

AN ACT

To repeal P.L. 3-43 to conform to Constitutional Amendment No. 38; to provide for an elected Board of **Education**; to establish an autonomous education system in the Northern Marianas; and for other purposes.

BE IT ENACTED BY THE NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

1 Section 1. Repealer and Re-enactment. Public Law
2 No. 3-43 is hereby repealed and re-enacted to read as
3 follows:

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7 Article 1. General Provisions.

8 Section 1501. Short Title. This Act may be cited
9 as the "Education Act of 1988."

10 Section 1502. Declaration.

11 (a) **Every** person within the Northern Mariana
12 Islands who is between the ages of six and sixteen has the
13 right to free public education.

14 (b) The Northern Marianas Legislature finds and
15 declares that every person shall have access to library
16 resources.

17 Section 1503. Principles. The public school system,
18 at pre-school, elementary and secondary levels, shall be
19 established and organized by law and pursuant to
20 regulations issued by the Board or their authorized
21 designees. The Board shall establish the philosophy,
22 including goals and guiding principles, under which the
23 Public School System shall be organized. The Commissioner
24 is authorized by the Board to implement the philosophy,
25 goals and guiding principles of the Board.

Section 1504, Definitions.

(a) "Board" means the Board of Education.

(b) "Public School System" means the public education school system which shall serve as a State Department of Education for pre-school, elementary and secondary school programs.

(c) "Pre-school" means programs of instruction for students either four or five years of age.

(d) "Elementary Education" means grades one through seven.

(e) 'Secondary Education' means grades eight through twelve.

(f) "Commissioner" means the Chief Executive Officer of the Public School System as selected by the Board of Education.

Article 2. Organization of Educational Services.

section 1520. Board of Education.

(a) There is hereby established a Board of Education, consisting of five voting members elected at-large on a non-partisan basis as follows: one from the first senatorial district, one from the second senatorial district, and three from the third senatorial district.

(b) The Governor shall appoint three non-voting ex-officio members to the Board of Education as follows: one member shall be a representative of a non-public

1 school; one member shall be a student attending a public
2 secondary school, appointed on a rotating basis by
3 Senatorial precinct; and one member selected by an
4 exclusive bargaining process as a representative of the
5 teachers within the Public School System. These
6 appointees may be reappointed and shall serve at the
7 pleasure of the Governor.

8 (c) One elected member of the Board of
9 Education shall represent the Board of Education in the
10 Board of Regents for the Northern Marianas College. The
11 Board of Education shall select the person to represent
12 the Board in the Board of Regents. The representative
13 from the Board of Education to the Board of Regents will
14 not be subject to approval by the Governor nor advice and
15 consent by the Senate. No employee of the Board of Regents
16 may represent the Board of Education in the Board of
17 Regents.

18 (d) Elected members of the Board shall serve
19 terms of four years except that the terms of the first
20 members elected shall be determined by drawing of lots
21 with three members serving a term of four years and two
22 members serving a term of two years. Appointed members
23 shall serve for a term of four years, except for a student
24 representative who shall be appointed for the duration of
25 enrollment in a public school.

1 (e) Elected members of the Board shall serve
2 commencing on the second Monday of January in the year
3 following the regular general election at which they were
4 elected.

5 (f) An elected member of the Board shall be
6 qualified to vote in the Commonwealth, be at least
7 twenty-five years of age; and a resident and domiciliary of
8 the commonwealth for at least five years immediately
9 proceeding the date on which the member takes office. **No**
10 elected member of the Board shall be an employee of the
11 Public School System. **An** elected member shall reside in
12 the island or islands in which he or she is elected.

13 (g) Pursuant to 1 CMC, Section 2264, members of
14 the Board may receive compensation for meetings actually
15 attended at a rate consistent with Commonwealth Law or
16 guidelines. A member who is employed by the Commonwealth
17 Legislature or any of the instrumentalities of the Common-
18 wealth shall receive his or her regular salary under
19 administrative leave **status** in lieu of compensation for
20 meetings held during working hours. **A** member traveling on
21 official business shall receive travel and per diem
22 compensation at rates and guidelines established for the
23 public School **System** employees. All payments for
24 compensation of travel, and expenses to members of the
25 Board shall be paid by warrants signed by the Chairman of

1 the Board of Education.

2 (h) Any vacancy on the Board caused by the
3 death, resignation, or removal of in appointed member
4 shall be filled in the same manner as the original
5 appointment to serve the unexpired term of that vacancy.
6 Upon a vacancy on the Board caused by the death,
7 resignation, or **removal** of an elected member, the Governor
8 shall appoint the candidate who received the next highest
9 number of votes in the same election and district where the
10 former Board member was elected. If no candidate is
11 interested to fill the vacancy, the Governor shall appoint
12 someone from that Senatorial District. Elected members who
13 are employed by the Public School System, shall resign from
14 their employment upon certification that they are a
15 candidate by the Board of Elections.

16 Section 1521. Board of **Education**: Meetings.

17 (a) Meetings of the Board will be open and held
18 at least once every 3 months. Special meetings shall be
19 called by the chairman or by a majority of the Board
20 members as often as may be necessary for the transaction
21 of the **public School System's** business. All regular
22 meetings shall be open, except when personal matters
23 affecting the privacy of an individual are considered.
24 The Board may, on its own initiative or at the request of
25 the individual involved, consider such matters in closed

1 session; however, any official action resulting therefrom
2 shall be acted upon in an open meeting.

3 (b) A chairman shall be elected by a majority
4 vote of the voting members of the Board.

5 (c) **All** actions of the Board requiring a vote
6 shall be conducted at a board meeting. The presence of 4
7 voting members shall **constitute** a quorum for transaction
8 of business at any Board meeting. All actions of the Board
9 requiring a vote, requires the concurrence of 3 of the
10 voting members; except for the removal of Board members as
11 provided in subsection **"f"** of this Section.

12 (d) EX-officio members of the Board are
13 permitted to vote only in the Standing Committees or other
14 special committees established by the Board.

15 (e) In the absence of a quorum where the Board
16 has the responsibility to act, or in the absence of Board
17 policy, the commissioner shall have the authority and
18 responsibility to take appropriate action, subject to the
19 review by the Board.

20 (f) **A** Board member shall be removed by the
21 concurrence of 3 of the voting Board members for conviction
22 of a felony, corruption, neglect of duty, mental or
23 physical incapacitation; provided, for the neglect of
24 duty, a Board member may be removed by concurrence of 4 of
25 the voting members.

1 section 1522. Board of Education: Powers, Functions
2 and Duties.

3 (a) To formulate policy and exercise control
4 over the CNMI public school system through the
5 commissioner;

6 (b) To establish and revise as necessary on its
7 own or through its **agents**, rules, regulations and policies
8 for the operation of the Public School System, including
9 policies relating to the appointment, promotions; and
10 removal of all Public School System staff; to health and
11 welfare benefits; to financial affairs; and to budgeting;

12 (c) To approve and establish curricula and
13 courses of instruction and administrative policies of the
14 public School System, including special projects and
15 federally funded programs;

16 (d) To recommend to the Legislature the annual
17 report of the **Public** School System pursuant to Article XV,
18 Section 1(e) of the Constitution;

19 (e) To propose appropriate Legislation and to
20 make recommendations to the Legislature on policies
21 governing the use of English, Chamorro and Carolinian
22 languages in the public schools;

23 (f) To accept on behalf of the Public school
24 System, gifts, grants, donations, bequests, and other
25 contributions providing that all contributions shall be

1 made public through media or other forms of publication;

2 (g) To authorize the awarding of diplomas and

3 certificates to students of the Public School System;

4 (h) To approve long-range plans for the orderly

5 development of the Public School System, including the

6 building needs;

7 (i) To ~~prepare~~ the high schools for

8 accreditation;

9 (j) To establish and maintain, **Trust** Funds for

10 special projects of the Public School System; provided that

11 **Trust** Funds shall only be established pursuant to Section

12 **1522(f)**.

13 (k) The members of the Board shall be the

14 **Trustees** of the Trust Funds and shall administer them in

15 accordance with the terms under which the funds are

16 received. The funds shall be administered separately from

17 appropriated Commonwealth funds. The Trustees shall be

18 held to strict standards of fiduciary care;

19 (l) To acquire property by lease, option,

20 purchase, in fee simple, and condemnation as necessary for

21 the operation of the Public School System, when the Board

22 determines it to be in best interest of the public school

23 system, and, to dispose of the same in any manner which is

24 now or may hereafter be provided by law; provided that, any

25 transaction involving public property shall, when

1 necessary, be done in consultation with the **Marianas**
2 **Public Lana Corporation**; or any other legal entity similar
3 to MPLC that may thereafter be established;

4 (m) To adopt the official seal of the Public
5 School System;

6 (n) To act in its own name with respect to
7 federal programs;

8 (o) To establish certification standards for
9 all professional positions within the Public School System;

10 (p) To establish school attendance districts;

11 (q) **To grant charters to non-public schools;**

12 (r) To report on its affairs to the Governor and
13 the **Legislature** on or before January 30 of each year;

14 (s) To establish student disciplinary procedures
15 and guidelines for student rights and responsibilities;

16 (t) To disseminate pertinent information to the
17 public regarding rights of students and the parents;

18 (u) To approve functional and operational
19 organization charts for the Public School System;

20 (v) To include programs for gifted and talented
21 children, to prioritize Arts and Japanese language
22 instruction within their special projects;

23 (w) To perform all acts as may be necessary to
24 carry out the purpose of this Act. To take such action as
25

1 it deems necessary and proper to operate the Public School
2 System and the Board of Education, further its purpose,
3 administer its services, and perform its duties.

4 Section 1523. Public School System. There is hereby
5 established **as** a non-profit corporation, the **Public** school
6 System which shall be the state education agency for
7 pre-school, elementary **and** secondary programs. The Public
8 school System shall be headed by an elected board to be
9 known as the Board of Education.

10 Section 1524. Commissioner of Education:
11 Appointment.

12 (a) The Board shall formulate policies and
13 exercise control over the Public School System through the
14 commissioner, as provided in Section 1 of Article XV of
15 the Northern Marianas Constitution.

16 (b) The Board shall appoint a Commissioner who
17 shall serve as the Chief Executive Officer for the Public
18 School System and the Board of Education. The Board shall
19 establish the duties of the Commissioner.

20 (c) The Commissioner shall serve at the
21 pleasure of the Board and shall be appointed by the Board
22 of **Education** for a term of four years and may be removed
23 by a majority vote of the members of the Board. No person
24 shall be appointed as Commissioner of Education unless the
25 person has:

1 (1) At least 3 master's degree in some
2 field of education: and
3 (2) Five (5) years experience in teaching
4 or education administration.

5 Section 1525. Attendance Districts.

6 (a) The Board shall establish standards for the
7 formation and **reorganization** of attendance districts. Such
8 standards may include:

9 (1) Determination that the district will
10 enroll an adequate number of pupils;

11 (2) Determination that the district is
12 organized on the basis of substantial community
13 identity;

14 (3) Determination that the district will
15 result in an equitable division of property and
16 facilities;

17 (4) Determination that the district will
18 not promote racial or ethnic discrimination or
19 segregation;

20 (5) Determination of the possible hazards
21 to movement of pupils;

22 (6) Determination of the effects on the
23 program of study; and

24 (7) Determination of the effects on other
25 attendance districts.

1 (b) Whenever the formation or reorganization of
2 an attendance district is under consideration, the Board
3 will set a date and time for a public hearing and give at
4 least 10 days public notice to all interested persons. All
5 public notices shall be written in English, Chamorro and
6 Carolinian and shall be disseminated throughout the public
7 schools and media. Interested persons shall be given a
8 reasonable opportunity to express their views on the
9 formation or reorganization of the attendance district
10 before the Board makes its decision regarding such
11 formation or reorganization.

12 (c) Except as provided in this Section, every
13 public school student shall attend a public school in the
14 attendance district in which his **parent(s)** or legal
15 guardian resides except for special education students.
16 upon petition, the **Commissioner** may allow a student to
17 attend classes in another attendance district.

18 (1) If such interdistrict attendance
19 would be in the best educational or health
20 interest of the child; and

21 (2) The requested transfer does not
22 create hardship to the school the student
23 normally would attend.

24 (d) The Commissioner shall distribute as
25 equitably possible all resources, including teachers,

throughout the public school system.

2 Section 1526. Interagency Cooperation. The Board of
3 Regents and other instrumentalities of the Commonwealth
4 Government shall work together with the Board of Education
5 in the cooperative development, implementation, and
6 operation of the programs of the Public School System.

7 Section 1527. Libraries.

8 (a) There is established within the Public
9 school system a Commonwealth Library under the
10 administrative authority of the Commissioner of Education.
11 The Commonwealth Library System shall consist of public
12 and private school libraries.

13 (b) The Commonwealth Librarian shall:

14 (1) Have control over all public library
15 materials of the Commonwealth unless otherwise
16 provided for by law;

17 (2) Purchase books and other library
18 materials;

19 (3) If so designated by the Board, be
20 authorized to accept by gifts, devise or
21 bequest, any funds or other property from
22 public and non-public sources and to dispose
23 of such property for the benefit of the
24 library system;

25 (4) Prepare a Commonwealth library plan

1 to be reviewed by the Commissioner and approved
2 by the Board setting forth the goals,
3 objectives, priorities, and scheduling for an
4 improved library system in the
5 commonwealth and upon approval by the
6 Board, transmit the plan to the
7 Legislature and to the Governor by
8 January 1, 1989. Such plan shall be
9 updated every 5 years.

10 Article 3. Instructional Programs.

11 section 1530. Establishment of Instructional
12 policies. The Board shall establish instructional
13 policies that address the needs of the Commonwealth.

14 Section 1531. re-School, Elementary and Secondary.

15 (a) **The** Board through the Commissioner of
16 Education, shall establish and provide such academic and
17 vocational educational programs as are appropriate and
18 beneficial to the students and which shall serve the needs
19 of the community.

20 (b) The Board shall adopt programs to insure
21 that all handicapped students have available to them free,
22 appropriate public education designed to meet their unique
23 needs and to insure that the rights of handicapped students
24 and their parents or guardians are protected. **The** program
25 shall provide a procedure to ensure the on-going

1 identification, diagnosis, and education of physically,
2 cognitively and emotionally handicapped students in the
3 least restrictive environment.

4 section 1532. Student Records: Right to Access.

5 (a) parents or legal guardians of currently
6 enrolled or former students and students who have attained
7 the age of 18 or are **attending** an institution of post-
8 secondary education have an absolute right to access their
9 **student's** records related to their public schools.

10 (b) The Board shall adopt procedures for the
11 granting of requests by these persons for copies of their
12 **student's** records or to inspect and review the **student's**
13 records during regular school hours; provided, that the
14 requested access shall be granted no later than 5 days
15 following the date of the request. Procedures shall
16 include the notification of the location of all official
17 student records, if not centrally located. Qualified
18 personnel to interpret records will be made available.

19 **Article 4. Attendance.**

20 Section 1540. Elementary and Secondary. Every person
21 between the ages of six and sixteen shall attend public
22 school or a chartered non-public school until the
23 completion of the eighth grade. Any parent, guardian, and
24 other person having the responsibility for or care of a
25 child whose attendance at school is obligatory shall send

1 the child to such schools. The Commissioner may grant
2 individual waivers to this compulsory attendance
3 requirement in cases of home study or other circumstances.

4 section 1541. School Calendar. The Board shall
5 establish and maintain within each school year an
6 instructional calendar of no less than 180 days of
7 instruction for students—from first grade through the
8 twelfth grade, exclusive of weekends, holidays, and
9 emergency school closing authorized by the Commissioner.

10 Article 5. School Property.

11 Section 1550. School Property. The Board shall
12 adopt policies for proper management, acquisition, and
13 control of property and facilities, including grounds,
14 equipment and vehicles.

15 Section 1551. Transportation.

16 (a) The Board shall provide safe, adequate
17 transportation to and from school for special education,
18 pre-school, elementary and secondary students of the
19 commonwealth who reside beyond a reasonable distance from
20 the school they attend which shall be determined by the
21 Board. These students must be registered in a public
22 school, or in a chartered non-public school. The students
23 must also be enrolled as full-time day students, except
24 that the Board may provide such transportation to other
25 students.

1 The Board shall adopt such policies,
2 procedures, and programs as necessary to implement
3 subsection (a).

4 Article 6. Student Health.

5 Section 1560. Immunizations .

6 (a) Every parent of a child shall, at the time
7 of **first** enrollment of the child in any Commonwealth
8 special education, pre-school, elementary, or secondary
9 school, public or non-public, irrespective of grade level,
10 provide the school authorities with proof that the child
11 has received all of the immunizations required by the
12 Department of Public Health and Environmental Services.
13 **If** the child has not received all of the required
14 immunizations, the parents shall be notified immediately
15 that they are required to initiate all required
16 immunizations for their child within 2 weeks after the
17 date of such notice. Every parent of a child already
18 enrolled in a commonwealth School, public or non-public,
19 whose child's health records show incomplete
20 immunizations, shall be required to initiate remedial
21 action within 2 weeks following notification of the
22 immunization of the deficiency. Except as provided in
23 Section 1562 of this Act, failure to comply shall be
24 grounds for suspension of the child from school until
25 immunization standards have been met.

1 (b) The Department of Public Health and
2 Environmental Services may, after consultation with the
3 Public School System, establish an immunization program to
4 be carried out within the Commonwealth Schools.

5 Section 1561. Physical Examinations. Prior to
6 entering the school for the first time, each child shall
7 provide a certificate of-physical examination to the
8 school.

9 Section 1562. Exceptions to Sections 1560 & 1561.

10 (a) Exceptions to the requirement of
11 immunizations and physical examination shall be granted by
12 the Department of Public **Health** and Environmental Services
13 pursuant to policies established by the Director. Said
14 policies shall include as exemption from Section 1560 for
15 children who have a **physician's** statement that the child may
16 be exempt from any or all of the required immunization of
17 subsection (a) of this section.

18 (b) If a child has medical contraindications to
19 the immunization program pursuant to subsection (a) of this
20 section, and there is good cause to believe that the child
21 has been exposed or will be exposed to one of the
22 communicable diseases against which the program is
23 designed to provide immunity, the Commissioner may
24 temporarily exclude the child from school until a
25 physician certifies that the child is no longer at

1 significant risk of developing such disease.

2 (c) Notwithstanding any other provisions of
3 this **Article**, whenever there is good reason to believe that
4 any student is suffering from or is a carrier of any
5 dangerous contagious disease, the Commissioner may
6 temporarily exclude the child from school until a
7 physician certifies ~~that~~ there is no longer any
8 significant risk of contagion.

9 Section 1563. Health Certificates. The Department of
10 Public Health and Environmental Services shall, upon
11 request, provide health certificates forms for
12 immunization and physical examination to the Public school
13 System. Any immunization record signed by a physician
14 shall be accepted by an appropriate school official as
15 certificate of immunization if the information is
16 transferred to the health certificate form and verified by
17 the appropriate school official.

18 Section 1564. Rules and Regulations. The Department
19 of Public **Health** and Environmental Services shall adopt
20 rules and regulations relating to required immunizations
21 under this **Article**. Any immunizations required, and the
22 manner and frequency of their administration, shall
23 conform with recognized standard medical practices.

24 Section 1565. School Breakfast and Lunch Program.
25 The Board shall establish a school breakfast and lunch

1 program which shall be privatized beginning with the
2 school year 1988-89.

3 Article 7. Procedures for establishment.

4 Section 1570. Procedures for Establishment.

5 (a) Any person or institution desiring to
6 establish or to operate a non-public school or educational
7 program within the **Commonwealth** for pre-school, elementary,
8 or secondary, shall submit an application for a charter to
9 be approved and issued by the Board.

10 (b) **The** application shall contain the name of
11 the applicant, the proposed location of the school or
12 program, the proposed language and course of instruction,
13 a summary of the financing of the school or program, and
14 such other pertinent and necessary information as may be
15 required by the Board.

16 (c) The applicant shall satisfy the Board that
17 the proposed school or program meets standards of the
18 commonwealth for curriculum, building safety, health,
19 sanitation, and any other applicable standards that may
20 be required by the Commonwealth or Board.

21 (d) The Board shall have no more than three
22 months from date of receipt of the application to approve
23 or disapprove a charter. The school or program shall be
24 monitored by the **Commissioner** to ensure the school or
25 program is complying with its charter.

1 (e) The Board, after notice and opportunity for
2 hearing, may suspend or revoke the charter of any
3 non-public school if in its judgement the holder has
4 violated the terms of the charter or is otherwise not
5 providing the education required by its charter.

6 section 1571. Government Assistance to Chartered
7 non-public Schools. ~~The Commissioner~~ will establish
8 guidelines to be endorsed by the Board which will
9 establish the types of services to be provided to
10 non-public school students provided that such assistance
11 will not be in conflict with existing laws of the
12 commonwealth and will not infringe on the delivery of
13 services to public school students. The commissioner
14 may establish service fees to be paid by non-public schools
15 in the delivery of these services. Rules and Regulations
16 pertaining to federally funded programs which will affect
17 non-public schools in the area of services are to be
18 followed.

19 Article 8. Teacher & Librarian Certification &
20 Evaluation.

21 section 1580. Teacher and Librarian certification.
22 **No** person shall serve as a teacher or librarian in any
23 school in the Commonwealth without first having obtained a
24 certificate from the Board, in such form as the Board
25 determines. The qualification requirements for such

1 certificate shall be determined by the Board.

2 Section 1581. Evaluation and Assessment of
3 Performance of certificated Employees.

4 (a) The Board shall establish a uniform system
5 of evaluation and **assessment of** the performance of all
6 certificated personnel within the Public School System.
7 The system shall **involve** the development and adoption of
8 objective evaluation and assessment guidelines.

9 (b) The Board shall evaluate and assess
10 certificated employee competency as it reasonably relates
11 to:

12 (1) The progress of students toward
13 the established standards;

14 (2) The performance of those
15 non-instructional duties and
16 responsibilities, including supervisory
17 and advisory duties, as may be prescribed
18 by the Board; and

19 (3) The establishment and maintenance
20 of a suitable learning environment within
21 the school.

22 (c) Nothing in this section shall be construed
23 as in any way limiting the authority of the Board to
24 develop and adopt additional evaluation and assessment
25 guidelines or criteria.

1 Section 1582. Certificates: Revocation.

2 (a) The **Board** may revoke any certificate after
3 issuance thereof when the holder has committed a material
4 deception or fraud on his application. Any person
5 committing such material deception or fraud shall be
6 guilty of a violation of this section, and upon conviction,
7 shall be fined not more-than 100 dollars.

8 (b) The Board shall adopt and issue rules and
9 regulations concerning the duties and discipline of
10 certified personnel within ninety days after this **Act**
11 becomes effective.

12 (c) The Board may revoke or suspend the **holder's**
13 certificate for immoral conduct, unprofessional conduct,
14 incompetency, or for defiance of and refusal to obey the
15 rules, regulations and laws governing the duties of
16 certified personnel. The Board will review suspension
17 actions on a case by case basis.

18 (d) Whenever the holder of a certificate has
19 been convicted of any criminal offense, the Board shall
20 suspend the holder's certificate.

21 (e) Prior to suspending or revoking any such
22 certificate, the Board shall give the holder 20 days
23 notice of proposed action specifying the reason therefore,
24 and provide such holder an opportunity for a hearing
25 wherein such holder shall have the right to be represented

1 by counsel, cross-examine witnesses and produce testimony
2 on his behalf. Within 20 days after the Board's final
3 decision, such holder may appeal to the Commonwealth Trial
4 court, and the standard for judicial review shall be
5 whether such decision is supported by substantial evidence
6 on the record made before the Board, taken as a whole, and
7 the facts in question shall not be subject to trial de
8 novo.

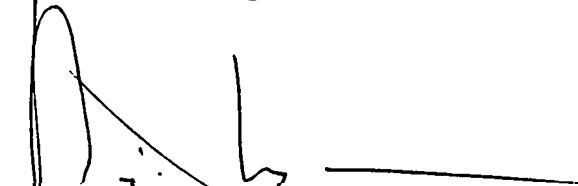
9 Article 9. Miscellaneous.

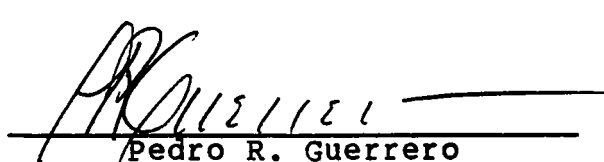
10 Section 1590. Authorization for Appropriation and
11 Transfer of Funds.

12 (a) The Director of Finance shall, on a monthly
13 basis, disburse funds to the Public School System subject
14 to their having been appropriated by the Legislature.

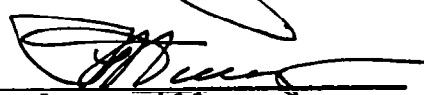
15 There are hereby authorized to be appropriated such
16 funds as may be necessary to carry out the purposes of
17 this Act.

18 section 1592. Effective Date. This Act shall take
19 effect upon its approval by the Governor, or upon its
20 becoming law without such approval.

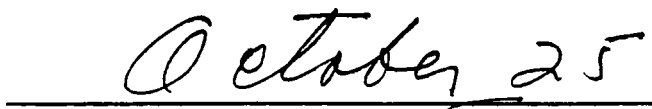


Benjamin T. Manglona
President of the Senate


Pedro R. Guerrero
Speaker of the House

ATTEST:


Manuel P. Villagomez
Senate Legislative Secretary


Evelyn T. Castro
Acting House Clerk


October 25, 1988

PEDRO F. TENORIO
Governor
Commonwealth of the Northern Mariana Islands