



OFFICE OF THE GOVERNOR
GUAM


JUL 09 2001

The Honorable Joanne M. S. Brown
Legislative Secretary
I Mina'Bente Sais na Liheslaturan Guåhan
Twenty-Sixth Guam Legislature
Suite 200
130 Aspal Street
Hagåtña, Guam 96910

Dear Legislative Secretary Brown:


Enclosed please find Substitute Bill No. 053 (COR) entitled: "AN ACT TO REPEAL AND REENACT §16104.5 OF TITLE 17 OF THE GUAM CODE ANNOTATED, AND TO AMEND §4 OF CHAPTER III OF P.L. NO. 26-01 AND §1(a) OF CHAPTER III OF P.L. NO. 25-164, RELATIVE TO THE REGENT NOMINATING COUNCIL, AND ADJUSTMENTS TO HAL'S ANGELS FOOTBALL ASSOCIATION'S AND UOG'S SCHOLARSHIP APPROPRIATIONS" which was vetoed and subsequently overridden by i Liheslatura Guåhan, the Legislature. This legislation is now designated as Public Law No. 26-24.

Very truly yours,


Madeleine Z. Bordallo
I Maga'Lahen Guåhan, Akto
Acting Governor of Guam

Attachment: copy attached for signed bill or overridden bill
original attached for vetoed bill

cc: The Honorable Antonio R. Unpingco
Speaker


OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGMENT RECEIPT	
Received By	
Time	10:2 A
Date	7/10/01

0303

MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN
2001 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that Substitute Bill No. 53 (COR), "AN ACT TO REPEAL AND REENACT §16104.5 OF TITLE 17 OF THE GUAM CODE ANNOTATED, AND TO AMEND §4 OF CHAPTER III OF P.L. NO. 26-01 AND §1(a) OF CHAPTER III OF P.L. NO. 25-164, RELATIVE TO THE REGENT NOMINATING COUNCIL, AND ADJUSTMENTS TO HAL'S ANGELS FOOTBALL ASSOCIATION'S AND UOG'S SCHOLARSHIP APPROPRIATIONS," returned without approval of *I Maga'lahaen Guåhan*, was reconsidered by *I Liheslaturan Guåhan* and after such consideration, did agree, on the 5th day of July, 2001, to pass said bill notwithstanding the veto of *I Maga'lahaen Guåhan* by a vote of Twelve (12) members.



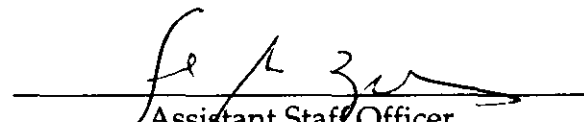
ANTONIO R. UNPINGCO
Speaker

Attested:



JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by *I Maga'lahaen Guåhan* this 6th day of July,
2001, at 4:25 o'clock P.M.



Assistant Staff Officer
Maga'lahaen's Office

MINA'BENTE SAIS NA LIHESLATURAN GUÁHAN
2001 (FIRST) Regular Session

Bill No. 53 (COR)

As substituted by the
Committee on Rules, General
Governmental Operations,
Reorganization and Reform, and
Federal, Foreign and General Affairs,
and as further substituted by the
Author and amended on the Floor.

Introduced by:

J. T. Won Pat
V. C. Pangelinan
M. C. Charfauros
A. L.G. Santos
L. A. Leon Guerrero
F. B. Aguon, Jr.
T. C. Ada
J. F. Ada
J. M.S. Brown
E. B. Calvo
F. P. Camacho
Mark Forbes
L. F. Kasperbauer
K. S. Moylan
A. R. Unpingco

**AN ACT TO REPEAL AND REENACT §16104.5 OF
TITLE 17 OF THE GUAM CODE ANNOTATED,
AND TO AMEND §4 OF CHAPTER III OF P.L. NO.
26-01 AND §1(a) OF CHAPTER III OF P.L. NO. 25-
164, RELATIVE TO THE REGENT NOMINATING
COUNCIL, AND ADJUSTMENTS TO HAL'S
ANGELS FOOTBALL ASSOCIATION'S AND
UOG'S SCHOLARSHIP APPROPRIATIONS.**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* is

3 acutely aware that the Western Association of Schools and Colleges
4 (“WASC”) accreditation team report has identified that the University of
5 Guam (“UOG”) continues to experience inappropriate executive and previous
6 legislative intrusion into its affairs. *I Liheslaturan Guåhan* finds that one (1) of
7 its priorities is to ensure that WASC continues to certify UOG as an accredited
8 institution of higher education.

9 One (1) way to protect UOG’s accreditation is by strengthening the
10 autonomy of the current Board of Regents’ (“Board’s”) membership
11 nomination process. *I Liheslaturan Guåhan* recognizes that the Board is the
12 governing body, responsible for the quality and integrity of the institution
13 and for ensuring that the institution’s mission is being carried out.

14 The Board should be an independent policy-making body, free from
15 external political interference. *I Liheslaturan Guåhan* further finds that, with
16 the establishment of a standing Regent Nominating Council that is free from
17 external influences, the Council will nominate outstanding individuals with
18 the foremost interest of the welfare of the community and UOG above
19 personal and political considerations.

20 Therefore, it is the intent of *I Liheslaturan Guåhan* to create an open and
21 systematic nomination process for membership to the Board. This in turn
22 would strengthen the autonomy and effectiveness of the Board to insulate
23 UOG from undue government and legislative influence. Furthermore, *I*
24 *Liheslaturan Guåhan* intends to make it abundantly clear to WASC that the

1 People of Guam are determined to take the necessary measures to ensure that
2 UOG maintains its accreditation and is free from external political
3 interference.

4 **Section 2.** Section 16104.5 of Chapter 16, Division 3 of Title 17 of the
5 Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

6 **“Section 16104.5. Regent Nominating Council;**
7 **Establishment.** There is established the Regent Nominating Council
8 (‘Council’) with sole responsibility to identify, recruit, evaluate and
9 nominate all qualified candidates for non-student membership on the
10 Board of Regents of the University of Guam (‘UOG’).

11 **(a) Membership.**

- 12 (1) The Council shall consist of eleven (11) members:
- 13 (i) one (1) Mayor-member to be appointed by the
14 Mayor’s Council;
 - 15 (ii) one (1) member of the UOG Board of Regents to
16 be appointed by the UOG Board of Regents;
 - 17 (iii) one (1) member of the UOG Administrative
18 Council to be appointed by the UOG
19 Administrative Council;
 - 20 (iv) one (1) member of the UOG Faculty Senate to be
21 appointed by the UOG Faculty Senate;
 - 22 (v) one (1) member of the UOG Student
23 Government Association to be appointed by the
24 UOG Student Government Association;

- 1 (vi) one (1) member of the UOG Alumni Association
2 to be appointed by the UOG Alumni
3 Association;
4 (vii) one (1) member of the UOG Staff Council to be
5 appointed by the UOG Staff Council;
6 (viii) one (1) member of the Guam Youth Congress to
7 be appointed by the Guam Youth Congress, *and*
8 (ix) three (3) members from the community at large.

9 Three (3) members of the community at large shall be appointed
10 by the Regent Nominating Council. The eight (8) members listed
11 in Subsections a(i) to a(viii) shall serve for a term of one (1) year.
12 The three (3) community at large members shall serve a term of
13 two (2) years.

14 No community at large members shall be employees or
15 students of UOG or employees of the government of Guam.
16 Community at large members must be United States citizens or
17 permanent resident aliens domiciled on Guam for *at least* two (2)
18 years *prior to* appointment to the Council.

19 (2) The UOG Board of Regents member shall serve as
20 *temporary* chairperson, and shall convene the first meeting of the
21 Council. At its first meeting the Council shall elect from among its
22 members a chairperson and a vice-chairperson. The chairperson
23 shall preside at all meetings of the Council, shall act as the
24 spokesperson of the Council and perform such other duties as the
25 Council shall direct.

1 The vice-chairperson shall succeed to the duties of the
2 chairperson in the absence or inability of the chairperson to serve.
3 From among its members, the Council shall select a secretary and
4 any other officers that the Council may deem necessary.

5 **(b) Duties.**

6 (1) The Council shall develop a statement of the selection
7 criteria to be applied and a description of the responsibilities and
8 duties of a regent, and shall distribute this to potential candidates.

9 (2) In making its nominations, the Council shall: consider
10 the needs of the University; advertise; locate potential candidates;
11 maintain a list of their names and contact information; match
12 potential candidates with projected vacancies; review candidates'
13 qualifications and references; conduct interviews; *and* carry out
14 other recruitment and screening activities as necessary.

15 (3) The Council shall be responsible for submitting a list
16 of *at least* one (1) and *no more than* three (3) qualified candidates for
17 every vacancy on the Board to *I Maga'lahen Guåhan*.

18 (4) Nominations shall be made thirty (30) days *prior to* the
19 expiration of a term, or within fourteen (14) days following an
20 unforeseen vacancy. *I Liheslaturan Guåhan* finds that it is critical
21 that a vacancy on the Board be filled promptly. Therefore, *I*
22 *Maga'lahen Guåhan* shall make the appointment of the qualified
23 candidate from a list of candidates provided by the Council,
24 which list shall contain *at least* one (1) and *no more than* three (3)

1 qualified candidates submitted by the Council within forty-five
2 (45) days of a vacancy, *subject* to the advice and consent of *I*
3 *Liheslaturan Guåhan*.

4 If *I Maga'lahen Guåhan* does *not* make the appointment
5 within forty-five (45) days of a vacancy, the Speaker of *I*
6 *Liheslaturan Guåhan* shall make the appointment of the qualified
7 candidate from the identical list submitted to *I Maga'lahen Guåhan*
8 by the Council, *subject* to the advice and consent of *I Liheslaturan*
9 *Guåhan*. Any appointment to fill a vacancy which is made by the
10 Speaker of *I Liheslaturan Guåhan* pursuant to this Section shall *not*
11 become void due to a later appointment by *I Maga'lahen Guåhan* to
12 fill the same vacancy.

13 (5) The Council shall make an annual report to *I*
14 *Maga'lahen Guåhan* and *I Liheslaturan Guåhan* at the termination of
15 each fiscal year setting forth a summation of its activities and
16 general recommendations.

17 (c) **Council Meetings.** The Council shall hold *at least* one (1)
18 meeting quarterly and as often as necessary. The Council shall conduct
19 its first meeting within fourteen (14) days after approval of this Act. A
20 majority of the Council members shall constitute a quorum. The vote of
21 six (6) Council members shall be required for any action of the Council.
22 The Council may adopt rules to govern its procedures.

23 (d) **Support Services.** The President of UOG shall
24 provide administrative and support services for the Council.”

1 **Section 3.** Section 4 of Chapter III of Public Law Number 26-01 is
2 hereby *amended* to read as follows:

3 **“Section 4. Appropriations to the Hal’s Angels Football**
4 **Association.** There is hereby appropriated the sum of Thirteen
5 Thousand Four Hundred Forty-eight Dollars (\$13,448.00) from the
6 General Fund to the Hal’s Angels Football Association for the specific
7 purpose of paying outstanding invoices to vendors for the purchase of
8 equipment appropriated in §4 of Public Law Number 24-300 and de-
9 appropriated by §41(f) of Chapter III of Public Law Number 25-03.”

10 **Section 4.** Section 1(a) of Chapter III of Public Law Number 25-164 is
11 hereby *amended* to read as follows:

12 **“(a) Student Scholarship Financial Assistance and Program**
13 **Administration.** Two Million Four Hundred Five Thousand Four
14 Hundred Twenty-nine Dollars (\$2,405,429.00) is appropriated from the
15 General Fund to the University of Guam to be expended for the
16 following student scholarships, financial assistance programs and
17 program administrations: Merit Awards; Student Loans; Nurse
18 Training Programs; Professional and Technical Awards; Reserve Officer
19 Training Corp. (‘ROTC’) Regent Scholarships; Marine Lab Graduates
20 Assistance Programs; Doctoral Fellowships; Advanced High School
21 Placement Programs; the John F. Quan Memorial Scholarship for Ocean
22 Resource Science and Research; *and* administration of all student
23 financial assistance programs.

1 The University of Guam shall determine the allocation of this
2 appropriation in order to fund the various student scholarships,
3 financial assistance programs and program administration.”

4 **Section 5. Severability.** *If* any provision of this Law or its
5 application to any person or circumstance is found to be invalid or contrary to
6 law, such invalidity shall *not* affect other provisions or applications of this
7 Law which can be given effect without the invalid provisions or application,
8 and to this end the provisions of this Law are severable.

E. Overidden

I MINA' BENTE SAIS NA LIHESLATURAN GUAHAN

2001 (FIRST) Regular Session

Date: 7/5/01

VOTING SHEET

Vetoed
Bill No. 53

Resolution No. _____

Question: _____

26-25

NAME	YEAS	NAYS	NOT VOTING/ ABSTAINED	OUT DURING ROLL CALL	ABSENT
ADA, Joseph F.	✓				
ADA, Thomas C.	✓				
AGUON, Frank B., Jr.	✓				
BROWN, Joanne M. S.	✓				
CALVO, Eddie B.					✓
CAMACHO, Felix P.	✓				
CHARFAUROS, Mark C.	✓				
FORBES, Mark	✓				
KASPERBAUER, Lawrence F.	✓				
LEON GUERRERO, Lourdes A.					✓
MOYLAN, Kaleo S.	✓				
PANGELINAN, Vicente C.	✓				
SANTOS, Angel L.G.	✓				
UNPINGCO, Antonio R.	✓				
WON PAT, Judith T.					✓

TOTAL 12 0 0 0 3

CERTIFIED TRUE AND CORRECT:

Clerk of the Legislature

* 3 Passes = No vote
EA = Excused Absence



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

JUN 13 2001

The Honorable Joanne M. S. Brown
Legislative Secretary
I Mina'Bente Sais na Liheslaturan Guåhan
Twenty-Sixth Guam Legislature
Suite 200
130 Aspal Street
Hagåtña, Guam 96910

OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGMENT RECEIPT	
Received By	<u> <i>J.S.</i> </u>
Time	<u> 2:30 PM </u>
Date	<u> 6/12/01 </u>

Dear Legislative Secretary Brown:

Enclosed please find Substitute Bill No. 053 (COR) entitled: "AN ACT TO *REPEAL AND REENACT* §16104.5 OF TITLE 17 OF THE GUAM CODE ANNOTATED, AND TO *AMEND* §4 OF CHAPTER III OF P.L. NO. 26-01 AND §1(a) OF CHAPTER III OF P.L. NO. 25-164, RELATIVE TO THE REGENT NOMINATING COUNCIL, AND ADJUSTMENTS TO HAL'S ANGELS FOOTBALL ASSOCIATION'S AND UOG'S SCHOLARSHIP APPROPRIATIONS" which I have vetoed.

Since this legislation includes a rider for funding for University of Guam scholarships, I am requesting that the Legislature immediately take action to resubmit the funding for scholarships as soon as possible. Funding of student scholarships should not be unfairly tied to policy changes that change the Charter and governance of the University.

The reason for the veto of this legislation is a serious concern that the legislation does not address the recommendations of the Western Association of Schools and Colleges (WASC) report, and in fact, conflicts with several of these recommendations. The WASC report recommendations need immediate attention. I understand that there is a serious on-going attempt by many people at the University of Guam to address the WASC recommendations directly, as addressing these recommendations is vital to continued accreditation health of the University. There is no statement anywhere in the WASC report that even suggests a need for new legislation of any sort for the University, for a need to change the University's governance laws, or to change its Charter. Substitute Bill No. 53, however, changes the University's governance laws and its Charter.

0255

Substitute Bill No. 53 seeks to reduce political interference in regent selection. It does not have this effect, but instead reduces the field of candidates who may be considered as nominees for the position of regent. It complicates and internalizes the composition of a regents selection council, and encourages internal politicking. With a majority of the members of the newly composed regents selection council chosen from insider constituent groups of the University, the field of candidates for the position of regents will be reduced to those who have relationships with the selecting individuals. Additionally, administrator groups or professor groups, who control the resources and funds of the University, can inordinately influence the individuals chosen by staff groups, student groups, or alumni groups, whether directly or indirectly. Internal politicking can only increase. The individuals chosen by the regents selection council as community at large members can be predicted to be individuals with close ties to the insider group members who would already at that point be on the regents selection council.

The Charter of the University of Guam states that changes to the Charter, which this legislation is, must be approved by seven of nine regents. The inappropriate outside influence represented by this legislation was anticipated in the establishment of the University's Charter. In fact, the Charter states that: "To ensure this continuity and stability this Charter of the University of Guam may be amended only after a resolution signed by seven (7) members of the Board request in writing Legislative approval of any such substantive amendment." The legislation does not come from the Board of Regents, however. The Board of Regents did not submit the legislation to the Legislature, nor did the Board of Regents testify in favor of the passage of this legislation. The legislation also does not have endorsements by University groups outside of individual members of WASC Issue Group #2. The review of this legislation by the various constituent groups within the University, as well as the community as a whole, does not appear to have taken place yet. In this regard, the legislation is premature, as well as unnecessary per the WASC recommendation report.

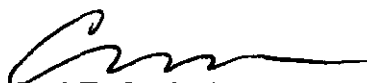
This legislation conflicts with several of the WASC recommendations. For example, "The Board of Regents must be very careful not to weaken the presidency by allowing faculty and staff to circumvent the president and his/her administration and giving the impression of managing the University". The internal selections by the staff group, administrator group, faculty group, alumni group, and student group, in the naming of nominees to the Board of Regents creates an internal situation within the University where the role of the presidency, as ultimately selected from this internal situation, will have to be weakened. Several of these groups control the resources and funding of the rest of these groups. A President selected by insider-regents who are nominated by an insider-council will need to cater to these groups in ways that may not advance the

University, since insider-politicking will produce the decision to select a particular president. The community at large, where other University stakeholders reside, is left out of the picture.

Finally, this legislation inappropriately involves the Legislature in the selection of Board of Regents members. While shortening the time for appointment of a regent from the anticipated small and narrowly drawn field of nominees, the legislation states that the Speaker of the Legislature will appoint. WASC situation item and concern item under WASC Compliance Issue #2 in the WASC report state: "the Legislature has considered bills in recent years that would involve it in such administrative and faculty responsibilities as the hiring of faculty", and "There has been inappropriate legislative intrusion into university affairs". No similar statements concerning the Governor or Executive Branch appear in the report. This legislation, as well as the manner in which it came about, appears to perpetuate the situations and concerns of WASC Compliance Issue #2, instead of addressing them and eliminating them, as required by the WASC recommendation: "The Board of Regents must make every effort to insulate the University from undue legislative and governmental influence."

If the Legislature truly supports a University free of political interference, I would hope that at this crucial time the Legislature pass no legislation whatsoever concerning University governance, Charter changes, or the like, pending formal action by the Board of Regents with open and adequate input from other University and community groups.

Very truly yours,



Carl T. C. Gutierrez
I Maga'Lahen Guáhan
Governor of Guam


Attachment: copy attached for signed bill or overridden bill
original attached for vetoed bill

cc: The Honorable Antonio R. Unpingco
Speaker

MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN
2001 (FIRST) Regular Session

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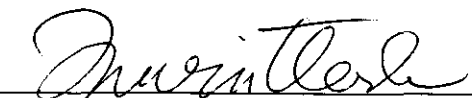
ANTONIO R. UNPINGCO
Speaker

Attested:



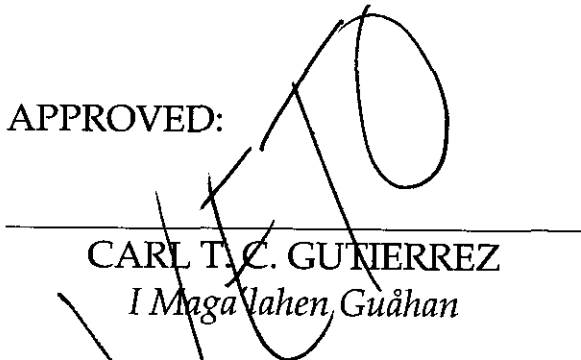
JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by *I Maga'lahen Guåhan* this 1st day of June, 2001,
at 4:55 o'clock P.M.



Assistant Staff Officer
Maga'lahi's Office

APPROVED:



CARL T.C. GUTIERREZ
I Maga'lahen Guåhan

Date: _____

Public Law No. _____

MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN
2001 (FIRST) Regular Session

Bill No. 53 (COR)

As substituted by the
Committee on Rules, General
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23 candidate from a list of candidates provided by the Council,
24 which list shall contain *at least* one (1) and *no more than* three (3)

1 qualified candidates submitted by the Council within forty-five
2 (45) days of a vacancy, *subject* to the advice and consent of *I*
3 *Liheslaturan Guåhan*.

4 If *I Maga'lahen Guåhan* does *not* make the appointment
5 within forty-five (45) days of a vacancy, the Speaker of *I*
6 *Liheslaturan Guåhan* shall make the appointment of the qualified
7 candidate from the identical list submitted to *I Maga'lahen Guåhan*
8 by the Council, *subject* to the advice and consent of *I Liheslaturan*
9 *Guåhan*. Any appointment to fill a vacancy which is made by the
10 Speaker of *I Liheslaturan Guåhan* pursuant to this Section shall *not*
11 become void due to a later appointment by *I Maga'lahen Guåhan* to
12 fill the same vacancy.

13 (5) The Council shall make an annual report to *I*
14 *Maga'lahen Guåhan* and *I Liheslaturan Guåhan* at the termination of
15 each fiscal year setting forth a summation of its activities and
16 general recommendations.

17 **(c) Council Meetings.** The Council shall hold *at least* one (1)
18 meeting quarterly and as often as necessary. The Council shall conduct
19 its first meeting within fourteen (14) days after approval of this Act. A
20 majority of the Council members shall constitute a quorum. The vote of
21 six (6) Council members shall be required for any action of the Council.
22 The Council may adopt rules to govern its procedures.

23 **(d) Support Services.** The President of UOG shall
24 provide administrative and support services for the Council.”

1 **Section 3.** Section 4 of Chapter III of Public Law Number 26-01 is
2 hereby *amended* to read as follows:

3 **“Section 4. Appropriations to the Hal’s Angels Football**
4 **Association.** There is hereby appropriated the sum of Thirteen
5 Thousand Four Hundred Forty-eight Dollars (\$13,448.00) from the
6 General Fund to the Hal’s Angels Football Association for the specific
7 purpose of paying outstanding invoices to vendors for the purchase of
8 equipment appropriated in §4 of Public Law Number 24-300 and de-
9 appropriated by §41(f) of Chapter III of Public Law Number 25-03.”

10 **Section 4.** Section 1(a) of Chapter III of Public Law Number 25-164 is
11 hereby *amended* to read as follows:

12 **“(a) Student Scholarship Financial Assistance and Program**
13 **Administration.** Two Million Four Hundred Five Thousand Four
14 Hundred Twenty-nine Dollars (\$2,405,429.00) is appropriated from the
15 General Fund to the University of Guam to be expended for the
16 following student scholarships, financial assistance programs and
17 program administrations: Merit Awards; Student Loans; Nurse
18 Training Programs; Professional and Technical Awards; Reserve Officer
19 Training Corp. (‘ROTC’) Regent Scholarships; Marine Lab Graduates
20 Assistance Programs; Doctoral Fellowships; Advanced High School
21 Placement Programs; the John F. Quan Memorial Scholarship for Ocean
22 Resource Science and Research; *and* administration of all student
23 financial assistance programs.

1 The University of Guam shall determine the allocation of this
2 appropriation in order to fund the various student scholarships,
3 financial assistance programs and program administration.”

4 **Section 5. Severability.** *If* any provision of this Law or its
5 application to any person or circumstance is found to be invalid or contrary to
6 law, such invalidity shall *not* affect other provisions or applications of this
7 Law which can be given effect without the invalid provisions or application,
8 and to this end the provisions of this Law are severable.

6

I MINA' BENTE SAIS NA LIHESLATURAN GUAHAN

2001 (FIRST) Regular Session

Date: 6/1/01

VOTING SHEET

S Bill No. 53 (COR)

Resolution No. _____

Question: _____

NAME	YEAS	NAYS	NOT VOTING/ ABSTAINED	OUT DURING ROLL CALL	ABSENT
ADA, Joseph F.	✓				
ADA, Thomas C.	✓				
AGUON, Frank B., Jr.	✓				
BROWN, Joanne M. S.	✓				
CALVO, Eddie B.	✓				
CAMACHO, Felix P.	.			✗	✓
CHARFAUROS, Mark C.					✓
FORBES, Mark	✓				
KASPERBAUER, Lawrence F.	✓				
LEON GUERRERO, Lourdes A.					✓
MOYLAN, Kaleo S.	✓				
PANGELINAN, Vicente C.					✓
SANTOS, Angel L.G.	✓				
UNPINGCO, Antonio R.	✓				
WON PAT, Judith T.	✓				

TOTAL

11 0 0 0 4

CERTIFIED TRUE AND CORRECT:

Clerk of the Legislature

* 3 Passes = No vote
EA = Excused Absence

6

I MINA' BENTE SAIS NA LIHESLATURAN GUAHAN

2001 (FIRST) Regular Session

Date: 5/31/01

VOTING SHEET

5 Bill No. 53 (COR)

Resolution No. _____

Question: _____

<u>NAME</u>	<u>YEAS</u>	<u>NAYS</u>	<u>NOT VOTING/ ABSTAINED</u>	<u>OUT DURING ROLL CALL</u>	<u>ABSENT</u>
ADA, Joseph F.	✓				
ADA, Thomas C.	✓				
AGUON, Frank B., Jr.	✓				
BROWN, Joanne M. S.	✓				
CALVO, Eddie B.	✓				
CAMACHO, Felix P.	✓				
CHARFAUROS, Mark C.	✓				
FORBES, Mark	✓				
KASPERBAUER, Lawrence F.	✓				
LEON GUERRERO, Lourdes A.	✓				
MOYLAN, Kaleo S.	✓				
PANGELINAN, Vicente C.					✓
SANTOS, Angel L.G.	✓				
UNPINGCO, Antonio R.	✓				
WON PAT, Judith T.	✓				

TOTAL

14 _____ _____ _____ 1

CERTIFIED TRUE AND CORRECT:

Clerk of the Legislature

* 3 Passes = No vote
EA = Excused Absence



MINA BENTE SAIS NA LIHE LATURAN GUÅHAN

Kumitehan Areklamento, Hinanao Gubetnamenton Hinirát, Rifotma yan Rinueba,
yan Asunton Fidirát, Taotao Hiyong yan Hinirát

*Senadot Mark Forbes, Gehilu
Kabisiyon Mayurát*

14 MAY 2001

Speaker Antonio R. Unpingco
I Mina' Bente Sais Na Liheslaturan Guåhan
155 Hesler Street
Hagátña, Guam 96910

Dear Mr. Speaker:

The Committee on Rules, General Governmental Operations, Reorganization and Reform, and Federal, Foreign and General Affairs, to which Bill No. 53, was referred, wishes to report its findings and recommendations **TO DO PASS BILL NO. 53, As Substituted**, "An act to repeal and reenact Section 16104.5 of Chapter 16, Division 3 of Title 17 of the Guam Code Annotated, relative to the establishment of the Regent Nominating Council."

The voting record is as follows:

TO PASS

8

NOT TO PASS

0

ABSTAIN

0

TO PLACE IN INACTIVE FILE

0

Copies of the Committee Report and other pertinent documents are attached. Thank you and si Yu'os ma'ase for your attention to this matter.



MARK FORBES

Attachments



MINA BENTE SAIS NA LIHE LATURAN GUAHAN

Kumitehan Areklamento, Hinanao Gubetnamenton Hinirát, Rifotma yan Rinueba,
yan Asunton Fidirát, Taotao Hiyong yan Hinirát

*Senadot Mark Forbes, Gehilu
Kabisiyon Mayurát*

14 MAY 2001

MEMORANDUM

TO: Committee Members

FROM: Chairman

SUBJECT: Committee Report- BILL NO. 53, As Substituted, "An act to repeal and reenact Section 16104.5 of Chapter 16, Division 3 of Title 17 of the Guam Code Annotated, relative to the establishment of the Regent Nominating Council."

Transmitted herewith for your information and action is the report on Bill No. 53, As Substituted, from the Committee on Rules, General Governmental Operations, Reorganization and Reform, and Federal, Foreign and General Affairs.

This memorandum is accompanied by the following:

1. Committee Voting Sheet
2. Committee Report
3. Bill No. 53, As Substituted
4. Public Hearing Sign-in Sheet
5. Fiscal Note/Fiscal Note Waiver
6. Notice of Public Hearing

Please take the appropriate action on the attached voting sheet. Your attention and cooperation in this matter is greatly appreciated.

Should you have any questions regarding the report or accompanying documents, please do not hesitate to contact me.

Thank you and si Yu'os ma'ase.

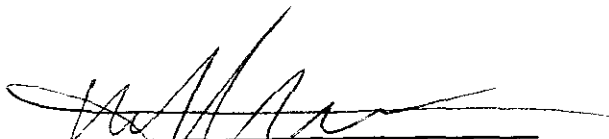
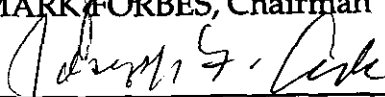
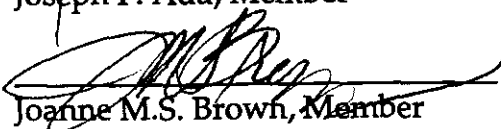


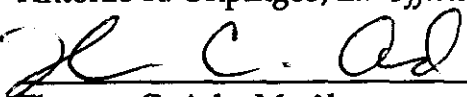

MARK FORBES

Attachments

**Committee on Rules, General Governmental Operations, Reorganization and Reform, and Federal,
Foreign and General Affairs**
I Mina' Bente Sais Na Liheslaturan Guåhan

Voting Record

BILL NO. 53, As Substituted, "An act to repeal and reenact Section 16104.5 of Chapter 16, Division 3 of Title 17 of the Guam Code Annotated, relative to the establishment of the Regent Nominating Council."

	<u>TO PASS</u>	<u>NOT TO PASS</u>	<u>ABSTAIN</u>	<u>INACTIVE FILE</u>
 MARK FORBES, Chairman	✓			
 Joseph F. Ada, Member	✓			
 Joanne M.S. Brown, Member	✓			
Eddie B. Calvo, Member				
Felix P. Camacho, Member				
 Lawrence F. Kasperbauer, Ph. D., Member	X			
 Kaleo S. Moylan, Member	✓			
Antonio R. Unpingco, Ex-Officio Member				
 Thomas C. Ada, Member	✓			
 Lou A. Leon Guerrero, Member	✓			
Vicente C. Pangelinan, Member				

I MINA' BENTE SAIS NA LIHESLATURAN GUÅHAN

**COMMITTEE ON RULES, GENERAL GOVERNMENTAL
OPERATIONS, REORGANIZATION AND REFORM, AND
FEDERAL, FOREIGN AND GENERAL AFFAIRS**

SENATOR MARK FORBES, CHAIRMAN

**COMMITTEE REPORT
ON
BILL NO. 53, As substituted,**

**"An act to repeal and reenact Section 16104.5 of Chapter 16,
Division 3 of Title 17 of the Guam Code Annotated, relative to
the establishment of the Regent Nominating Council."**

I. OVERVIEW

The Committee on Rules, General Governmental Operations, Reorganization and Reform, and Federal, Foreign and General Affairs held a public hearing on Monday, April 23, 2001 at 2:00 p.m. at the Conference Room, Office of Senator Mark Forbes, and on Friday, May 11, 2001 at 10:00 a.m. at the Public Hearing Room, I Liheslaturan Guahan. Public Notice was advertised on the Pacific Daily News on Wednesday, 4/18/01 and Saturday, 4/21/01.

Senators present were:

Senator Mark Forbes, Chairman
Senator Tom Ada, Member
Senator Joanne M.S. Brown, Member
Senator Lou Leon Guerrero, Member
Senator Ben Pangelinan, Member
Senator Judy WonPat, Senator

II. SUMMARY OF TESTIMONY

Individuals appearing before the Committee to present oral and written testimony on the bill are as follows:

Roy T. Tsuda, Ph.D., Acting President, U.O.G., (Oral & Written testimony).
John Jenson, Ph.D., President, University of Guam Faculty Senate, (Oral testimony).
Donald Platt, Ph.D., Chairman, University of Guam Faculty Union (Oral testimony).
Steve Amesbury Ph.D., Member of the WASC Issue #2 Group, U.O.G. (Oral & Written testimony).
Kirk Johnson, Ph.D., Member of the WASC Issue #2 Group, U.O.G. (Written testimony).
Bryant J. Reynolds, Ph.D., Member of the WASC Issue #2 Group, U.O.G. (Written testimony).
Maureen Fochtman, U.O.G. faculty member (Written testimony).
Dr. Jose Nededog, U.O.G. President (Retired), (Written testimony).

Roy T. Tsuda, Ph.D., Acting President, U.O.G., read to the Committee his written testimony in favor of Bill 53. Dr. Tsuda stated that he is "in favor of any action that enhances the autonomy of the University of Guam". He further stated that the number of days that the Governor is allowed to respond before the Speaker takes action should be reduced from ninety (90) days to forty-five 45 days "and begin when the Governor receives the three names from the Council (i.e., not when a vacancy is known)," in context to Bill 53.

John Jenson, Ph.D., President of the University of Guam Faculty Senate, presented oral testimony before the Committee and indicated his favor of Bill 53. He cited that increasing the membership of regent nominating council is a step forward in the right direction and further stating that the most important aspect of this legislation "is the fact that it places a time limit of the Governor's response". Dr. Jenson indicated several concerns, such that the Regent Nominating Council present to the Board of Regents an annual report of its oversight; that the Bill keep the current provision that the council present to the Governor no more than three names for selection. He further stated that one name of importance to the Regent Nominating Council is sufficient in forwarding to the Governor for action. Dr. Jenson concluded by asking the Committee to consider a Direct Selection from the Legislature, bypassing the Governor's involvement in the selection process, as in similar case models in the United States.

Donald Platt, Ph.D., Chairman, University of Guam Faculty Union presented oral testimony before the Committee in which he stated his favor of Bill 53. Dr. Platt testified on the events that transpired over the past year that has brought the University Community to a stand point. He indicated how the Guam Youth Congress wanted to remove the Governor completely from the selection process, but was told the process would be inorganic. Dr. Platt said "if removing the Governor from the selection process was organic, the students and faculty of UOG would like to have the Governor's role in the selection process removed". If the Governor must maintain his role in the process because of the Organic Act, Dr. Platt suggests that the Committee consider giving the Governor ten (10) working days to respond to the selection of one (1) , two (2) or three (3) names, but no more than three (3) names, forwarded by the regent nominating council as oppose to the ninety (90) or forty-five (45) days as suggested.

Steve Amesbury Ph.D., a member of the WASC Issue #2 Group, U.O.G., read his testimony before the Committee and indicating his support of Bill 53. He stated that the focal concern of the WASC Issue #2 Group was the Institution's insulation from political interference. He stated that in the group's opinion Bill 53 "will help to assure that highly qualified individuals are appointed to the UOG Board of Regents and that political considerations will not play a significant role in regent selection".

Kirk Johnson, Ph.D., a member of the WASC Issue #2 Group, U.O.G. provided written testimony in favor of Bill 53 in which he outlined, in his opinion, four elements essential to Bill 53. He indicated in his testimony that "A process is in place for the long-term development and sustainability of not only the Board of Regents and its membership procedures but also the very health and well-being of the University community and its integrity".

Bryant J. Reynolds, Ph.D., a member of the WASC Issue #2 Group, U.O.G. provided written testimony in favor of Bill 53, which he wrote that the concern of the WASC Issue #2 Group was that U.O.G. remove itself from political interference in order to maintain its full accreditation and to remove itself from "academic probation".

Maureen Fochtman, a U.O.G. faculty member provided written testimony in favor of Bill 53, in which she writes that "this will be helpful in selecting diverse nominations for the regent positions when they become available".

Dr. Jose Nededog, U.O.G. President (Retired), provided written testimony in which he stated his opposition to Bill 53. Dr. Nededog cites that the major fallacy in the current procedure for nominating candidates is the lack of guidelines and further stating that "it would be naïve to believe that the proposed Nominating Council will give the board of regents greater autonomy than it already has under current law". Dr. Nededog expressed his opinion that it would be "disastrous" to give the nominating Council the power to appoint three from the community at large for a period of one year as in the context of Bill 53, citing that "this is no less than promoting political influence," by members of the Nominating Council.

III. FINDINGS AND RECOMMENDATION


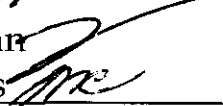
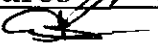



The Committee on Rules, General Governmental Operations, Reorganization and Reform, and Federal, Foreign and General Affairs finds that Bill No. 53, As Substituted, is instrumental in providing the University of Guam a greater autonomy in the decision and policy making of the regent board members. Bill 53, As Substituted, will allow for a regent nominating process that will consist of eleven members who are primarily responsible for the "quality and integrity of the

institution and for ensuring that the institution mission is being carried out". Bill 53, As substituted, will ultimately provide for a more balanced and healthier selection of nominees as result of the diverse backgrounds of the regent nominating council. Bill 53, As substituted, also provides for a time limit on the selection process and the number of names forwarded to the Governor for action. The Committee further finds that this measure is of crucial importance to the autonomy and academic independence of the university and that it's passage is of major importance in retaining the university's accreditation. The Committee further finds that the University of Guam's accreditation standards is of vital importance to the professional and educational community of Guam and the surrounding regional areas and that by providing a more autonomous and independent institution of higher learning is critical to Guam's future leadership and excellence of higher education.

Accordingly, the Committee on Rules, General Governmental Operations, Reorganization and Reform, and Federal, Foreign and General Affairs, to which Bill No. 53 was referred does hereby submit its findings and recommendations to I Mina' Bente Sais Na Liheslaturan Guahan **TO DO PASS BILL NO. 53, As Substituted**, "An act to repeal and reenact Section 16104.5 of Chapter 16, Division 3 of Title 17 of the Guam Code Annotated, relative to the establishment of the Regent Nominating Council."

MINA' BENTE SAIS NA LIHESLATURAN GUÅHAN
2001 (First) REGULAR SESSION

Bill No. 53 (COR)
Introduced By:

J. T. Won Pat 
v. c. pangelinan
M. Charfauros 
A. Santos 
L. A. Leon Guerrero 
F. B. Aquino, Jr. 
L. C. Aba 

AN ACT TO REPEAL AND REENACT SECTION
16104.5 OF CHAPTER 16, DIVISION 3 OF TITLE 17
OF THE GUAM CODE ANNOTATED, RELATIVE
TO THE ESTABLISHMENT OF THE REGENT
NOMINATING COUNCIL.

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BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative findings and Intent. *I Liheslaturan Guåhan* is acutely aware that the Western Association School and Colleges ("WASC") accreditation team report has identified that the University of Guam ("UOG") continues to experience inappropriate executive and legislative intrusion to its affairs. *I Liheslaturan Guåhan* finds that one of its priorities is to ensure that WASC continues to certify UOG as an accredited institution of higher education. One way to protect UOG's accreditation is by strengthening the autonomy of the current Board of Regents ("Board") membership nomination process. *I Liheslaturan Guåhan* recognizes that the Board is the governing body responsible for the quality and integrity of the institution and for ensuring that the institution mission is being carried out. The Board should be an independent policy-making body free from external political interference. *I Liheslaturan Guåhan* further finds that, with the establishment of a standing

1 Regent Nominating Council that is free from external influences, the Council
2 will nominate outstanding individuals with foremost interest in the welfare of
3 the community and UOG above personal and political considerations.

4 Therefore, it is the intent of *I Liheslaturan Guåhan* to create an open and
5 systematic nomination process for membership to the Board of Regents. This
6 in turn would strengthen the autonomy and effectiveness of the Board to
7 insulate UOG from undue governmental and legislative influence.
8 Furthermore, *I Liheslaturan Guåhan* intends to make it abundantly clear to
9 WASC that the people of Guam are determined to take the necessary
10 measures to ensure that the University maintains its accreditation and be free
11 from external political interference.

12 **Section 2. §16104.5 of Chapter 16 of Division 3 of Title 17 of the**
13 **Guam Code Annotated is repealed and reenacted to read:**

14 **“Section 16104.5. Regent Nominating Council; Establishment.**

15 There is established the Regent Nominating Council (“Council”) with
16 sole responsibility to identify, recruit, evaluate, and nominate all
17 qualified candidates for non-student membership on the Board of
18 Regents (“Board”) of the University of Guam (“UOG”).

19 **(a) Membership.** (1) The Council shall consist of eleven (11)
20 members: President of the Mayor’s Council, one (1) member of
21 the UOG Board of Regents to be selected by the board, UOG
22 Academic Vice-President, President of the UOG Faculty Senate,
23 President of the UOG Student Government Association, President
24 of the Alumni Association of the UOG, the President of the UOG
25 Staff Association, Speaker of the Guam Youth Congress, and three

1 (3) members from the community at large to be selected by the
2 Council. The three (3) community at large members shall serve a
3 term of one (1) year.

4 (2) The UOG Board of Regent member shall serve as
5 temporary chairperson and shall convene the first meeting of the
6 Council. At its first meeting, the Council shall elect from among its
7 members a chairperson and a vice-chairperson. The chairperson
8 shall preside at all meetings of the Council, shall act as the
9 spokesperson of the Council and perform such other duties, as the
10 Council shall direct. The vice-chairperson shall succeed to the
11 duties of the chairperson in the absence or inability of the
12 chairperson. From among its members, the Council shall select a
13 secretary and any other officers that the Council may deem
14 necessary.

15 **(b) Duties.** (1) Develop a statement of the selection criteria to be
16 applied and a description of the responsibilities and duties of a
17 regent and shall distribute this to potential candidates.

18 (2) In making its nominations, the Council shall consider the
19 needs of the University, advertise, locate potential candidates, and
20 maintain a list of their names and contact information, match
21 potential candidates with projected vacancies, review candidates'
22 qualifications and references, conduct interviews, and carry out
23 other recruitment and screening activities as necessary.

1 (3) The Council shall be responsible for submitting a list of
2 three (3) qualified candidates for every vacancy for the board to I
3 Maga'lahaen Guåhan.

4 (4) Nominations shall be made thirty (30) days prior to the
5 expiration of a term or within fourteen (14) days following an
6 unforeseen vacancy. *I Liheslaturan Guåhan* finds it is critical that
7 vacancy on the board be filled promptly. Therefore, I Maga'lahaen
8 Guåhan shall make the appointment of the qualified candidate
9 from a list of three (3) qualified candidates submitted by the
10 Council within ninety (90) days of a vacancy, subject to the advice
11 and consent of *I Liheslaturan Guåhan*. If I Maga'lahaen Guåhan does
12 not make the appointment within ninety (90) days of a vacancy,
13 the Speaker of *I Liheslaturan Guåhan* shall make the appointment of
14 the qualified candidate from the identical list of three (3) qualified
15 candidates submitted by the Council, subject to the advice and
16 consent of *I Liheslaturan Guåhan*. Any appointment to fill a vacancy
17 which is made by the Speaker of *I Liheslaturan Guåhan* pursuant to
18 this Section shall not become void due to a later appointment by I
19 Maga'lahaen Guåhan to fill the same vacancy.

20 **(c) Council Meetings.** The Council shall hold at least one
21 meeting quarterly and as often as necessary. The Council shall conduct
22 its first meeting within fourteen (14) days after approval of this act. A
23 majority of the Council members shall constitute a quorum. The vote of

1 six (6) Council members shall be required for any action of the Council.
2 The Council may adopt rules to govern its procedures.

3 (d) **Support Services.** The President of the University of Guam
4 shall provide administrative and support services for the Council.”

5 **Section 3. Severability.** If any provision of this Law or its application
6 to any person or circumstance is found to be invalid or contrary to law, such
7 invalidity shall *not* affect other provisions or applications of this Law which
8 can be given effect without the invalid provisions or application, and to this
9 end the provisions of this Law are severable.