Governing Students (the "Island-wide
7 Board"), which is hereby created, shall consist of a member of the
8 Youth Congress who shall be elected by its members and two (2)
9 members from each public high school elected by a plurality vote of
10 freshmen, sophomores, juniors, and seniors attending the public high
11 schools, voting in an election held in all the public high schools on one
12 day in May of each year. Such election shall be supervised by the
13 Director in cooperation with the student governing bodies of the
14 high schools.

15 (b) A candidate must be nominated by a petition signed by no
16 less than one hundred (100) freshmen, sophomores, juniors, or
17 seniors from the public high schools.

18 (c) Members of the Island-wide Board must attend the schools
19 they represent and must have and maintain at least a 2.5 grade point
20 average.

21 (d) No student may be a candidate if under suspension or on
22 academic probation at the time of nomination.

23 (e) The Island-wide Board shall meet at least once a month
24 during the school year to discuss matters relating to Guam's public
25 education system and to make recommendations to the Board."

26 Section 9. §3106 of Title 17, Guam Code Annotated, is repealed and
27 reenacted to read:

1 **"§3106. Nomination for election to the Board.** Nomination of
2 candidates for election to the Board shall be made by petition on
3 forms prescribed by the Election Commission and initiated by the
4 candidate. In order for a person's name to be placed on the ballot for
5 election to the Board, such petition must be signed by not less than
6 one hundred fifty (150) persons registered to vote in Guam and must
7 be filed with the Election Commission not more than sixty (60) days
8 nor less than forty-five (45) days prior to the election for such
9 members. No defect in any nominating petition presented to the
10 Election Commission shall prevent the filing of another petition
11 which is presented within the allowed filing period. Such petitions
12 shall be maintained on file with the Commission for not less than ten
13 (10) years."

14 Section 10. §3107 of Chapter 3, Title 17, Guam Code Annotated, is
15 hereby repealed and reenacted to read:

16 **"§3107. Same: first election: terms.** The members of the Board
17 shall be elected by district at the General Election to be held in
18 November of 1994. The terms of office of Board members elected
19 pursuant to this section shall commence at 12 o'clock noon on the
20 date of their certification of election by the Election Commission.
21 The four (4) Board members receiving the highest number of votes
22 shall serve until 12 o'clock noon on the first Monday of January,
23 1999. The remaining three (3) Board members shall serve until 12
24 o'clock noon on the first Monday of January, 1997."

25 Section 11. §3108 of Chapter 3, Title 17, Guam Code Annotated, is
26 hereby repealed and reenacted to read:

1 **"§3108. Same: subsequent elections: terms.** After the first
2 election, the terms of office for all elected members shall be four (4)
3 years. Terms of office for elected members shall commence at 12
4 o'clock noon on the first Monday of January following their election
5 and shall terminate at 12 o'clock noon on the first Monday of
6 January four (4) years thereafter."

7 Section 12. §3110 of Chapter 3, Title 17, Guam Code Annotated, is
8 hereby repealed and reenacted to read:

9 **"§3110. Same: membership prior to election.** The terms of
10 Board members in office on the effective date of this Chapter shall
11 terminate at 12 o'clock noon on the date of the commencement of the
12 terms of the first elected members."

13 Section 13. §3111 of Chapter 3, Title 17, Guam Code Annotated, is
14 hereby repealed and reenacted to read:

15 **"§3111. Same: vacancies.** Vacancies occurring on the Board
16 shall be filled through the selection of a person(s) by the remaining
17 members of the Board. In the selection of an individual to fill the
18 unexpired term, the Board shall announce such vacated position and
19 the remaining time period in such position to be filled, accept
20 applications from interested persons to fill the vacancy, and select
21 such person the Board deems most qualified among the applicants to
22 fill the vacant position. The vacancies shall be filled by the Board as
23 follows: In the case of a vacancy in an elected membership, from an
24 applicant from the member's district; in the case of a vacancy in an ex
25 officio membership, from an applicant from the organization which
26 selected the member originally."

1 **Section 14. §3113 of Chapter 3, Title 17, Guam Code Annotated, is**
2 **hereby repealed and reenacted to read:**

3 **"§3113. Same: officers of the Board. Officers of the Board**
4 **shall include the Chairman and Vice-Chairman, and such other**
5 **positions which the Board deems necessary to effectively carry out its**
6 **responsibilities. Such Board officers upon election shall serve for a**
7 **term of one (1) year. Board officers shall be elected by a majority**
8 **vote of the members of the Board during one of the Board's meetings**
9 **held in November of each year."**

10 **Section 15. §3114 of Chapter 3, Title 17, Guam Code Annotated, is**
11 **hereby repealed and reenacted to read:**

12 **"§3114. Same: meetings of the Board. Meetings of the Board**
13 **shall be open and held at a regular time and place each month.**
14 **Special meetings may be called by the Chairman."**

15 **Section 16. §3115 of Chapter 3, Title 17, Guam Code Annotated, is**
16 **hereby repealed and reenacted to read:**

17 **"§3115. Same: acts of the Board. The concurrence of five (5)**
18 **members of the Board shall be necessary for the validity of any of its**
19 **acts."**

20 **Section 17. Compensation. Board members shall be compensated at**
21 **the rate of Fifty Dollars (\$50) per board meeting, not to exceed One Hundred**
22 **Dollars (\$100) per month.**

23 **Section 18. Severability. If any provision of this Act or its application**
24 **to any person or circumstance is found to be invalid or contrary to law, such**
25 **invalidity does not affect other provisions or applications of this Act which**
26 **can be given effect without the invalid provisions or application, and to this**
27 **end the provisions of this Act are severable. If the provision of this Act found**

1 to be invalid is subparagraph (c) of §3104 as set out in Section 7 of this Act
2 because of a violation of the constitutional principle, "one man—one vote",
3 then those elected members of the Board of Education whose election districts
4 are so found to be in violation of such principle shall continue to hold office
5 until the next regularly scheduled election to the Board of Education, prior to
6 which election the Election Commission shall have drawn new boundaries for
7 the five (5) election districts which comply with the "one man—one vote"
8 principle.