



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 Aspinal Street
Hagåtña, Guam 96910

Dear Legislative Secretary Brown.

Enclosed please find Substitute Bill No. 001 (LS) entitled: "AN ACT TO REPEAL CHAPTER 3A, TO REPEAL AND REENACT CHAPTERS 3, 5, 6 AND 7 AND §§ 1105.1 AND 1104, AND TO ADD § 1103 TO TITLE 17; TO REPEAL §§ 26210-26214 OF TITLE 11; TO REPEAL AND REENACT §5125 AND TO REPEAL §22101.1 OF TITLE 5, ALL OF THE GUAM CODE ANNOTATED, AND TO REPEAL §§ 10 AND 14 OF P.L. NO. 24-142, RELATIVE TO THE ADMINISTRATION OF PUBLIC EDUCATION ON GUAM" which was vetoed and subsequently overridden by i Liheslatura Guåhan, the Legislature. This legislation is now designated as Public Law No. 26-25.

Very truly yours,

Madeleine Z. Bordallo
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

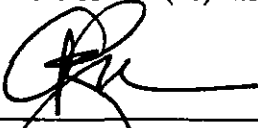
OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGMENT RECEIPT	
Received By	<i>[Signature]</i>
Time	<i>10:45</i>
Date	<i>7/10/01</i>

0305

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. 01 (LS), "AN ACT TO REPEAL CHAPTER 3A, TO REPEAL AND REENACT CHAPTERS 3, 5, 6 AND 7 AND §§ 1105.1 AND 1104, AND TO ADD § 1103 TO TITLE 17; TO REPEAL §§ 26210-26214 OF TITLE 11; TO REPEAL AND REENACT §5125 AND TO REPEAL § 22101.1 OF TITLE 5, ALL OF THE GUAM CODE ANNOTATED, AND TO REPEAL §§ 10 AND 14 OF P.L. NO. 24-142, RELATIVE TO THE ADMINISTRATION OF PUBLIC EDUCATION ON GUAM," returned without approval of *I Maga'lahren 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'lahren Guåhan* by a vote of Ten (10) members.




ANTONIO R. UNPINGCO
Speaker

Attested:



JOANNE M.S. BROWN
Senator and Legislative Secretary

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



Assistant Staff Officer
; Office

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

Bill No. 1 (LS)

As substituted by the
Committee on Education,
amended in the Committee of
the Whole and amended on the
Floor.

Introduced by:

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

AN ACT TO REPEAL CHAPTER 3A, TO REPEAL AND REENACT CHAPTERS 3, 5, 6 AND 7 AND §§ 1105.1 AND 1104, AND TO ADD § 1103 TO TITLE 17; TO REPEAL §§ 26210-26214 OF TITLE 11; TO REPEAL AND REENACT §5125 AND TO REPEAL § 22101.1 OF TITLE 5, ALL OF THE GUAM CODE ANNOTATED, AND TO REPEAL §§ 10 AND 14 OF P.L. NO. 24-142, RELATIVE TO THE ADMINISTRATION OF PUBLIC EDUCATION ON GUAM.

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

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

3 finds that enactment of I Eskuela-ta Reform Act (Public Law Numbers 24-142
4 and 24-299) was made possible largely through broad-based community
5 support, including the Guam Parent Teacher Organization Congress, the
6 Guam Federation of Teachers, former Directors of the Department of
7 Education (“DOE”), educators, business people and private citizens. Its goals
8 were noble and included:

9 (a) decentralization of DOE into four (4) manageable school
10 districts, each with its own policymaking board elected by the residents
11 of each district;

12 (b) direction of budget resources to the schools with strict limits
13 upon administrative overhead expenses;

14 (c) limiting the powers of district boards to policymaking, as
15 opposed to governance;

16 (d) increased parental involvement in their children's education;
17 *and*

18 (e) a mechanism that required schools to work towards greater
19 autonomy through school-based management.

20 *I Liheslaturan Guåhan* further finds that the only issue that led to the
21 Superior Court Ruling that declared I Eskuela-ta Reform Act as
22 Unconstitutional was a shortage of schools in certain school districts. Such

1 shortages required certain students to attend schools outside of the school
2 districts in which their parents voted.

3 Since the public support for greater community involvement with
4 limited political involvement is as strong today as it was when I Eskuela-ta
5 Reform Act was passed, it is the intent of *I Liheslaturan Guåhan* to achieve the
6 same goals that give all Guam residents a direct choice in educational
7 leadership.

8 **Section 2.** Chapter 3A of Division 2 of Title 17 of the Guam Code
9 Annotated is hereby *repealed*.

10 **Section 3.** Chapters 3, 5, 6 and 7 of Division 2 of Title 17 of the Guam
11 Code Annotated are hereby *repealed and reenacted* to read as follows:

12 **“CHAPTER 3.**

13 **GUAM PUBLIC SCHOOL SYSTEM.**

14 **Article 1. Education Leadership.**

15 **Section 3101. Department of Education.** There is in the
16 government of Guam a Department of Education (‘Department’).

17 **Section 3102. Administration of the Department of Education**
18 **and Education Policy.** The Department of Education shall be
19 administered by the Superintendent of Education. The Guam Education
20 Policy Board (‘Board’) shall develop and adopt system-wide education
21 policies as specified by § 3112 of this Chapter. The Superintendent of
22 Education shall be responsible for implementing the policies of the
23 Board.

1 **Section 3103. Superintendent of Education.**

The

2 Superintendent of Education ('Superintendent') shall be the Chief
3 Executive Officer of the Department of Education. The Superintendent
4 shall be appointed by the Board. Notwithstanding any other provision
5 of law, the employment of the Superintendent shall be by contract for a
6 term of three (3) years, which contract shall contain a provision that the
7 Superintendent's employment may *only* be terminated for cause.

8 In the case of temporary absence of the Superintendent, the Board
9 Chairperson may appoint among any of the Associate Superintendents,
10 or their equivalents, as an acting Superintendent. In the event of the
11 termination, resignation, incapacitation or death of the Superintendent,
12 the Board shall, within sixty (60) days, appoint a replacement. The
13 Superintendent shall:

14 (a) administer to the day-to-day activities of the
15 Department of Education;

16 (b) enforce and implement the education policies of the
17 Board and rules and regulations of the Department;

18 (c) administer Federal funds/programs on behalf of the
19 Department;

20 (d) serve as the Department's approving authority for the
21 expenditure of funds;

22 (f) serve as the appointing authority for all personnel
23 employed by the Department;

24 (g) be the Executive Secretary of the Board in an *ex-officio*,
25 non-voting capacity;

1 (h) shall submit to the Board, *I Maga'lahaen Guåhan* and *I*
2 *Lihe slaturan Guåhan* no later than thirty (30) days following the
3 end of the fiscal year, a detailed '*Annual State of Public Education*
4 *Report,*' which shall discuss the public educational issues on
5 Guam, and other subjects the Superintendent may deem
6 appropriate (The Superintendent shall also submit such fiscal,
7 instructional, academic progress and other information as may be
8 required by the Board to reflect the quality of public education.);

9 (i) develop and present to the People of Guam, the Board,
10 *I Maga'lahaen Guåhan* and *I Lihe slaturan Guåhan* a '*School Performance*
11 *Report Card*' of each school (It shall be given in conjunction with
12 the Annual Report.);

13 (j) to perform other duties as may be required by public
14 law;

15 (k) to advise the Board on the current operations and
16 status of the public schools and on other educational matters;

17 (l) to supply the Board with such information as it may
18 require and prepare the Board to make recommendations to *I*
19 *Maga'lahaen Guåhan* and *I Lihe slaturan Guåhan* for changes,
20 additions or deletions to public law; *and*

21 (m) report to *I Lihe slaturan Guåhan* any potential or alleged
22 violation of § 3112(b).

1 The Board, *subject* to availability of funds, may hire a Deputy
2 Superintendent *if* it determines such position is necessary for the
3 efficient operation of the Department.

4 **Section 3104. Minimum Qualifications for Superintendent of**
5 **Education.** The Civil Service Commission shall, within thirty (30)
6 days of enactment of this Section, submit to *I Liheslaturan Guåhan*, a
7 report with the recommendations for minimum qualifications for the
8 Superintendent of Education, which shall include: (1) a list of suggested
9 minimum qualifications *and* (2) comparative qualifications of similar
10 jobs elsewhere in the United States. In the event that the Civil Service
11 Commission determines that it needs additional time, the Speaker of *I*
12 *Liheslaturan Guåhan* may grant an extension of an additional thirty (30)
13 days for the Civil Service Commission to report back to *I Liheslaturan*
14 *Guåhan* for its approval on the qualifications for the Superintendent of
15 Education.

16 In the event the Board decides to hire a Deputy Superintendent,
17 the minimum qualifications for the position of Deputy Superintendent
18 shall be identical to those of the Superintendent of Education.

19 **Section 3105. Collection of Data and Production of School**
20 **Performance Reports by Superintendent; Criteria for Grading**
21 **Schools.**

22 (a) The Superintendent shall collect data and produce
23 annual school performance reports containing information on
24 student performance, student behavior and school characteristics.

1 (b) (1) In consultation with representatives of parents,
2 teachers and school administrators, the Board shall adopt,
3 by rule, criteria for grading schools. Such criteria shall take
4 into account both overall performance and improvement in
5 performance. A five (5) member evaluation team shall be
6 appointed by the Board to assess every school. The Board
7 shall appoint one (1) member from each of the four (4)
8 school board election districts, and the fifth member shall be
9 appointed from the Island-wide Parent Teacher
10 Organization. The grades shall include classifications for
11 exceptional performance, strong performance, satisfactory
12 performance, low performance and unacceptable
13 performance.

14 (2) The grades received by a school shall be
15 included in the Annual State of Public Education Report.

16 (3) *If* a school is within the low performance or
17 unacceptable performance classification in any category, the
18 school shall file a school improvement plan with the
19 Superintendent and with the Board.

20 (c) The Superintendent shall notify the public and the
21 media, and post on the Department of Education's website, *no*
22 *later than* thirty (30) days following the end of the fiscal year. The
23 school performance reports shall be available at schools and the
24 Department's offices. The Superintendent shall also include notice

1 that copies of school improvement plans can be obtained from the
2 schools and the Department.

3 **Section 3106. School Performance Report Card.**

4 (a) *No later than* thirty (30) days following at the end of
5 each fiscal year, the Superintendent shall issue a School
6 Performance Report Card on the state of the public schools and
7 progress toward achieving their goals and mission.

8 (b) The purpose of the School Performance Report Card is
9 to monitor trends among schools and progress toward achieving
10 the goals stated in the mission statement. The report on the state
11 of the public schools shall be designed to:

12 (1) allow educators and the community to
13 determine and share successful and unsuccessful school
14 programs;

15 (2) allow educators to sustain support for reforms
16 demonstrated to be successful;

17 (3) recognize schools for their progress and
18 achievements; *and*

19 (4) facilitate the use of educational resources and
20 innovations in the most effective manner.

21 (5) The report shall contain, but need *not* be limited
22 to:

23 (i) demographic information on public school
24 children in the community;

1 (ii) information pertaining to student
2 achievement, including Guam-wide assessment data,
3 graduation rates and dropout rates, including progress
4 toward achieving the education benchmarks
5 established by the Board;

6 (iii) information pertaining to special program
7 offerings;

8 (iv) information pertaining to the
9 characteristics of the school and school staff, including
10 certification and assignment of teachers and the
11 experience of the staff;

12 (v) budget information, including source and
13 disposition of school operating funds and salary data;

14 (vi) examples of exemplary programs, proven
15 practices, programs designed to reduce costs or other
16 innovations in education being developed by the
17 schools that show improved student learning; *and*

18 (vii) such other information as the
19 Superintendent and the Board deems necessary.

20 In the second and subsequent years that the report is
21 issued, the report shall include a comparison between the
22 current and previous data, and an analysis of trends in
23 public education.

1 **Section 3107. Establishment of Educational Goals and**
2 **Performance Standards.** The Board shall develop and periodically
3 assess educational goals and performance standards.

4 **Section 3108. Attorney for the Board.**
5 The Board may employ an attorney to assist and represent it in all civil
6 matters. The Board may set the terms and conditions for employment of
7 the attorney or law firm. The Board shall determine whether the
8 appointment is a full-time, unclassified employee or an independent
9 consultant. The Board may expend funds for hiring an attorney or
10 procuring legal services.

11 **Section 3109. Attorney for the Department.** The
12 Superintendent may employ an attorney(s) to assist and represent it in
13 all matters that concern the Department.

14 **Section 3110. Special Assistant Attorney General.**
15 The Attorney General shall assist the Board or the Department in all
16 litigation in which the Board or the Department is interested; *provided,*
17 that the Attorney General shall designate the attorney for the Board or
18 the Department as a Special Assistant Attorney General for such
19 purpose at no cost to the Board or to the Department.

20 **Section 3111. Guam Education Policy Board.** There is
21 hereby created a Guam Education Policy Board (*'Board'*). The Board
22 shall consist of *at least* eleven (11) members as follows:

23 (a) **Nine (9) District Elected Voting Members.** Nine (9)
24 members of the Board shall be elected through district-wide

1 elections at each General Election for a term of two (2) years.
2 Notwithstanding any other provision of law, *except* for the student
3 member and non-voting members, unclassified and contracted
4 employees of the Executive and Legislative Branches and all
5 employees of the Department of Education are *not* eligible to run.
6 The candidates must be *at least* twenty-five (25) years old, an *at*
7 *least* two (2) year resident of Guam, and a resident and domiciliary
8 in that District the candidate will be representing for *at least* two
9 (2) years immediately preceding the date on which the member
10 takes office and continuing throughout the term. All candidates
11 for the Board must be citizens of the United States of America.

12 (b) **One (1) Student Non-Voting Member.** One (1)
13 student member of the Board shall be elected by the Island-wide
14 Board of Governing Students.

15 (c) **Appointed Non-Voting Member.** The Board shall
16 appoint one (1) non-voting member from a list of *not less than*
17 three (3) nominees by the exclusive bargaining unit which
18 represents teachers and other employees in the Department. The
19 non-voting member shall serve a term of one (1) year.

20 (d) The Board may add non-voting, *ex-officio* members as
21 needed. The terms for such *ex-officio* members shall be determined
22 by the Board.

1 (e) *Unless* expressly provided for elsewhere by public law,
2 actions of the Board are carried by a vote of five (5) voting
3 members.

4 (f) A quorum for meetings of the Board shall consist of
5 five (5) voting members.

6 **Section 3112. Same: Duties and Responsibilities.**

7 (a) The duties and responsibilities of the Guam Education
8 Policy Board shall include:

- 9 (1) establish curriculum goals and policy;
- 10 (2) establish student performance standards and a
11 mechanism for standardized assessment of each student
12 based upon the adopted standards;
- 13 (3) establish policy for interscholastic sports;
- 14 (4) establish and approve a textbook list;
- 15 (5) establish student discipline policy;
- 16 (6) establish school calendar;
- 17 (7) establish graduation standards;
- 18 (8) periodically review established policies for
19 refinement and improvement;
- 20 (9) serve as Guam's State Education
21 Policy/Governing Board for Federal programs where such a
22 board is required by Federal Law to include, but *not* be
23 limited to, the Head Start Program;

1 (10) make recommendations to *I Maga'lahen Guåhan*
2 and *I Liheslaturan Guåhan* for changes, additions or deletions
3 to public law;

4 (11) approve or revoke a school's decentralization
5 status for purposes of school-based management;

6 (12) act as the approving authority on behalf of the
7 Department for collective bargaining agreements;

8 (13) establish rates and fees necessary for programs,
9 including, but *not* limited to, the school lunch program;

10 (14) perform other duties and responsibilities as
11 required by public law; *and*

12 (15) establish a professional training and
13 development program for its members; this program once
14 developed and implemented, will make it mandatory that all
15 Board members participate for the purpose of improving,
16 expanding and refining their individual and collective
17 policymaking skills. Some specific areas that will be covered
18 by such a professional training and development program
19 are: (a) Title 17, Guam Code Annotated; (b) Roberts Rules of
20 Order; (c) Department of Education / government of Guam
21 budgeting procedures and guidelines; (d) government of
22 Guam code of ethics and conflicts of interests codes; (e)
23 difference(s) between policymaking administration; (f)
24 Board/staff relations; (g) Board media relations; *and* (h)

1 conflict resolution-staff, parents, students, community,
2 colleagues, etc.

3 (b) The Board shall *not* collectively or individually:

4 (1) exert influence in the hiring, transfer, discipline
5 or termination of any employee of the Department, *unless*
6 expressly authorized by public law;

7 (2) interfere in or micro-manage the affairs of the
8 Department or school within the Department; *or*

9 (3) involve itself with student discipline cases, *unless*
10 expressly authorized by public law, and *only* to the extent
11 authorized by public law.

12 Any Board member shall report to *I Liheslaturan Guåhan* any
13 potential or alleged violation of this Subsection (b).

14 **Section 3113. Same: Elected Members.**

15 (a) Nine (9) elected members of the Board shall be elected
16 by District (Title 3, Guam Code Annotated); *provided*, that
17 candidates for such election shall be nominated *only* as provided
18 in § 3114 of this Chapter.

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

22 (c) There shall be the following number of elected Board
23 members for the following districts composed of the
24 municipalities as set out in the following table:

1 **Number of Board Districts: Municipalities: Members:**

2 **Distritun 'LAGU':** Dededo and Yigo: Three (3) Members;

3 **Distritun 'KATTAN':** Barrigada, Chalan Pago-Ordot, Mangilao,
4 and Mongmong-Toto-Maite: Two (2) Members;

5 **Distritun 'LUCHAN':** Agaña Heights, Asan-Maina, Hagatña,
6 Piti, Sinajaña and Tamuning: Two (2) Members;

7 **Distritun 'HAYA':** Agat, Inarajan, Merizo, Santa Rita, Talofofu,
8 Umatac and Yoña: Two (2) Members.

9 **(d) Apportionment.** The apportionment of members
10 shall be reviewed by the Board within one hundred eighty (180)
11 days from the date of receipt of the decennial census. The Board
12 shall report its findings, related to the rate of change in the
13 population of each district, to the Speaker of *I Liheslaturan Guåhan*.
14 In the event *I Liheslaturan Guåhan* determines that districts are *not*
15 proportionately represented because of significant increases or
16 decreases in population has occurred, *I Liheslaturan Guåhan* shall
17 take appropriate action to maintain proportional representation of
18 the districts.

19 **Section 3114. Nomination for Election to the Board.**

20 Nomination of candidates for election to the Board shall be made by
21 petition on forms prescribed by the Guam Election Commission and
22 initiated by the candidate. In order for a person's name to be placed
23 upon the ballot for election to the Board, such petition must be signed
24 by *not less than* one hundred fifty (150) persons registered to vote in and

1 residing in the district the candidate is seeking to represent, and must be
2 filed with the Guam Election Commission *not later than seventy-five (75)*
3 *days prior to* the General or Special Election for that office. No defect in
4 any nominating petition presented to the Guam Election Commission
5 shall prevent the filing of another petition which is presented within the
6 allowed filing period. Such petitions shall be maintained on file with
7 the Commission for *not less than ten (10) years*.

8 **Section 3115. Same: First Election: Terms.** The members
9 of the Board shall be elected by district at the next General Election or
10 Special Election. The terms of office of Board members elected pursuant
11 to this Section shall commence at 12:00 p.m. on the date of their
12 certification of election by the Guam Election Commission.

13 **Section 3116. Same: Repeal of Temporary Governance by I**
14 ***Maga'lahaen Guåhan.*** Upon the certification of the election of the Board
15 members as contained in § 3115 of this Chapter, § 18 of Chapter IV of
16 Public Law Number 25-03 is hereby *repealed*.

17 **Section 3117. Same: Vacancies.** Any vacancies of elected
18 member positions occurring on the Board shall be filled by appointment
19 of *I Maga'lahaen Guåhan* for the remaining term of the vacating member,
20 *subject* to the advice and consent of *I Liheslaturan Guåhan*. Such
21 vacancies shall be filled by appointment of a member from the same
22 district represented by the vacating member.

23 **Section 3118. Same: Severability as to Districting**
24 **Formula.**

1 Should a court of competent jurisdiction declare that the districting
2 formula set out in § 3113 of this Title is unconstitutional, or in conflict
3 with the Organic Act of Guam, the elected members of the Board shall
4 remain in their positions until the next special or general election at
5 which time the Board shall be elected at large.

6 **Section 3119. Same: Officers of the Board.** Officers of the
7 Board shall include the Chairperson and Vice-Chairperson, and such
8 other positions which the Board deems necessary to effectively carry out
9 its responsibilities. Such Board officers upon election shall serve for a
10 term of one (1) year. Board officers shall be elected by a majority vote of
11 the members of the Board during one (1) of the Board's meetings held in
12 November of each year. Members may serve as Chairperson for
13 multiple terms, *except* that no person may serve as Chairperson for two
14 (2) consecutive terms by succeeding oneself.

15 **Section 3120. Same: Stipend.** Members of the Board shall be
16 paid the amount of Seventy-five Dollars (\$75.00) for each day on which
17 they attend a regular, special or executive meeting, *not to exceed* One
18 Hundred Fifty Dollars (\$150.00) in any month.

19 **Section 3121. Budget.** The Superintendent shall prepare the
20 Department's fiscal year budget. The budget shall include a Board
21 resolution indicating its approval of the budget submission and its
22 funding priorities. The budget request for the non-personnel categories
23 of each decentralized school shall be submitted as a separate line-item,
24 by school, of the Department's total budget.

1 **Section 3122. Collective Bargaining Agreement.**

2 The Board shall appoint a negotiating team to handle negotiations
3 between the Department and any exclusive bargaining unit
4 representing teachers and other support staff for collective bargaining
5 agreements. The Board shall have the authority to render final approval
6 on behalf of the Department for such agreements.

7 **Section 3123. Superintendent and Deputy Superintendent**
8 ***Not Part of I Maga'lahaen Guahan's Cabinet.*** The Superintendent shall
9 *not* be considered a member of *I Maga'lahaen Guahan's* Cabinet. In the
10 event that a Deputy Superintendent is hired, such Deputy
11 Superintendent shall *not* be considered a member of *I Maga'lahaen*
12 *Guahan's* Cabinet.

13 **Section 3124. Removal of Elected Board Members.** An
14 elected Board member shall be removed from the Education Policy
15 Board by the following means:

16 (a) *automatically* upon conviction of a felony;

17 (b) *automatically* upon conviction of a misdemeanor
18 involving the possession of a Controlled Substance or operation of
19 a vehicle while under the influence of alcohol or a controlled
20 substance; *or*

21 (c) by a referendum election in which *at least* two-thirds
22 ($\frac{2}{3}$ s) of the number of persons voting for the individual Board
23 member under recall in the last preceding general election at
24 which such Board member was elected vote in favor of a recall,

1 and in which those so voting constitute a majority of all those
2 participating in the referendum election for that Board member's
3 district. The referendum election shall be initiated by *I*
4 *Liheslaturan Guåhan* following: (a) a two-thirds ($\frac{2}{3}$ s) vote of the
5 members of *I Liheslaturan Guåhan* in favor of a referendum, or (b) a
6 petition for such a referendum to *I Liheslaturan Guåhan* by
7 registered voters equal in number to *at least* fifty percent (50%) of
8 the whole number of votes cast for the Board at the last general
9 election for that Board member's district at which such official was
10 elected preceding the filing of the petition. A violation by a Board
11 member of § 3112(b) of Title 17 of the Guam Code Annotated may
12 be grounds for a referendum election.

13 **Article 2.**

14 **Section 3201. Island-wide Board of Governing Students.**

15 (a) The Island-wide Board of Governing Students (the
16 *Island-wide Board*), which is hereby created, shall consist of a
17 member of the Youth Congress who shall be elected by its
18 members, and two (2) members from each public high school
19 elected by a plurality vote of freshmen, sophomores, juniors and
20 seniors attending the public high schools, voting in an election
21 held in all the public high schools on one (1) day in May of each
22 year. Such election shall be supervised by the Superintendent in
23 cooperation with the student governing bodies of the high
24 schools.

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

4 (c) Members of the Island-wide Board must attend the
5 schools they represent and must have and maintain at least a '2.5'
6 grade point average.

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

9 (e) The Island-wide Board shall meet *at least* once a month
10 during the school year to discuss matters relating to Guam's
11 public education system and to make recommendations to the
12 Board.

13 **Section 3202. Same: Meetings of the Board.** Meetings of
14 the Board shall be open and held at a regular time and place each
15 month. Special meetings may be called by the Chairperson.

16 **Section 3203. Same: Acts of the Board.** The concurrence of
17 five (5) members of the Board shall be necessary for the validity of any
18 of its acts.

19 **Section 3204. Released Time; Meditation Period.**

20 (a) The Board is authorized to establish and supervise a
21 program whereby students may be released from their regular
22 school attendance for a period of time *no greater than* one (1) hour
23 each week during the school year, for the purpose of attending
24 religious instruction outside the property and off the grounds of

1 the government of Guam. Provided, however, that this Section *in*
2 *no event* shall authorize the participation of the Board, the teachers
3 or any other employees of the government of Guam to assist or
4 aid in any manner, directly or indirectly, the religious instruction
5 of students, or the compulsion of students to attend religious
6 instruction. Provided, further, that this Section shall *not* be
7 construed to permit the utilization of any property of the
8 government of Guam in any manner whatsoever, for the purpose
9 of such religious instruction.

10 (b) **Meditation Period.** The Board is required to
11 establish for each class a period of silent meditation during the
12 first hour of each school day.

13 **Section 3205. United States Flag: Duty of Board.**

14 The Board shall provide for each public school under its control a
15 suitable flag of the United States, which shall be hoisted above each
16 school during all day sessions, weather permitting. The Board shall also
17 provide smaller and suitable United States flags to be displayed in each
18 schoolroom at all times during the school sessions.

19 **Section 3206. Same: Pledge of Allegiance to Flag.**

20 It shall be the duty of the Board to adopt and place into effect for the
21 public schools of Guam, rules and regulations requiring students, at a
22 suitable time during school sessions, to pledge allegiance to the United
23 States flag and to the nation for which it stands. Such pledge shall be in
24 the following words:

1 'I pledge allegiance to the flag of the United States of
2 America and to the Republic for which it stands; one nation under
3 God, indivisible, with liberty and justice for all.'

4 **Section 3207. Physical Fitness.** The Board shall develop a
5 physical fitness program for all students in the elementary and
6 secondary schools, taking into consideration the age, sex and health
7 condition of students. Such program shall include a periodical physical
8 fitness achievement test, and, as feasible, intramural and other athletic
9 competition. Such program shall be implemented in accordance with
10 the availability of facilities and personnel.

11 **Section 3208. Enrichment and Compensatory Programs.**
12 The Board shall adopt a policy providing for enrichment and
13 compensatory education programs to be conducted throughout Guam
14 during June, July and August of each year. The policy may prescribe
15 that, upon the recommendation of the appropriate school administrator,
16 a pupil may be required to be enrolled in a class established as the result
17 of the implementation of this Section.

18 **Section 3209. Volunteers in Education.** The Board is
19 authorized to institute a program within the Department of Education
20 to be entitled, 'Volunteers in Education.' The Board shall, by its policies,
21 make needful rules and regulations for the utilization of said volunteers
22 in education within the Department. The Board is authorized to obtain
23 liability insurance coverage for said volunteers.

1 **Section 3210. Student Fund-Raising Activities.** The
2 Board shall promulgate rules and regulations necessary to regulate
3 conduct of fund-raising activities on the part of students, to safeguard
4 the funds raised by such activities, and for the audit of such funds. Said
5 rules and regulations shall include, but need *not* be limited to the
6 following:

7 (a) the educational, recreational or cultural rationale
8 necessary to justify the holding of any particular class of school
9 activity;

10 (b) regulations governing qualifications of firms or
11 persons who may do business with school classes or activities;

12 (c) regulations governing selection of school personnel
13 who may act in an official or unofficial capacity for students;

14 (d) regulations requiring that sound business practices be
15 used in the conduct of any school or class activity;

16 (e) all purchase contracts between vendors and class
17 activities, sponsors or school principals shall be subject to Board
18 approval;

19 (f) no agreement relative to school or class activities shall
20 exceed one (1) year in duration; *and*

21 (g) a requirement that an annual audit of all school and
22 class activity funds be performed and a report filed with the Board
23 and *I Liheslaturan Guåhan*.

24 **Section 3211. Career Program Counseling.**

1 (a) On and after January 1, of every year, the Board and
2 the Director of the Department of Labor shall make available to
3 secondary students continuing employment and career program
4 counseling to furnish information relating to the employment
5 opportunities available to students graduating from or leaving the
6 public high schools of Guam.

7 (b) No fee, compensation or other consideration shall be
8 charged to, or received from, any student utilizing such services.

9 (c) In providing such services, the Board shall consult and
10 cooperate with the Guam Employment Service.

11 **Section 3212. Gifted Students.** The Board shall develop a
12 program of studies that will provide for the development of the unusual
13 and special abilities of gifted students enrolled in the schools of Guam.
14 For the purposes of this Chapter, '*gifted students*' shall mean students
15 who exhibit leadership ability, artistic talent, creativity, outstanding
16 academic ability and high intelligence.

17 **Section 3213. Same: Assessment of Students.** The Board
18 shall cause to be conducted an assessment to identify gifted students
19 within the schools of Guam.

20 **Section 3214. Same: Assessment of Program.** The Board
21 shall cause to be conducted a periodic assessment of the progress of the
22 students in the gifted students program, and the results of said
23 assessment are to be used to determine whether the program should be
24 modified.

1 **Section 5103. Same: Same: Qualifications.** The
2 Board, upon recommendation of the Superintendent, shall prescribe by
3 general regulation the qualifications upon which the Superintendent
4 may grant, certificates:

5 (a) to teach in senior high schools, four (4) year high
6 schools, junior high schools, vocational schools, elementary
7 schools, supplementary schools for adults and kindergartens;

8 (b) to supervise instruction and to administer schools as
9 supervisors, principals and superintendents;

10 (c) to act as school librarians;

11 (d) to act as school attendance officers; *and*

12 (e) to supervise the physical development of pupils.

13 **Section 5104. Same: Same: Content.** Each
14 certificate issued shall clearly state the kind of service that it authorizes,
15 the grades of classes, or the types of schools, in which it authorizes
16 service, and *if* a teacher's certificate, the subjects it authorizes the holder
17 to teach.

18 **Section 5105. Same: Same: Requirement.** Any person
19 issued a Qualifying Certificate shall complete a three (3) semester credit
20 course in Guam history, or Guam culture, within the first year after the
21 person's certification. Failure to satisfy this requirement shall constitute
22 sufficient cause to suspend that person's certification until the
23 deficiency is corrected.

1 **Section 5106. Same: Same: Expiration.** Certificates shall
2 expire at such time as the Board, by general rule and regulation, may
3 prescribe.

4 **Section 5107. Same: Suspension and Revocation of**
5 **Certificate.** Certificates granted by the Superintendent of Education
6 may be revoked or suspended for immoral or unprofessional conduct,
7 evident unfitness for teaching, persistent defiance of, and refusal to obey
8 the laws and regulations which prescribe the duties of persons serving
9 in the public school system.

10 **Section 5108. Same: Same: Hearing.** No certificate
11 shall be revoked or suspended, *except* upon the written request of its
12 holder, until after a hearing before the Board, and then *only* upon the
13 affirmative vote of *at least* four (4) members of the Board.

14 **Section 5109. Same: Same: Charges.** All charges
15 made against a person serving in the public school system which might
16 lead to suspension or revocation of such person's certificate, shall be
17 presented to the Board, in writing, and shall be verified under oath.

18 **Section 5110. Same: Same: Notice.** Notice of the time
19 of hearing and a full and complete copy of the charges shall be
20 furnished to the accused *at least* ten (10) days before the hearing.

21 **Section 5111. Same: Same: Right of Accused.** The accused
22 shall be given a fair and impartial hearing, and shall have the right to be
23 represented by counsel.

1 **Section 5112. Same: Same: Rules of Hearing.** The hearing
2 shall be governed by and conducted under the rules of the Board.

3 **Section 5113. Same: Duty.** Every teacher in the public
4 schools shall enforce the course of study, the use of duly authorized
5 textbooks, and the rules and regulations prescribed for the schools.

6 **Section 5114. Same: Maintenance of Discipline.** Every
7 teacher in the public schools shall hold pupils to strict account for their
8 conduct on the school premises and during recess.

9 **Section 5115. Same: Purpose.** Each teacher shall
10 endeavor to impress upon the minds of the pupils the principles of
11 morality, truth, justice and patriotism; to teach them to avoid idleness,
12 profanity and falsehood; to inculcate a due and proper respect for duly
13 constituted authority; to instruct them in the principles of a free
14 government, and to impress upon them a true comprehension of the
15 rights, duties, responsibilities and dignity of American citizenship.

16 **Section 5116. Para-professional Employees and Teachers**
17 **Aides.** The Superintendent of Education is authorized to employ
18 para-professional employees and teachers aides to help in the
19 supervision of instruction and administration in the public schools of
20 Guam. The Board, upon recommendation of the Superintendent, shall
21 prescribe by general regulations the services to be performed by such
22 employees and their qualifications for employment.

23 Personnel employed as para-professional employees or teachers
24 aides shall be employees of the government of Guam, and the

1 conditions of their employment shall be in all respects the same as other
2 employees of the government of Guam, Department of Education.

3 **Section 5117. Same: Duty Hours.** The Board shall establish
4 duty hours for all teachers. The duty hours shall be established so that a
5 classroom teacher shall be at that teacher's duty station *at least* fifteen
6 (15) minutes *prior* to the school's first period of instruction. A teacher
7 shall remain at that teacher's duty station until *at least* fifteen (15)
8 minutes after pupils have been dismissed for the day, *except* on days
9 when teacher conferences, workshops or other non-instructional
10 activities are authorized by the Board. A minimum of five (5) hours per
11 day shall be devoted to instructing pupils. The Board may require that
12 additional duty hours may be allocated for meal time and for general
13 administrative purposes, including lesson preparation, teacher
14 conferences, parent-teacher conferences, workshops and other non-
15 instructional activities, and may authorize the additional duty hours to
16 be performed at such place as the Board may prescribe, but *not* to
17 exceed eight (8) hours per day.

18 **Section 5118. Assessment Program.** The Board shall
19 cause to be administered annually a pre- and post-assessment program
20 to all pupils using both national standard achievement tests based on
21 norm criteria and criterion referenced tests, and a comparative analysis
22 made thereof in accordance with the Department of Education's
23 Comprehensive Accountability Plan. The purpose of such tests shall be
24 to assist the Department in the continuing evaluation of the overall

1 curriculum, performance of teachers and academic achievement of
2 pupils so that the Department may take such steps as it deems
3 warranted in order to improve the total educational climate of Guam.

4 **Section 5119. School-Year Pay for Teachers.** Persons
5 employed as teachers and school health counselors shall, at their option,
6 be paid on either twenty-one (21) or twenty-six (26) bi-weekly payments
7 beginning on November 1, 1983.

8 **Section 5120. Job-Sharing Project. (a) Job-Sharing Pilot**
9 **Project.** There is hereby established a two (2) year job-sharing
10 pilot project ('project') to be conducted by the Department of
11 Education ('Department') for the academic years 1991-92 and
12 1992-93; provided, however, that the Department shall *not*
13 implement the Project without first carefully developing
14 appropriate plans, procedures and guidelines, and shall initiate
15 the Project to the extent practicable during the 1991-92 academic
16 year. The Department shall devote *no more than* one hundred (100)
17 full-time, permanent positions to job-sharing, pursuant to this
18 Section.

19 **(b) Definition.** As used in this Section, '*job-sharing*'
20 means the voluntary sharing of jobs by two (2) or more full-time,
21 permanent teaching employees of the Department, with each
22 teacher working one-half (1/2) of another job-sharing teacher's
23 total number of hours required per week.

1 (c) **Monitoring and Status Reports.** The Department
2 shall monitor and evaluate the Project, with particular regard to
3 the efficacy of the job-sharing concept, and shall evaluate factors
4 such as turnover rates, absenteeism, productivity, morale and
5 demographic factors, including ethnic, sex and age composition of
6 participants, and other pertinent data. The Superintendent of
7 Education shall also identify those factors which facilitated or
8 made more difficult the implementation of this Section. The
9 Superintendent shall submit status reports on the Department's
10 findings to *I Liheslaturan Guåhan* in 1991 and 1992, and may report
11 on its findings and recommendations to *I Liheslaturan Guåhan* in
12 1993.

13

1 age of sixteen (16) years, who fails to comply with the provisions of this
2 Section, *unless* excused or exempted therefrom, is guilty of a violation
3 for the first offense, and subject to a fine of *not more than* Fifty Dollars
4 (\$50.00). For each subsequent offense, the person is guilty of a petty
5 misdemeanor.

6 **Section 6103. Children who Have Reached the Age of Five (5)**
7 **Years Eligible to Attend.** Any child whose fifth birthday falls on or
8 before the commencement date of classes may, in such year, enroll in
9 the kindergarten of any public school within Guam which the child is
10 otherwise eligible to attend, *except* that any child whose fifth birthday
11 falls within one hundred twenty-five (125) days after the beginning date
12 of classes on the school calendar in the attendance area where they live,
13 and are designated to attend, may enroll in kindergarten, *subject* to the
14 approval of the principal of the school pursuant to the policy mandated
15 by §§ 6104 and 6105 of this Act.

16 The effective date of this Section shall be the start of School Year
17 1998-1999.

18 **Section 6104. Policy and Procedures.** The
19 Department of Education shall, *prior to* the start of School Year 1998-
20 1999, develop a policy and implement procedures by which children,
21 who will have reached the age of five (5) within one hundred twenty-
22 five (125) days after the beginning date of classes on the school calendar
23 in the attendance area where they live and are designated to attend, and

1 whose parents or guardians so desire, will be screened to determine
2 readiness for school.

3 **Section 6105. Exception for the 1997-1998 School Year.**

4 Notwithstanding the provisions of § 6102 of this Chapter, for the School
5 Year 1997-1998, any parent, guardian or other person having control or
6 charge of any child who will reach the age of five (5) years within one
7 hundred twenty-five (125) days after the beginning of classes, may, at
8 that person's option, choose *not* to send such child to school for that
9 school year.

10 **Section 6106. Option to Use Last Day of the Month as the**
11 **Starting Date to Determine Minimum Enrollment Age for Children.**

12 Notwithstanding the provisions of § 6103 of this Chapter regarding the
13 beginning date of classes for each school, the Interim Governing Board
14 and the District Boards may use the last day of the month in which
15 classes begin for determining the minimum age a child shall attend
16 school in cases where the beginning date of classes in the school
17 calendar is advanced to an earlier starting date to accommodate special
18 events or programs. After the School Year 1998-1999, *at least three (3)*
19 *months'* notice shall be given of any changes to advance the beginning
20 date of classes in the school calendar, to include which date will be used
21 in determining the minimum enrollment age that children shall attend
22 classes.

23 **Section 6107. Early Entrance Date; Public Schools: Gifted**
24 **Children.** The Board shall establish identification and enrollment

1 policies for children who are academically gifted. The policy shall
2 provide that a child who is academically gifted may be enrolled even
3 though the child has *not* reached the age required by § 6103 of this Title,
4 but *not* lower than age four (4) by the end of the month that classes
5 actually commence of the year the child is enrolled.

6 **Section 6108. Same: Sick Persons.** Children whose physical
7 or mental condition is such as to prevent or render inadvisable
8 attendance at school or application to study, shall be exempted from the
9 application of § 6102, but the Superintendent shall require satisfactory
10 evidence of the condition to be furnished.

11 **Section 6109. Private Schools: Register.** The attendance of
12 private school pupils shall be kept by private school authorities in a
13 register, and record of attendance shall indicate clearly every absence of
14 the pupil from school for a one-half (1/2) day or more during each day
15 that school is maintained during the year. Said register shall be
16 available for inspection by the Superintendent during school hours and
17 a certified copy thereof shall be forwarded to the Department of
18 Education, and at the end of each school term.

19 **Section 6110. Private Instruction.** Children *not* attending a
20 private full-time day school, and who are being instructed in study and
21 recitation for *at least* three (3) hours a day for one hundred seventy (170)
22 days each calendar year by a private tutor or other person in the several
23 branches of study required to be taught in the public schools of Guam

1 and in the English language, shall be exempted from attending the
2 public schools.

3 **Section 6111. Compliance of Pupils Required.** All pupils
4 shall comply with the regulations adopted by the Board, pursue the
5 required course of study and submit to the authority of the teachers of
6 the schools.

7 **Section 6112. Liability for Injury to Property.** The parent or
8 guardian of any pupil who willfully cuts, defaces or otherwise injures in
9 any way any property, real or personal, belonging to a school, shall be
10 liable for all damages so caused by the pupil. The parent or guardian of
11 a pupil shall be liable to the school for all property belonging to the
12 school loaned to the pupil and *not* returned upon demand of an
13 employee of the school authorized by the Superintendent to make the
14 demand.

15 **Section 6113. Free Medical Expenses for Injured Pupils.** *If*
16 a pupil of any of the public or private schools of Guam is injured during
17 school hours on school property, while traveling directly between the
18 pupil's home and school in public school buses, while participating in
19 or attending any regularly approved, supervised activity of the school
20 during school hours, or, after school hours, *if* the school activity is under
21 direct school supervision, or while traveling in public school buses to
22 and from such school activity as a member of group which is under the
23 school's supervision, all medical expenses incurred as a result of such
24 injury shall be borne by the Board, *except* that *if* the pupil is covered by

1 health or accident insurance as will reimburse the pupil or the pupil's
2 parents or guardians for such medical expenses in whole or in part, then
3 the Board shall bear *only* those expenses, *if any*, in excess of the
4 insurance payments made, or to be made, by the pupil's insurance
5 carrier on account of such injury. In providing for such payments, the
6 Board is authorized to obtain insurance covering the same, which
7 insurance coverage may be broadened to include compensation for
8 accidental loss of life, sight or limbs.

9 **Section 6114. Guaranteed Entrance to Classrooms.** No
10 student who is regularly and legally enrolled in a school within the
11 public school system shall be refused to be placed in a classroom for
12 which the student is eligible, as determined by the school administrator
13 following guidelines established by Board policies.

14 **Section 6115. Student Activities Money.** Student activities
15 money is all money raised with the approval of the Board by the efforts
16 of students in connection with any activities of student organizations,
17 including without limiting the generality of the foregoing, school
18 supply, stores, clubs, athletic activities, school plays, receipts from
19 vending machines and other student entertainment and yearbooks.

20 **Section 6116. Same: Committee.**

21 (a) There shall be established a Student Activities Money
22 Committee within each school which shall oversee the receipts
23 and expenditures of the student activities money, and shall make
24 final approval of all expenditures in excess of One Hundred
25 Dollars (\$100.00) from the Student Activities Fund.

1 (b) Membership on the Student Activities Money
2 Committee shall be the following:

3 (1) Principal of the school concerned serving as
4 Chairman;

5 (2) one (1) faculty staff member designated by the
6 school faculty; *and*

7 (3) student body president, student body treasurer
8 or a student body member designated by the school faculty.

9 **Section 6117. Student Activities Fund.** The Student
10 Activities Money Committee of any school having student activities
11 money shall open a checking account and/or savings account in a
12 commercial bank or savings and loan association on Guam in an
13 account designated as the 'School Student Activities Fund' of the school
14 opening the account.

15 **Section 6118. Student Activities Treasurer: Audit.**

16 (a) The Student Activities Money Committee of any
17 school having student activities money shall appoint a student
18 activities treasurer of that particular school. Each student
19 activities treasurer shall be bonded in accordance with standard
20 government of Guam procedures.

21 (b) Any student organization that raises money as
22 provided by § 6115, *supra*, shall promptly deliver such money to
23 the student activity a receipt therefore, promptly deposit the
24 money into the Student Activities Fund of such school.
25 Disbursements from the Student Activities Fund shall be made

1 *only* for the purpose for which the fund was established, or other
2 purposes which the student organization raising the fund may
3 determine. All expenditures of student activities money shall be
4 for the enhancement of student educational or social welfare, as
5 approved by regulations of the student organization and
6 approved by the Board. Disbursement of funds shall be made by
7 the student activities treasurer as requested in writing by the
8 student organization advisor and treasurer. The student activities
9 treasurer and the principal of the school shall sign all withdrawals
10 drawn against the Student Activities Fund; *provided*, that no
11 checks or withdrawals may be drawn against the Student
12 Activities Fund without disbursement request signed by the
13 student organization advisor and treasurer.

14 (c) The student activities treasurer shall maintain
15 accounts showing the balances due respective student
16 organizations, and shall maintain an accurate record of all
17 deposits and expenditures from the Student Activities Fund, and
18 shall prepare a monthly financial statement report. Copies of this
19 report shall be given to the Superintendent of Education, principal
20 and student activities sponsor. The records of the student
21 activities treasurer shall be open to inspection at reasonable times
22 by faculty advisors and officers of the student organizations
23 concerned. Such records shall be maintained by the student
24 activities treasurer in accordance with such rules and regulations.

1 (d) Each Student Activities Fund shall be audited as often
2 as required *at least* annually by the Bureau of Budget and
3 Management Research in cooperation with the Department of
4 Education Fiscal Office, and a copy of the audit shall be filed with
5 the Student Activities Money Committee and the Board.

6 **Section 6119. Junior Reserve Officers Training Corps**
7 **(‘JROTC’) Fund.** There is created a Junior Reserve Officers
8 Training Corps (‘JROTC’) Fund to be maintained separate and apart
9 from all other funds of the Government. All money received by the
10 Government from the U.S. Department of Defense for the operation of
11 the JROTC Programs shall be placed in the JROTC Fund. The
12 Superintendent of Education shall be the certifying officer of the fund.
13 The Superintendent shall report annually to the Board, *I Maga’lahen*
14 *Guåhan* and *I Liheslaturan Guåhan* on the receipts, expenditures and
15 balances of the fund.

16 **Section 6120. Summer School Fund.** There is hereby
17 established a Summer School Fund for the deposit of fees collected from
18 students enrolled in the Summer School Program, and into which shall
19 be deposited such fees to be subsequently appropriated by *I Liheslaturan*
20 *Guåhan* for the operation of the Summer School Program.

21 **Section 6121. Kindergarten Day and Year.** The length of a
22 school day for the kindergarten grade of a school shall be the same
23 length of time as the school day for the elementary grades (first through
24 fifth grades) of such school.

1 **Section 6203. Regulations.** It shall be the duty of the Board
2 to adopt and place into effect for the school of deaf and blind, standards
3 and standard practices regarding its hours of commencement and
4 otherwise regulating its operation. Such standards and regulations shall
5 be adopted in accordance with sound educational practices with due
6 regard for the health, growth and general welfare of the deaf and blind
7 pupils.

8 **Section 6204. Powers and Duties of the Board.** In carrying
9 out the provisions of this Article, the Board shall:

10 (a) take such action as it deems appropriate to carry out
11 the purposes of this Article, and adopt and promulgate rules and
12 regulations in conformity with such purposes;

13 (b) determine and define the degree of deafness and
14 blindness required to make a deaf or blind pupil eligible for
15 attendance at the school for the deaf and the blind;

16 (c) cooperate with other departments, agencies and
17 institutions, both public and private, in providing for the
18 rehabilitation and education of deaf and blind children, in
19 studying the problems involved therein, and in establishing,
20 developing and providing, in conformity with the purposes of this
21 Article, such other programs, facilities and services as may be
22 necessary or desirable.

23 **Article 3.**

24 **Auxiliary Services.**

1 **Section 6301. Definitions.** As used in this Article:

2 (a) *'Auxiliary services'* means:

3 (1) the supply for use by pupils attending non-
4 public schools such standardized tests and scoring services
5 as are in use in the public schools;

6 (2) the provision of speech and hearing diagnostic
7 services to pupils attending non-public school (Such services
8 shall be provided in the non-public school attended by the
9 pupil receiving the service.);

10 (3) the provision of diagnostic psychological
11 services to pupils attending non-public schools (Such
12 services shall be provided in the school attended by the
13 pupil receiving the service.);

14 (4) the provision of therapeutic, psychological, and
15 speech and hearing services to pupils attending non-public
16 schools (Such services shall be provided in a public school,
17 in a public center or in mobile units located off of the non-
18 public premises, as determined by the Superintendent of
19 Education. *If* such services are provided in the public school
20 or in public centers, transportation to and from such
21 facilities shall be provided by the government.);

22 (5) the provision of guidance and counseling
23 services to pupils attending non-public schools (Such
24 services shall be provided in a public school, in public
25 centers or in mobile units located off of non-public premises,

1 as determined by the Superintendent of Education. *If* such
2 services are provided in the public school or in public
3 centers, transportation to and from such facilities shall be
4 provided by the government.);

5 (6) the provision of remedial services to pupils
6 attending non-public schools (Such services shall be
7 provided in the public school, in public centers or in mobile
8 units located off of the non-public premises, as determined
9 by the Superintendent of Education. *If* such services are
10 provided in the public school or in public centers,
11 transportation to and from such facilities shall be provided
12 by the government.); *and*

13 (7) the provision of programs for the deaf, blind,
14 emotionally disturbed, crippled and physically handicapped
15 children attending non-public schools. Such services shall
16 be provided in the public school or in public centers, or in
17 mobile units located off of the non-public premises, as
18 determined by the Superintendent of Education. *If* such
19 services are provided in the public school or in public
20 centers, transportation to and from such facilities shall be
21 provided by the government.

22 (b) '*Non-public school*' means a nonprofit school, other than
23 a public school within Guam, wherein a resident of Guam may
24 legally fulfill the compulsory school attendance requirements of
25 this Title.

1 **Section 6403. Attendance Officer.** The Superintendent and
2 the President shall appoint employees of the Department of Education
3 and the Guam Community College ('College'), respectively, as
4 attendance officers. The attendance officers, any peace officer, principal
5 or Dean may take into custody during school hours, without warrant,
6 any truant found away from the truant's home and who has been
7 reported truant.

8 **Section 6404. Same: Delivery of Truant.** The attendance
9 officer, upon taking a truant into custody, shall deliver the truant
10 promptly either to the truant's parent or to the school which the pupil
11 attends. *If* the child is a habitual truant, the attendance officer, with the
12 concurrence of the principal or Dean of the pupil's school, shall bring
13 the child before the Family Court.

14 **Section 6405. Same: Disposition.** The attendance officer
15 shall promptly report to the Department or College and to the parent
16 the disposition made by the attendance officer of the truant.

17 **Section 6406. Report to Court and Social Services.** Any
18 pupil who has once been adjudged a habitual truant, or who is again
19 reported as a truant one (1) or more days, or is late to school for thirty
20 (30) or more minutes on one (1) or more days without excuse, shall be
21 reported by the Superintendent, the President or the attendance officer
22 to the Family Court and to the Division of Social Services of the
23 Department of Public Health and Social Services.

1 **Section 6407. Court Hearing.** *If the Court, after hearing, finds*
2 *that the allegations of habitual truancy are sustained by evidence, it may*
3 *order that the child be detained and maintained in a school supervised*
4 *by the Court for the remainder of the current school term, or it may*
5 *order that the child be turned over to the custody of the Division of*
6 *Social Services where the child shall be provided casework treatment*
7 *and services.*

8 **Section 6408. Submission of Report.** The attendance
9 officer shall report monthly to the Superintendent the number and types
10 of reports and requests made by each school on Guam pursuant to this
11 Article, and whether each school within Guam has complied with the
12 provisions of this Article.

13 **Section 6409. Authority for Suspension or Expulsion of**
14 **Pupils.** The Board shall determine by regulation the grounds for
15 suspension or expulsion of pupils from school, and the procedure
16 whereby such suspension or expulsion is determined. Such regulation
17 shall include grounds for suspensions or expulsions, length of
18 suspensions, and the procedures for review of suspension or expulsion
19 orders. In adopting the regulation establishing procedures for
20 suspending or expelling pupils, the Board shall follow the guidelines
21 established therefore by the Supreme Court of the United States. Such
22 hearings and procedures as are established by the Board pursuant to
23 this Article shall provide any pupil against whom suspension or
24 expulsion procedures are initiated with due process of law. Such

1 procedures are exempt from the provisions of 5 G.C.A. Chapter 9,
2 *Administrative Adjudication Law*.

3 **Section 6410. Student Discipline Advisory Councils.** In
4 carrying out the provision of § 6409, the Board may authorize the
5 creation of a Student Discipline Advisory Council for each elementary
6 and secondary school and for the College, respectively. Such Councils
7 shall be given the power to establish standards of student behavior, and
8 shall have authority to hear charges of violations of such standards and
9 to recommend appropriate disciplinary action to the principal. The
10 procedure for expelling pupils shall require that before expulsion, the
11 accused pupil be given a hearing before the Student Discipline Advisory
12 Council of the student's school or the College, *if* such exists.
13

1 provide such use free of charge, in its discretion, *if* it deems the use to be
2 sufficiently in the public interest.

3 **Section 7103. Unused School Equipment: Utilization of.**

4 (a) The Board is authorized to enter into agreements with
5 non-public schools for the mutual utilization of school equipment
6 for non-religious purposes which is not being used, or *if* being
7 used, during periods of non-use.

8 (b) The Board shall adopt rules and regulations for the
9 mutual utilization of school equipment.

10 **Section 7104. School Facilities; Use of.** The use of school
11 facilities by person(s) or group(s) during non-school hours is hereby
12 authorized.

13 (a) The Board may grant permission for the use of school
14 facilities, including the gymnasium, theater, staff development
15 center, and other Department facilities located at Tiyan, NAS or
16 Hagatna. The principal, or the principal's designee, shall arrange
17 the scheduling of any non-school activity authorized by the Board
18 and, in addition, serve as liaison between the Board and the
19 requesting party or user group.

20 (b) The Board, in collaboration with the Superintendent
21 and the various school principals/Tiyan facilities manager/staff
22 development manager, shall prescribe such rules and regulations
23 governing the use of school facilities as it may deem necessary.

1 (c) The Board is authorized to establish a fee schedule and
2 charge according to such schedule for the use of school facilities.

3 (d) There are hereby established revolving funds for each
4 public school on a school-by-school basis, to be known as '*I*
5 *Salappe' Facilidat,*' which shall be maintained separate and apart
6 from other funds of the government of Guam and wherein all
7 proceeds generated from user fees collected pursuant to the
8 provisions of this Act shall be deposited. Said accounts shall be
9 under the custody and trust of the principal and vice-principal of
10 the respective schools.

11 The principal and vice-principal may expend such funds for
12 the purpose of off-setting or defraying any added cost(s) incurred
13 by the school as a result of extraordinary community use, or for
14 the purpose of maintaining or improving the school facilities
15 affected by this Act. The fund shall be used to purchase small
16 items and/or services for direct school maintenance or repairs
17 which do *not* exceed the cost of Two Hundred Dollars (\$200.00)
18 per item.

19 The procurement of items or services costing *more than* Two
20 Hundred Dollars (\$200.00) each shall require authorization of the
21 Superintendent. Each principal shall prepare a quarterly financial
22 status report on the fund to be transmitted to the Chairperson of
23 the Board, the Superintendent, and *I Liheslaturan Guåhan* on or
24 before the end of the quarter of each fiscal year. Additionally,

1 notwithstanding any other provision of law, the Board is
2 authorized to accept donations to '*I Salappe' Facilidat'* on behalf of
3 any school or Department facility.

4 (e) Person(s) or group(s) using the public school facilities
5 shall be liable for any damage done over and above ordinary wear
6 and tear. Neither the government of Guam nor the Board shall be
7 liable for damage or injury to person or property suffered by any
8 person(s) resulting from a dangerous or defective condition of the
9 school recreational facilities.

10 (f) Any reservation of the facility may be cancelled, by
11 notice given thirty (30) days in advance, in the event that a school
12 function must be conducted. Said cancellation shall be approved
13 by the school principal.

14 **Section 7105. Authorization of Commercial Advertising**
15 **Leases.** Within ninety (90) days of the enactment of this Act, the
16 Department of Education shall review and revise all existing
17 Department rules and regulations for the management and control of
18 school property in order to authorize the commercial leasing of
19 advertising space at Department and Tiyan sports facilities and on
20 Department of Public Works' school buses, consistent with government
21 of Guam standard property regulations.

22 Within ninety (90) days of enactment of this Act, the Department
23 of Education, in conjunction with the Bus Operations Division of the
24 Department of Public Works, shall develop standard size and placement

1 regulations for the leasing of commercial advertising space at
2 Department and Tiyan sports facilities and on Department of Public
3 Works' school buses. Immediately upon completion, the proposed
4 revisions shall be transmitted to the Board for approval. Within thirty
5 (30) days of receipt, the Board shall adopt the revised rules and
6 regulations with any amendments deemed necessary and appropriate.

7 **Section 7106. Schedule of Commercial Advertising Fees.**

8 Within ninety (90) days of the enactment of this Act, the Department of
9 Education shall develop a schedule of fees for the commercial leasing of
10 advertising space at Department of Education and Tiyan sports facilities
11 and Department of Public Works' school buses. Immediately upon
12 completion, the proposed schedule of fees shall be transmitted to the
13 Board for approval. Within thirty (30) days of receipt, the Board shall
14 approve the schedule of fees with any amendments deemed necessary
15 and appropriate.

16 **Section 7107. Standard Lease Agreement for Commercial**
17 **Advertising.** Within ninety (90) days of the enactment of this Act,
18 the Department of Education shall develop a standard lease agreement
19 for commercial advertising at Department of Education and Tiyan
20 sports facilities and on Department of Public Works' school buses. Such
21 standard lease agreement shall specify the Department's rules and
22 regulations, schedule of fees and legal liabilities for private entities
23 seeking to advertise at Department of Education and Tiyan sports
24 facilities and on Department of Public Works' school buses. Such
25 standard lease agreement shall specifically prohibit any advertising

1 which promotes substances which are controlled by law, or are illegal to
2 distribute to minors, including, without limitation, alcohol;
3 establishments selling primarily alcohol products, such as bars; tobacco
4 products; firearms; obscenity and as may be otherwise determined by
5 the Board. Immediately upon completion, the proposed standard lease
6 agreement shall be transmitted to the Board for approval. Within thirty
7 (30) days of receipt, the Board shall adopt the standard lease agreement
8 with any amendments deemed necessary and appropriate.

9 **Section 7108. Interscholastic Sports Fund.** There is
10 hereby created, separate and apart from all other funds of the
11 government of Guam, a fund known as the 'Interscholastic Sports Fund'
12 ('Fund') into which shall be deposited all fees collected from the
13 commercial leasing of advertising space at Department of Education
14 and Tiyan sports facilities, and on Department of Public Works' school
15 buses and other monies deemed appropriated by the Department of
16 Education.

17 (a) **Same: Administration.** The Fund shall be
18 administered by the Department of Education and shall *not* be
19 commingled with the General Fund or any other fund of the
20 government of Guam. The Fund shall be maintained in a separate
21 bank account and monies deposited therein shall *not* be subject to
22 *I Maga'lahaen Guåhan's* transfer authority. The Department of
23 Education is authorized to accept for the Fund gifts, bequests,

1 donations and other kinds of contributions for the purposes of the
2 Fund.

3 (b) **Same: Expenditures.** Expenditures from the Fund
4 shall be made exclusively for the purpose of supplementing the
5 costs associated with operating the Department of Education
6 interscholastic sports programs.

7 The Department of Education may transfer from the
8 Interscholastic Sports Fund to the Department of Public Works
9 such funds as are necessary to fund in whole or in part
10 interscholastic bus transportation.

11 (c) **Same: Distribution of the Interscholastic Sports**
12 **Fund.** Elementary schools may participate in the solicitation of
13 commercial advertising in their respective schools as provided
14 through the Interscholastic Sports Fund Act. *However*, because the
15 interscholastic sports program exists in the middle and high
16 school levels only, the elementary school that solicits and receives
17 monies for commercial advertising shall deposit all funds into the
18 Interscholastic Sports Fund. The Department of Education shall
19 transfer forty percent (40%) of the total sum of any fees, monetary
20 gifts, donations or contributions collected or derived from the
21 commercial leasing of any part of the facilities for advertising, or
22 other such purposes of an elementary school, into 'I Salappe
23 *Facilidat'* account of that respective elementary school. The
24 remaining sixty percent (60%) will remain in the Interscholastic

1 Sports Fund to support interscholastic sports programs. Funds
2 transferred to '*I Salappe Facilidat*' accounts of a respective
3 elementary school pursuant to this Subsection shall be expended
4 in accordance with the provisions of § 7104 of Title 17, Guam
5 Code Annotated, as enacted through Public Law Number 23-67.
6 The distribution of advertising funds for both middle and high
7 schools will be as follows: sixty percent (60%) will remain in the
8 Interscholastic Sports Fund and forty percent (40%) will be
9 retained at the school for its respective sports programs. Any
10 advertising funds collected for the Tiyan Facility or the Staff
11 Development Center (*behind George Washington High School in*
12 *Mangilao*) will be distributed as follows: sixty percent (60%) to the
13 Interscholastic Sports Fund and forty percent (40%) for
14 maintenance of those facilities.

15 (d) **Same: Annual Financial Report.** Within sixty (60)
16 days after the closing of each fiscal year, the administrator or
17 authorized custodian of the Interscholastic Sports Fund shall
18 transmit to the Board and the Superintendent of the Department
19 of Education an annual report of the expenditures of the Fund,
20 including, but *not* limited to, a balance sheet, a statement of
21 receipts and expenses, and a general description of the income
22 sources of the Fund and the expenses thereof.

23 **Section 7109. School Property: Unauthorized Entry.** Every
24 person entering any campus maintained by the Department of

1 Education shall immediately proceed to the administrative office of the
2 school located on that campus and announce that person's purpose for
3 being on campus to the principal of that school or the principal's
4 designee. The principal, or the principal's designee, may grant any
5 person written authority to remain on campus for a specific period of
6 time and for a specific purpose, or the principal, or the principal's
7 designee, may order the person to *immediately* leave the campus. Any
8 person found on a school campus without the written permission
9 provided for in this Section shall be guilty of a misdemeanor and is
10 punishable by imprisonment *not* exceeding thirty (30) days, or by a fine
11 *not* exceeding Three Hundred Dollars (\$300.00) or both such fine and
12 imprisonment; *provided*, that this Section shall *not* apply to the
13 following:

14 (a) students enrolled at the particular school campus who
15 are in good standing and *not* the subject of an order of suspension
16 or expulsion;

17 (b) teachers and staff of the particular school campus;

18 (c) peace officers; *and*

19 (d) such other persons as the Board by rule or regulation
20 shall permit.

21 **Section 7110. Same: Same.** Every person who at any time
22 enters any school campus maintained by the Department of Education
23 with the intent of entering into a fight with any person or causing
24 disruption on said school campus is guilty of a misdemeanor and

1 punishable by a fine of Three Hundred Dollars (\$300.00) or by
2 imprisonment for *not more than* thirty (30) days, or both.

3 **Section 7111. Same: Posting.** The Board shall cause to be
4 posted at the entrance(s) of every school campus, signs which set out in
5 a conspicuous manner §§ 7109 and 7110 of this Chapter. The Board
6 shall see to it that said signs shall continue to be maintained in a
7 readable condition.

8 **Section 7112. Evaluation and Upkeep of Facilities.**

9 (a) The Superintendent of the Department is authorized to
10 enter into one (1) or more contracts with one (1) or more
11 architectural and engineering firms to provide the following
12 services to the Department;

13 (1) evaluating and reporting on the conditions of
14 Department plant facilities;

15 (2) preparing architectural and engineering plans
16 for repairs, renovations, improvements, demolition and
17 construction of plant facilities;

18 (3) assisting in the procurement by the Department,
19 of architectural and engineering services, and construction
20 services, through preparation of requests for proposals and
21 scope of services documents, evaluation of designs, review
22 of construction documents and coordination of compliance
23 of construction documents with all applicable laws, rules
24 and regulations;

1 (4) performing construction management services
2 for construction projects undertaken; *and*

3 (5) providing consultation on prices of architectural
4 and engineering services and construction.

5 (b) The Superintendent of the Department may solicit
6 requests for proposals and enter into one (1) or more contracts for
7 the procurement of architectural, engineering and construction
8 management services for the Department, and for construction
9 contracts in excess of One Million Dollars (\$1,000,000), one (1) or
10 more contracts for value engineers. Contracts shall be awarded on
11 forms approved by the Attorney General.

12 (c) Nothing herein shall be construed as exempting the
13 Department from the government of Guam procurement laws as
14 they pertain to the Department.

15 **Section 7113. Limitations on Capacity Levels for the**
16 **Construction of New Public Schools.** All public schools built on
17 Guam shall be designed and constructed for student enrollment
18 capacity limits as follows:

19 (a) Elementary Schools: five hundred fifty (550) students;

20 (b) Middle Schools: seven hundred (700) students; *and*

21 (c) High Schools: one thousand two hundred
22 (1,200) students.

23 The school capacity limitations of this Section shall apply *only* to school
24 projects initiated *after* the effective date of Public Law Number 24-73.

1 **Section 7114. Effective Date.** The school capacity limitations
2 of § 7113 of this Chapter shall apply *only* to school projects initiated after
3 the effective date of this Act.”

4 **Section 4.** Section 26210 of Article 2 of Title 11 of the Guam Code
5 Annotated is hereby *repealed*.

6 **Section 5.** Section 26211 of Article 2 of Title 11 of the Guam Code
7 Annotated is hereby *repealed*.

8 **Section 6.** Section 26212 of Article 2 of Title 11 of the Guam Code
9 Annotated is hereby *repealed*.

10 **Section 7.** Section 26213 of Article 2, Chapter 26, Division 2 of Title 11
11 of the Guam Code Annotated is hereby *repealed*.

12 **Section 8.** Section 26214 of Article 2, Chapter 72 of Title 11 of the Guam
13 Code Annotated is hereby *repealed*.

14 **Section 9.** Section 5125 of Article 2 of Title 5 of the Guam Code
15 Annotated is hereby *repealed and reenacted* to read as follows.

16 **“Section 5125. Application of this Chapter to Executive**
17 **Branch.** Every governmental body which is in the purview of the
18 Executive Branch, and including Guam Community College, the
19 University of Guam, the Department of Education, the Guam Memorial
20 Hospital Authority and the Guam Visitor’s Bureau, shall be governed by
21 Articles 1, 3, 6, 7, 10, 11 and 12 of this Chapter, *except* to the extent that
22 any such governmental body or other above-named body may be
23 exempted from the centralized procurement regime of Article 2 of this
24 Chapter, in which event the Director of each such governmental body or

1 other above-named body shall be substituted wherever there is
2 reference to the Public Policy Office, Chief Procurement Officer or
3 Director of Public Works in Articles 4, 5, 8 and 9 of Chapter 5 of Title 5
4 of the Guam Code Annotated.

5 It is the intent of *I Liheslaturan Guåhan* to require all Executive
6 Branch governmental bodies, including autonomous agencies, and other
7 above-named bodies, to be governed to the maximum extent practicable
8 by Chapter 5 of Title 5 of the Guam Code Annotated. This provision
9 requires any governmental body, and each above-named body, to
10 conduct their procurement activities pursuant to Chapter 5 of Title 5 of
11 the Guam Code Annotated, *except* insofar as said Chapter establishes
12 and effects a system of centralized procurement.”

13 **Section 10.** Section 1105.1 of Title 17 of the Guam Code Annotated
14 is hereby *repealed and reenacted* to read as follows:

15 “**Section 1105.1. Same: Naming of.** The Board is authorized
16 to designate by appropriate name the public schools. Any name of any
17 school in effect at the time of the enactment of this Section shall continue
18 in effect until a new name is assigned by the Board.”

19 **Section 11.** Section 1103 of Chapter 1 of Title 17 of the Guam Code
20 Annotated is hereby *added* to read as follows:

21 “**Section 1103. Board.** ‘Board’ means the Guam Education
22 Policy Board.”

23 **Section 12.** Section 1104 of Chapter 1 of Title 17 of the Guam Code
24 Annotated is hereby *repealed and reenacted* to read as follows:

1 **"Section 1104. Superintendent.** '*Superintendent*' means
2 the Superintendent of Education of the government of Guam."

3 **Section 13.** Section 22101.1 of Title 5 of the Guam Code Annotated
4 is hereby *repealed*.

5 **Section 14.** Sections 10 and 14 of Public Law Number 24-142 are
6 hereby *repealed*.

7 **Section 15. Changes by Compiler of Laws.** The Compiler of Laws
8 shall change references within published Guam law to be consistent with the
9 changes provided for in this Act as follows:

10 (a) references to the "*Director of Education*" shall be changed to
11 the "*Superintendent of Education*";

12 (b) references to the "*Director of Education*" as the "*Director*" shall
13 be changed to "*Superintendent*";

14 (c) references to the "*Territorial Board of Education*" or the "*Guam*
15 *Board of Education*" shall be changed to the "*Guam Education Policy Board*"
16 or "*Board*"; and

17 (d) references to the "*Territorial Board of Education*" or the "*Guam*
18 *Board of Education*" as "*Board*" may be left unchanged.

19 This Section shall *not* preclude the Compiler of Laws from exercising all of the
20 Compiler's authority to adjust and make consistent statutory law.

21 **Section 16. Severability.** *If* any provision of this Law or its
22 application to any person or circumstance is found to be invalid or contrary to
23 law, such invalidity shall *not* affect other provisions or applications of this

- 1 Law which can be given effect without the invalid provisions or application,
- 2 and to this end the provisions of this Law are severable.



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

JUN 26 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	
Time	2:00
Date	6/26/01

Dear Legislative Secretary Brown:

Enclosed please find Substitute Bill No. 001 (LS) entitled: "AN ACT TO REPEAL CHAPTER 3A, TO REPEAL AND REENACT CHAPTERS 3, 5, 6 AND 7 AND §§ 1105.1 AND 1104, AND TO ADD § 1103 TO TITLE 17; TO REPEAL §§ 26210-26214 OF TITLE 11; TO REPEAL AND REENACT §5125 AND TO REPEAL §22101.1 OF TITLE 5, ALL OF THE GUAM CODE ANNOTATED, AND TO REPEAL §§ 10 AND 14 OF P.L. NO. 24-142, RELATIVE TO THE ADMINISTRATION OF PUBLIC EDUCATION ON GUAM" which I have vetoed.

Considerably more homework is necessary before this legislation is ready for the public. The main objection to this legislation is that it reenacts, with only a few changes, the education code as it existed years ago, prior to the enactment of both Public Law No. 24-142 (elected school board legislation) and amendments to that public law in Public Law No. 24-299. It reenacts obsolete portions of the law, and reenacts previous versions of various provisions that were amended already in order to update them. Finally, it recreates the very same problems that were experienced in the prior law that established an elected school board with members representing districts that are not properly apportioned according to the requirements of law.

In order to address the current problems in our educational system, it is advisable that we institute, by law, an appointed board of education to provide input and assistance in this time of a very tight economy. Should more economic resources become available, and proper districts drawn and apportioned, an elected board of education from districts can be instituted.

This legislation, as passed, is completely different than the legislation as introduced. Many of those who endorsed the original bill did so for provisions that were subsequently removed. The legislation is also completely different from the concept that was endorsed by the Administration.

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Which appearing to be a “new” law, the elected school board as provided in this legislation is a step backward.

While an elected board of education is ideal if some conditions can be met, such as independent financing, properly apportioned districts must be drawn also before it can possibly work. This was not done. The elected board provided in this legislation is not properly proportioned, and does not have an independent source of financing. The financing continues to be the same mechanism used now, which consists of appropriations from the legislature. An elected board which must continue to justify its budget each year to another elected body, which controls the funding, will lead to a repetition of the same problems experienced by prior elected boards without proper financing.

The following are specific objections to the legislation:

1. **Violation of federal law.** The federal law for Guam does not provide for an independent school system. The federal law for Guam does not empower the legislature to create executive endeavors that eliminate all general supervision by the Governor.
2. **The new “Guam Education Policy Board” continues to have operational responsibilities.** The Guam Education Policy Board created in this legislation is not an advisory or policy board, as the name would suggest, but is invested with many operational functions that properly belong to a director, or “superintendent.” Since it is not advisory or policy-making in nature, it obviously violates the “one person one vote” apportionment requirements for the various districts from which the board members are elected. The following are some of the items which are not “policy”, but indicate that education under this legislation is controlled by the new board. The superintendent serves only as a “personnel office” for the hiring of personnel. The board under this legislation is not a mere policy maker, and elections to such a board must be properly apportioned.
 - a. The board establishes rates and fees necessary for programs, including, but not limited to, the school lunch program.
 - b. The board must approve the departmental budget by resolution, and the board sets the funding priorities.
 - c. The board negotiates with the bargaining unit representing teachers and support staff and has final authority to approve the agreements.
 - d. The board makes rules and regulations that the department must follow.
 - e. The board develops programs.
 - f. The board authorizes assessments of the students.
 - g. The board sets the qualifications for teachers certificates and the length of time they are in effect, and hears challenges to its decisions.
 - h. The board prescribes the services to be performed by para-professionals and teachers aides.
 - i. The board adopts the standards for the schools.
 - j. The board approves the raising of money for school activities.
 - k. The board determines the grounds of suspension or expulsion for students.

- l.** The board determines the management of school property.
 - m.** The board determines who can be granted permission to use school facilities and determines a schedule of fees for this use.
- 3. Legislature is not the proper body to report violations of law.** The board and the superintendent are both required to report violations of the law (See §3112(b) in the bill) to the legislature. The legislature does not have supervisory or enforcement authority for violations of any law. In any event, any matter reported would be a statement of complaint or opinion, since the legislative branch does not determine or punish violations of the law.
- 4. Legislature cannot approve executive actions.** The legislature can set qualifications by law for the position of Superintendent of Education, or the Civil Service Commission can set the qualifications. The legislature cannot approve an action of an Executive Branch agency, as the legislature is not an executive body. This legislation provides for the legislature to approve the qualifications for superintendent which are devised by the Civil Service Commission. This is a violation of the “Separation of Powers” doctrine.
- 5. Provisions for 3 different attorneys is defective.** Under this legislation, there are 3 different attorneys involved with the department of education. The federal law concerning the role of the Attorney General of Guam is ignored, and the Attorney General is demoted in this legislation to the role of assisting the attorney for the new “board or department.” This is the reverse of the federal provisions, and cannot be done by local law. Additionally, this legislation contains no definition of “department”. If an attorney represents the “department”, do they represent the superintendent or the board? The old education code provided for a type of joint administration by the board and the director, who both together constituted the “department”. This legislation attempts to separate the board and the director or superintendent, but then continues to mix their responsibilities. Who, or what, constitutes the “department” for purposes of legal representation? Finally, concerning attorneys, the superintendent is authorized to hire an attorney to represent “it”. Who or what is “it”?
- 6. Student board member’s vote is eliminated.** This legislation divests the student board member of a vote. Prior laws constituting boards of education gave the student member a vote. Under this legislation, the student member is “non-voting”.
- 7. Election timelines are not consistent with other provisions of law.** Timelines for elections provided for by this legislation are not consistent with other provisions of law in the Guam Elections Code and with provisions contained in other legislation passed in the same session of the legislature. In fact, the election timelines can change are not definitely set. There are no transition provisions concerning when individuals take office, nor are there any provisions for adjusting the terms of members when elections take place at specified times which cut short the terms provided in the same legislation. These inconsistent provisions will need to be resolved.

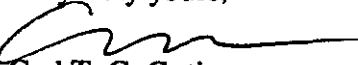
8. **Governor's cabinet members are determined by the Governor.** The legislation specifies that the superintendent and deputy superintendent shall not be considered members of the Governor's cabinet. The Governor's cabinet is not a body constituted by law, rule, or executive order, but consists of those government officials that the Governor would like to so designate. Should a law designate who can be called "cabinet", the Governor would still not be prevented from including those individuals he wishes to include in cabinet groupings. This appears to be a provision to prevent the constitutional right of association.
9. **Guam Legislature is not the proper body to present referendum election petitions.** The legislature has substituted itself for the Guam Election Commission in requiring that petitions for referendum to recall members of the elected board of education be submitted to the legislature instead of to an election commission. There is no provision for the holding of a referendum election by an election commission. The legislature is not the proper body to conduct such an election, since the legislature consists solely of elected officials.
10. **Unanimous vote is required by a quorum of the board to take any action.** The number of votes required by the new board of education to take action is the same number as for a quorum. This is quite restrictive, since if a quorum of 5 members attends a meeting, no action can be taken unless the action is unanimous. Since the new board retains a great number of operational duties, despite its name as a "policy" board, this will hamstring the board from carrying out required educational duties.
11. **The Guam Flag has been eliminated from Guam's classrooms.** The Guam Flag has been eliminated from Guam's public schools. Previous law provided for the United States Flag and the Guam Flag to both be provided to the schools. This legislation deletes the Guam Flag.
12. **Legislatively enacted typo concerning teacher qualifications needs correction.** A typographical error concerning teacher qualifications has been reenacted in this legislation. The legislation states that "Persons employed in a teaching supervisory capacity shall . . . hold a qualifying certificate issued by the Superintendent." The original of this section stated "Persons employed in a teaching or supervisory capacity". See Public Law No. 12-207. This legislatively enacted typo needs to be corrected.
13. **Board of Education to pay medical expenses for private school students.** The legislation makes the new board of education responsible for paying for medical expenses of students who attend private schools as well as those who attend public schools. This will be very expensive, and was corrected in previous legislation.

14. **Many provisions in this legislation were previously corrected and updated in prior law.** This legislation does not pick up the latest enacted amendments to the education laws on Guam. Many defects in old legislation were previously corrected, and some laws were simply updated to reflect new court decisions and changes in education. These changes were not incorporated into this legislation. Instead, prior outdated and obsolete versions of the laws were reenact. Some examples of this problem are:
- a. Section 3112 lists as one of the duties of the Guam Education Policy Board “approve or revoke a school’s decentralization status for purposes of school-based management”. This legislation, however, eliminates all references in prior law to school-based management and this appears to be a left-over from a listing of duties for a prior board.
 - b. Section 3206 does not pick up the amendment made in Public Law No. 24-299:8 that allows non-participation of students in the recitation of the pledge of allegiance if the student objects to such public recitation.
 - c. Section 3208 does not pick up the amendment made in Public Law No. 24-299:14 that compensatory educational programs can be conducted during inter-sessions for schools on a year round calendar as well as during the months of June, July, or August. This legislation restricts compensatory educational programs to the summer months only.
 - d. Section 5103 does not pick up the amendment made in Public Law No. 24-299:28 referring to middle schools instead of junior high, and includes head start. Several other items were left out concerning school health counselors and teachers of special education and related services to special education. The legislation reenacted an obsolete provision.
 - e. Section 5108 deletes the system in Public Law No. 24-142 that allows peer review of the revocation or suspension of a teaching certificate, and moves this activity to the board.
 - f. Section 5114 does not pick up the amendment made in Public Law No. 24-299:29 which deletes the words “and during recess” for the maintenance of discipline by teachers. This function is now provided by support staff.
 - g. Section 5116 deletes cafeteria workers from the definition of employees of the government of Guam as it does not pick up the amendment made in Public Law No. 24-299:30.
 - h. Section 5119 does not pick up the amendment made in Public Law No. 24-299:31 deleting the reference to paying teachers “beginning on November 1, 1983”.

- i. Section 5120 refers to a pilot program which no longer exists, and should be deleted.
- j. Section 6105 is outdated and should be deleted.
- k. Section 6106 is outdated and refers to “interim governing board and District Boards” which were established in Public Law No. 24-142 and are not established in this legislation.
- l. Sections 6201 – 6204, establishing a State School for the Deaf and Blind, are obsolete and should be deleted.
- m. Article 4 starting on page no. 45 should be rewritten to indicate that Guam Community College no longer provides high school services. As written, this section is obsolete.
- n. Section 7104 should be updated as the department no longer has a staff development manager.
- o. Page 56, lines 10-11 refers to a Staff Development Center. This center no longer exists.

In light of the above difficulties with this legislation, this legislation is vetoed at this time.

Very truly yours,


Carl T. C. Gutierrez
I Maga'Lahen Guåhan
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

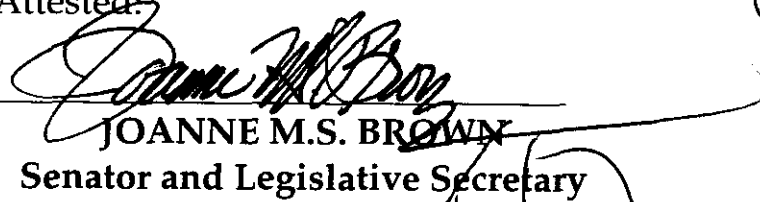
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that Substitute Bill No. 001 (LS), "AN ACT TO REPEAL CHAPTER 3A, TO REPEAL AND REENACT CHAPTERS 3, 5, 6 AND 7 AND §§ 1105.1 AND 1104, AND TO ADD § 1103 TO TITLE 17; TO REPEAL §§ 26210-26214 OF TITLE 11; TO REPEAL AND REENACT §5125 AND TO REPEAL § 22101.1 OF TITLE 5, ALL OF THE GUAM CODE ANNOTATED, AND TO REPEAL §§ 10 AND 14 OF P.L. NO. 24-142, RELATIVE TO THE ADMINISTRATION OF PUBLIC EDUCATION ON GUAM," was on the 11th day of June, 2001, duly and regularly passed.



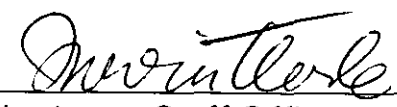
ANTONIO R. UNPINGCO
Speaker

Attested:



JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by *I Maga'lahen Guåhan* this 14th day of June, 2001,
at 4:45 o'clock P.M.



Assistant Staff Officer
Maga'lahi's Office

APPROVED:



CARL T. C. GUTIERREZ
I Maga'lahen Guåhan

Date: _____

Public Law No. _____

Overridden

I MINA' BENTE SAIS NA LIHESLATURAN GUAHAN

2001 (FIRST) Regular Session

Date: 7/5/01

VOTING SHEET

Vetoed
Bill No. 1
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 10 2 _____ 3

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: 6/11/01

VOTING SHEET

Bill No. 1 (LS)

Resolution No. _____

Question: _____

NAME	YEAS	NAYS	NOT VOTING/ ABSTAINED	OUT DURING ROLL CALL	ABSENT
ADA, Joseph F.	✓				
ADA, Thomas C.	✓				
AGUON, Frank B., Jr. 11	✓				
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. 11	✓				
SANTOS, Angel L.G.	✓				
UNPINGCO, Antonio R. 11	✓				
WON PAT, Judith T.	✓				

TOTAL

14 0 0 0 1

CERTIFIED TRUE AND CORRECT:

Clerk of the Legislature

* 3 Passes = No vote
EA = Excused Absence



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

JUN 26 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 [Signature]

Time 2:00

Date 6/26/01

Dear Legislative Secretary Brown:

Enclosed please find Substitute Bill No. 001 (LS) entitled: "AN ACT TO REPEAL CHAPTER 3A, TO REPEAL AND REENACT CHAPTERS 3, 5, 6 AND 7 AND §§ 1105.1 AND 1104, AND TO ADD § 1103 TO TITLE 17; TO REPEAL §§ 26210-26214 OF TITLE 11; TO REPEAL AND REENACT §5125 AND TO REPEAL §22101.1 OF TITLE 5, ALL OF THE GUAM CODE ANNOTATED, AND TO REPEAL §§ 10 AND 14 OF P.L. NO. 24-142, RELATIVE TO THE ADMINISTRATION OF PUBLIC EDUCATION ON GUAM" which I have vetoed.

Considerably more homework is necessary before this legislation is ready for the public. The main objection to this legislation is that it reenacts, with only a few changes, the education code as it existed years ago, prior to the enactment of both Public Law No. 24-142 (elected school board legislation) and amendments to that public law in Public Law No. 24-299. It reenacts obsolete portions of the law, and reenacts previous versions of various provisions that were amended already in order to update them. Finally, it recreates the very same problems that were experienced in the prior law that established an elected school board with members representing districts that are not properly apportioned according to the requirements of law.

In order to address the current problems in our educational system, it is advisable that we institute, by law, an appointed board of education to provide input and assistance in this time of a very tight economy. Should more economic resources become available, and proper districts drawn and apportioned, an elected board of education from districts can be instituted.

This legislation, as passed, is completely different than the legislation as introduced. Many of those who endorsed the original bill did so for provisions that were subsequently removed. The legislation is also completely different from the concept that was endorsed by the Administration.

0286

Which appearing to be a “new” law, the elected school board as provided in this legislation is a step backward.

While an elected board of education is ideal if some conditions can be met, such as independent financing, properly apportioned districts must be drawn also before it can possibly work. This was not done. The elected board provided in this legislation is not properly proportioned, and does not have an independent source of financing. The financing continues to be the same mechanism used now, which consists of appropriations from the legislature. An elected board which must continue to justify its budget each year to another elected body, which controls the funding, will lead to a repetition of the same problems experienced by prior elected boards without proper financing.

The following are specific objections to the legislation:

1. **Violation of federal law.** The federal law for Guam does not provide for an independent school system. The federal law for Guam does not empower the legislature to create executive endeavors that eliminate all general supervision by the Governor.
2. **The new “Guam Education Policy Board” continues to have operational responsibilities.** The Guam Education Policy Board created in this legislation is not an advisory or policy board, as the name would suggest, but is invested with many operational functions that properly belong to a director, or “superintendent.” Since it is not advisory or policy-making in nature, it obviously violates the “one person one vote” apportionment requirements for the various districts from which the board members are elected. The following are some of the items which are not “policy”, but indicate that education under this legislation is controlled by the new board. The superintendent serves only as a “personnel office” for the hiring of personnel. The board under this legislation is not a mere policy maker, and elections to such a board must be properly apportioned.
 - a. The board establishes rates and fees necessary for programs, including, but not limited to, the school lunch program.
 - b. The board must approve the departmental budget by resolution, and the board sets the funding priorities.
 - c. The board negotiates with the bargaining unit representing teachers and support staff and has final authority to approve the agreements.
 - d. The board makes rules and regulations that the department must follow.
 - e. The board develops programs.
 - f. The board authorizes assessments of the students.
 - g. The board sets the qualifications for teachers certificates and the length of time they are in effect, and hears challenges to its decisions.
 - h. The board prescribes the services to be performed by para-professionals and teachers aides.
 - i. The board adopts the standards for the schools.
 - j. The board approves the raising of money for school activities.
 - k. The board determines the grounds of suspension or expulsion for students.

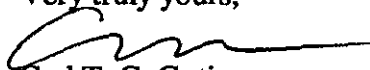
8. **Governor's cabinet members are determined by the Governor.** The legislation specifies that the superintendent and deputy superintendent shall not be considered members of the Governor's cabinet. The Governor's cabinet is not a body constituted by law, rule, or executive order, but consists of those government officials that the Governor would like to so designate. Should a law designate who can be called "cabinet", the Governor would still not be prevented from including those individuals he wishes to include in cabinet groupings. This appears to be a provision to prevent the constitutional right of association.
9. **Guam Legislature is not the proper body to present referendum election petitions.** The legislature has substituted itself for the Guam Election Commission in requiring that petitions for referendum to recall members of the elected board of education be submitted to the legislature instead of to an election commission. There is no provision for the holding of a referendum election by an election commission. The legislature is not the proper body to conduct such an election, since the legislature consists solely of elected officials.
10. **Unanimous vote is required by a quorum of the board to take any action.** The number of votes required by the new board of education to take action is the same number as for a quorum. This is quite restrictive, since if a quorum of 5 members attends a meeting, no action can be taken unless the action is unanimous. Since the new board retains a great number of operational duties, despite its name as a "policy" board, this will hamstring the board from carrying out required educational duties.
11. **The Guam Flag has been eliminated from Guam's classrooms.** The Guam Flag has been eliminated from Guam's public schools. Previous law provided for the United States Flag and the Guam Flag to both be provided to the schools. This legislation deletes the Guam Flag.
12. **Legislatively enacted typo concerning teacher qualifications needs correction.** A typographical error concerning teacher qualifications has been reenacted in this legislation. The legislation states that "Persons employed in a teaching supervisory capacity shall . . . hold a qualifying certificate issued by the Superintendent." The original of this section stated "Persons employed in a **teaching or supervisory capacity**". See Public Law No. 12-207. This legislatively enacted typo needs to be corrected.
13. **Board of Education to pay medical expenses for private school students.** The legislation makes the new board of education responsible for paying for medical expenses of students who attend private schools as well as those who attend public schools. This will be very expensive, and was corrected in previous legislation.

14. **Many provisions in this legislation were previously corrected and updated in prior law.** This legislation does not pick up the latest enacted amendments to the education laws on Guam. Many defects in old legislation were previously corrected, and some laws were simply updated to reflect new court decisions and changes in education. These changes were not incorporated into this legislation. Instead, prior outdated and obsolete versions of the laws were reenact. Some examples of this problem are:
- a. Section 3112 lists as one of the duties of the Guam Education Policy Board “approve or revoke a school’s decentralization status for purposes of school-based management”. This legislation, however, eliminates all references in prior law to school-based management and this appears to be a left-over from a listing of duties for a prior board.
 - b. Section 3206 does not pick up the amendment made in Public Law No. 24-299:8 that allows non-participation of students in the recitation of the pledge of allegiance if the student objects to such public recitation.
 - c. Section 3208 does not pick up the amendment made in Public Law No. 24-299:14 that compensatory educational programs can be conducted during inter-sessions for schools on a year round calendar as well as during the months of June, July, or August. This legislation restricts compensatory educational programs to the summer months only.
 - d. Section 5103 does not pick up the amendment made in Public Law No. 24-299:28 referring to middle schools instead of junior high, and includes head start. Several other items were left out concerning school health counselors and teachers of special education and related services to special education. The legislation reenacted an obsolete provision.
 - e. Section 5108 deletes the system in Public Law No. 24-142 that allows peer review of the revocation or suspension of a teaching certificate, and moves this activity to the board.
 - f. Section 5114 does not pick up the amendment made in Public Law No. 24-299:29 which deletes the words “and during recess” for the maintenance of discipline by teachers. This function is now provided by support staff.
 - g. Section 5116 deletes cafeteria workers from the definition of employees of the government of Guam as it does not pick up the amendment made in Public Law No. 24-299:30.
 - h. Section 5119 does not pick up the amendment made in Public Law No. 24-299:31 deleting the reference to paying teachers “beginning on November 1, 1983”.

- i. Section 5120 refers to a pilot program which no longer exists, and should be deleted.
- j. Section 6105 is outdated and should be deleted.
- k. Section 6106 is outdated and refers to “interim governing board and District Boards” which were established in Public Law No. 24-142 and are not established in this legislation.
- l. Sections 6201 – 6204, establishing a State School for the Deaf and Blind, are obsolete and should be deleted.
- m. Article 4 starting on page no. 45 should be rewritten to indicate that Guam Community College no longer provides high school services. As written, this section is obsolete.
- n. Section 7104 should be updated as the department no longer has a staff development manager.
- o. Page 56, lines 10-11 refers to a Staff Development Center. This center no longer exists.

In light of the above difficulties with this legislation, this legislation is vetoed at this time.

Very truly yours,


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

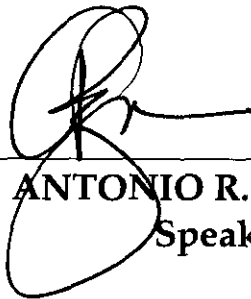
Attachment: copy attached for signed bill or overridden bill
original attached for vetoed bill

cc: The Honorable Antonio R. Unpingco
Speaker

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

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

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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 14th day of June, 2001,
at 4:45 o'clock P.M.



Assistant Staff Officer
Maga'lahi's Office

APPROVED:

CARL T. C. GUTIERREZ
I Maga'lahen Guåhan

Date: _____

Public Law No. _____

6

I MINA' BENTE SAIS NA LIHESLATURAN GUAHAN

2001 (FIRST) Regular Session

Date: 6/11/01

VOTING SHEET

Bill No. 1 (LS)

Resolution No. _____

Question: _____

NAME	YEAS	NAYS	NOT VOTING/ ABSTAINED	OUT DURING ROLL CALL	ABSENT
ADA, Joseph F.	✓				
ADA, Thomas C.	✓				
AGUON, Frank B., Jr. 11	✓				
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. 11	✓				
SANTOS, Angel L.G.	✓				
UNPINGCO, Antonio R. 11	✓				
WON PAT, Judith T.	✓				

TOTAL

14 0 0 0 1

CERTIFIED TRUE AND CORRECT:

Clerk of the Legislature

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EA = Excused Absence