

**I MINA'TRENTAI KUÂTTRO NA LIHESLATURAN GUÁHAN**  
**RESOLUTION STATUS**

Resolution No.	Sponsor	Title	Date Intro	Date of Presentation	Date Adopted	Date Referred	Referred to	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	NOTES
310-34 (COR)	Michael F.Q. San Nicolas	Relative to respectfully petitioning the United States Congress, pursuant to 48 USC §1423k, to enact legislation amending the Organic Act of Guam to include a provision of Guam Public Law 26-74 for the Government of Guam to deposit a required percentage of tax collections into the Guam Income Tax Refund Efficient Payment Trust Fund for the payment of income tax refunds, and that any such amendment be referenced as the "Vicente C. Pangelinan Amendment".	12/15/17 3:32 p.m.			12/27/17	To Author.	3/7/18 10:30 a.m.	4/16/18 10:17 a.m.	



# Senator Michael F.Q. San Nicolas

Chairman, Committee on General Government Operations  
and Federal, Foreign and Regional Affairs  
*I Mina'Trentai Kuattro na Liheslaturan Guahan • 34<sup>th</sup> Guam Legislature*



March 7, 2018

**The Honorable Therese M. Terlaje**  
Acting Speaker  
*I Mina'trentai Kuattro na Liheslaturan Guahan*  
Guam Congress Building  
163 Chalan Santo Papa  
Hagatna, Guam 936910

*RSL*

**VIA: The Honorable Regine Biscoe Lee**  
Chairperson, Committee on Rules

**RE: Sponsor's Report on Resolution No. 310-34 (COR)**

*Buenas yan Hafa Adai Vice Speaker Terlaje,*

Transmitted herewith is the Sponsor's Report on **Resolution No. 310-34 (COR)**— RELATIVE TO RESPECTFULLY PETITIONING THE UNITED STATES CONGRESS, PURSUANT TO 48 USC §1423K, TO ENACT LEGISLATION AMENDING THE ORGANIC ACT OF GUAM TO INCLUDE A PROVISION OF GUAM PUBLIC LAW 26-74 FOR THE GOVERNMENT OF GUAM TO DEPOSIT A REQUIRED PERCENTAGE OF TAX COLLECTIONS INTO THE GUAM INCOME TAX REFUND EFFICIENT PAYMENT TRUST FUND FOR THE PAYMENT OF INCOME TAX REFUNDS, AND THAT ANY SUCH AMENDMENT BE REFERENCED AS THE "VICENTE C. PANGELINAN AMENDMENT".

Member votes are as follow:

- 2   TO DO PASS
- 0   TO NOT PASS
- 4   TO REPORT OUT ONLY
- 0   TO ABSTAIN
- 0   TO PLACE IN INACTIVE FILE

**RECEIVED**  
MAR 08 2018  
*[Signature]*  
COMMITTEE ON RULES  
1:59 p.m.

2018 APR 16 AM 10:17

Respectfully,

*[Signature]*  
Michael F.Q. San Nicolas



**Senator Michael F.Q. San Nicolas**

*Chairman, Committee on General Government Operations  
and Federal, Foreign and Regional Affairs  
I Mina'Trentai Kuåttro na Liheslaturan Guåhan • 34<sup>th</sup> Guam Legislature*

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## **SPONSOR'S REPORT**

### **Resolution No. 310-34 (COR)**

**Introduced by Senator Michael F.Q. San Nicolas**

RELATIVE TO RESPECTFULLY PETITIONING THE UNITED STATES CONGRESS, PURSUANT TO 48 USC §1423K, TO ENACT LEGISLATION AMENDING THE ORGANIC ACT OF GUAM TO INCLUDE A PROVISION OF GUAM PUBLIC LAW 26-74 FOR THE GOVERNMENT OF GUAM TO DEPOSIT A REQUIRED PERCENTAGE OF TAX COLLECTIONS INTO THE GUAM INCOME TAX REFUND EFFICIENT PAYMENT TRUST FUND FOR THE PAYMENT OF INCOME TAX REFUNDS, AND THAT ANY SUCH AMENDMENT BE REFERENCED AS THE "VICENTE C. PANGELINAN AMENDMENT".



# Senator Michael F.Q. San Nicolas

Chairman, Committee on General Government Operations  
and Federal, Foreign and Regional Affairs  
*I Mina'Trentai Kuåttro na Liheslaturan Guåhan* • 34<sup>th</sup> Guam Legislature

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## MEMORANDUM

**To:** All Members  
*I Mina'Trentai Kuåttro na Liheslaturan Guåhan*

**From:** Senator Michael F.Q. San Nicolas

**Subject:** Sponsor's Report on Resolution No. 310-34 (COR)


Transmitted herewith for your consideration is the Sponsor's Report on **Resolution No. 310-34 (COR)** - RELATIVE TO RESPECTFULLY PETITIONING THE UNITED STATES CONGRESS, PURSUANT TO 48 USC §1423K, TO ENACT LEGISLATION AMENDING THE ORGANIC ACT OF GUAM TO INCLUDE A PROVISION OF GUAM PUBLIC LAW 26-74 FOR THE GOVERNMENT OF GUAM TO DEPOSIT A REQUIRED PERCENTAGE OF TAX COLLECTIONS INTO THE GUAM INCOME TAX REFUND EFFICIENT PAYMENT TRUST FUND FOR THE PAYMENT OF INCOME TAX REFUNDS, AND THAT ANY SUCH AMENDMENT BE REFERENCED AS THE "VICENTE C. PANGELINAN AMENDMENT".

This report includes the following:

- Copy of COR Referral of Resolution No. 310-34 (COR)
- Notices of Public Hearing
- Copy of the Public Hearing Agenda
- Public Hearing Sign-in Sheet on Resolution No. 310-34 (COR)
- Committee Vote Sheet on Resolution No. 310-34 (COR)
- Sponsor's Report Digest
- Copy of Resolution No. 310-34 (COR), As Introduced

Please take the appropriate action on the attached vote sheet. Your attention to this matter is greatly appreciated. Should you have any questions or concerns, please do not hesitate to contact me.

Respectfully,



Michael F.Q. San Nicolas

Senator Thomas C. Ada,  
Vice Chairperson

Speaker Benjamin J.F. Cruz,  
Member

Vice Speaker Therese M. Terfaje,  
Member

Senator Frank B. Aguon, Jr.,  
Member

Senator Telena C. Nelson,  
Member



Senator Dennis G. Rodriguez, Jr.,  
Member

Senator Joe S. San Agustin,  
Member

Senator Michael F.Q. San Nicolas,  
Member

Senator James V. Espaldon,  
Member

Senator Mary Camacho Torres,  
Member

**COMMITTEE ON RULES**  
**SENATOR RÉGINE BISCOE LEE, CHAIR**  
SIKRITARIAN LIHESLATURAN GUAHAN  
I MINA 'TRENTAI KUÁTTRO NA LIHESLATURAN GUÁHAN  
LEGISLATIVE SECRETARY • 34<sup>TH</sup> GUAM LEGISLATURE

December 18, 2017

# MEMO

**To:** **Rennae Meno**  
Clerk of the Legislature  
**Attorney Julian Aguon**  
Legislative Legal Counsel

**From:** **Senator Régine Biscoe Lee**  
Chairperson, Committee on Rules

**Re:** **Referral of Resolution No. 310-34 (COR)**

---

*Buenas yan Háfa adai.*

As per my authority as Chairperson of the Committee on Rules, I am forwarding the referral of **Resolution No. 310-34 (COR)**.

Please ensure that the subject resolution is referred, in my name, to **Senator Michael F.Q. San Nicolas, author of Resolution No. 310-34 (COR)**.

If you have any questions or concerns, please feel free to contact Jean Cordero, Committee Director at 472-2461.

Thank you for your attention to this important matter.

Respectfully,

  
**Senator Régine Biscoe Lee**  
Chairperson, Committee on Rules





Senator Michael F.Q. San Nicolas <senatorsannicolas@gmail.com>

## FIRST NOTICE of Public Hearing- Wednesday, March 7, 2018 at 10:30 AM

2 messages

Senator Michael F.Q. San Nicolas <senatorsannicolas@gmail.com>

Tue, Feb 27, 2018 at 3:45 PM

To: phnotice@guamlegislature.org, Guam Legislature Protocol <protocol@guamlegislature.org>, mis <mis@guamlegislature.org>, sgtarms <sgtarms@guamlegislature.org>

Bcc: SEN Dennis Rodriguez <senatordrodriguez@gmail.com>, SEN ESPALDON <senjvespaldon@gmail.com>, SEN FBA <aguon4guam@gmail.com>, "SEN Fernando B. Esteves" <senatoresteves@gmail.com>, SEN Joe San Agustin <senatorjoessanagustin@gmail.com>, "SEN Louise B. Muna" <senatorlouise@gmail.com>, SEN MORRISON <tommy@senatormorrison.com>, SEN Regine Biscoe Lee <senatorbiscoelee@guamlegislature.org>, "Senator Mary C. TORRES" <marycamachotorres@gmail.com>, "Senator Michael F.Q. San Nicolas" <senatorsannicolas@gmail.com>, "Senator Telena C. Nelson" <senatortcnelson@gmail.com>, "Senator Thomas C. Ada" <office@senatorada.org>, "Senator William M. Castro" <solutions@wilcastro.com>, "SPEAKER Benjamin J.F. Cruz" <senator@senatorbjcruz.com>, VICE SPEAKER Therese Terlaje <senatorterlajeguam@gmail.com>, Vote <vote@gec.guam.gov>, Kenny Leonguerrero <kennylg0345@gmail.com>, Andri Baynum <drebaynum@gmail.com>, Robert Klitzkie <klitzkie@hotmail.com>

### FIRST PUBLIC NOTICE

FOR IMMEDIATE RELEASE

February 27, 2018

**From:** Senator Michael F.Q. San Nicolas  
Chairman, Committee on General Government Operations, and  
Federal, Foreign, & Regional Affairs

**Subject:** FIRST NOTICE of Public Hearing - Wednesday, March 7, 2018, at 10:30 AM

*Håfa Adai!*

In accordance with the Open Government Law, relative to notices for public meetings, please be advised that the Committee on General Government Operations and Federal, Foreign, and Regional Affairs will convene a public hearing on **Wednesday, March 7, 2018**, beginning at **10:30 AM** in *I Liheslaturan Guåhan*'s Public Hearing Room. On the agenda are the following items:

**Bill No. 219-34 (COR):** Introduced by Vice Speaker Therese M. Terlaje and Senator Dennis G. Rodriguez  
AN ACT TO AMEND §40112(m), CHAPTER 40, TITLE 5, GUAM CODE ANNOTATED AND ADD A NEW §40112(t) AND §40112(u), CHAPTER 40, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING MAYORS TO OFFER VETERAN STATUS DATA ON VERIFICATION OF RESIDENCY FORMS, INCLUDE THE SOLICITATION OF VETERAN DEMOGRAPHICS IN THEIR ANNUAL CENSUS AND CONDUCT SEMI-ANNUAL COMMUNITY OUTREACH EFFORTS TO VERIFY THE VETERAN POPULATION IN THEIR JURISDICTIONS FOR THE PURPOSE OF UPDATING THE GUAM VETERAN REGISTRY AND CONNECTING THE GUAM VETERAN POPULATION TO AVAILABLE SERVICES.

**Bill No. 247-34 (COR)-As Corrected by the Prime Sponsor:** Introduced by Senator FRANK B. AGUON, JR.  
AN ACT TO ADD A NEW CHAPTER 1A TO TITLE 5 OF GUAM CODE ANNOTATED; TO REPEAL § 1800 OF CHAPTER 18, TITLE 1, GUAM CODE ANNOTATED; TO REPEAL § 4207 OF ARTICLE 2, CHAPTER 4, TITLE 4, GUAM CODE ANNOTATED; TO REPEAL CHAPTER 11, TITLE 5, GUAM CODE ANNOTATED; RELATIVE TO ESTABLISHING EDUCATION, HEALTH AND PUBLIC SAFETY AS THE TOP PRIORITIES OF THE GOVERNMENT, TO RECOGNIZING THE GOVERNOR'S AUTHORITY TO REORGANIZE THE EXECUTIVE BRANCH OF THE GOVERNMENT, TO REMOVING IMPEDIMENTS TO REORGANIZATION, TO PROVIDING THE GOVERNOR THE TOOLS NECESSARY FOR SUCH REORGANIZATION AND PRIORITIZATION AND FOR OTHER PURPOSES; AND TO CITE THIS ACT AS THE "GOVERNMENT PRIORITIES ACT OF 2018."

Senator Michael F.Q. San Nicolas, the Sponsor, will also hear:

**Resolution No. 310-34 (COR):** Introduced by Senator Michael F.Q. San Nicolas

Relative to respectfully petitioning the United States Congress, pursuant to 48 USC § 1423k, to enact legislation amending the Organic Act of Guam to include a provision of Guam Public Law 26-74 for the Government of Guam to deposit a required percentage of tax collections into the Guam Income Tax Refund Efficient Payment Trust Fund for the payment of income tax refunds, and that any such amendment be referenced as the "Vicente C. Pangelinan Amendment".

**Resolution No. 312-34 (COR):** Introduced by Senator Michael F.Q. San Nicolas

Relative to respectfully petitioning the United States Congress, pursuant to 48 USC § 1423k, to enact legislation amending the Organic Act of Guam to include a provision of Guam Public Law 24-222 such that any provision enacted by the Government of Guam which increases the public indebtedness of the Government of Guam by at least Twenty-Five Million Dollars (\$25,000,000), backed by the full faith and credit of the Government of Guam, must be approved by a majority of votes cast in an election before any such borrowing may be undertaken, with allowances for a state of emergency if so ratified by a two-thirds (2/3) vote of the Guam Legislature.





The hearing will broadcast on local television, GFA Channel 21, Docomo Channel 117/60.4 and stream online via I Libeslaturan Guåhan's YouTube live feed. If written testimonies are to be presented at the Public Hearing, the Committee requests that copies be submitted prior to the public hearing date and should be addressed to Senator Michael F.Q. San Nicolas.

Testimonies may be submitted via hand delivery to the Office of Senator Michael F.Q. San Nicolas at the DNA Building, Suite 407, 238 Archbishop Flores Street Hagåtña, Guam; at the mailroom of the Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910; or via email to [senatorsannicolas@gmail.com](mailto:senatorsannicolas@gmail.com). In compliance with the Americans with Disabilities Act, individuals requiring special accommodations or services should contact the Office of Senator Michael F.Q. San Nicolas at (671) 472-6453 or by sending an email to [senatorsannicolas@gmail.com](mailto:senatorsannicolas@gmail.com).

*Si Yu'as Ma'ase!* We look forward to your attendance and participation.

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#### 4 attachments

-  **Bill No. 219-34 (COR)- Therese M. Terlaje & Dennis G. Rodriguez.pdf**  
838K
-  **Bill No. 247-34 (COR) As Corrected by the Prime Sponsor—FRANK B. AGUON, JR..pdf**  
1181K
-  **Res. No. 310-34 (COR)-Michael F.Q. San Nicolas.pdf**  
7601K
-  **Res. No. 312-34 (COR)- Michael F.Q. San Nicolas.pdf**  
1431K

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Tom Unsiog <[sgtarms@guamlegislature.org](mailto:sgtarms@guamlegislature.org)>

To: "Senator Michael F.Q. San Nicolas" <[senatorsannicolas@gmail.com](mailto:senatorsannicolas@gmail.com)>

Tue, Feb 27, 2018 at 4:33 PM

Notice is now on the legislature's website calendar....sarge

[Quoted text hidden]



Senator Michael F.Q. San Nicolas <senatorsannicolas@gmail.com>

## SECOND NOTICE of Public Hearing- Wednesday, March 7, 2018

2 messages

Senator Michael F.Q. San Nicolas <senatorsannicolas@gmail.com>

Mon, Mar 5, 2018 at 4:35 PM

To: Guam Legislature Protocol <protocol@guamlegislature.org>, mis <mis@guamlegislature.org>, "phnotice@guamlegislature.org" <phnotice@guamlegislature.org>

### SECOND PUBLIC NOTICE

FOR IMMEDIATE RELEASE

March 5, 2018

**From:** Senator Michael F.Q. San Nicolas  
 Chairman, Committee on General Government Operations, and  
 Federal, Foreign, & Regional Affairs

**Subject:** SECOND NOTICE of Public Hearing - Wednesday, March 7, 2018, at 10:30 AM

*Håfa Adai!*

In accordance with the Open Government Law, relative to notices for public meetings, please be advised that the Committee on General Government Operations and Federal, Foreign, and Regional Affairs will convene a public hearing on **Wednesday, March 7, 2018**, beginning at **10:30 AM** in *I Liheslaturan Guåhan's* Public Hearing Room. On the agenda are the following items:

**Bill No. 219-34 (COR):** Introduced by Vice Speaker Therese M. Terlaje and Senator Dennis G. Rodriguez

AN ACT TO AMEND §40112(m), CHAPTER 40, TITLE 5, GUAM CODE ANNOTATED AND ADD A NEW §40112(t) AND §40112(u) , CHAPTER 40, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING MAYORS TO OFFER VETERAN STATUS DATA ON VERIFICATION OF RESIDENCY FORMS, INCLUDE THE SOLICITATION OF VETERAN DEMOGRAPHICS IN THEIR ANNUAL CENSUS AND CONDUCT SEMI-ANNUAL COMMUNITY OUTREACH EFFORTS TO VERIFY THE VETERAN POPULATION IN THEIR JURISDICTIONS FOR THE PURPOSE OF UPDATING THE GUAM VETERAN REGISTRY AND CONNECTING THE GUAM VETERAN POPULATION TO AVAILABLE SERVICES.

**Bill No. 247-34 (COR)-As Corrected by the Prime Sponsor:** Introduced by Senator FRANK B. AGUON, JR.

AN ACT TO ADD A NEW CHAPTER 1A TO TITLE 5 OF GUAM CODE ANNOTATED; TO REPEAL § 1800 OF CHAPTER 18, TITLE 1, GUAM CODE ANNOTATED; TO REPEAL § 4207 OF ARTICLE 2, CHAPTER 4, TITLE 4, GUAM CODE ANNOTATED; TO REPEAL CHAPTER 11, TITLE 5, GUAM CODE ANNOTATED; RELATIVE TO ESTABLISHING EDUCATION, HEALTH AND PUBLIC SAFETY AS THE TOP PRIORITIES OF THE GOVERNMENT, TO RECOGNIZING THE GOVERNOR'S AUTHORITY TO REORGANIZE THE EXECUTIVE BRANCH OF THE



GOVERNMENT, TO REMOVING IMPEDIMENTS TO REORGANIZATION, TO PROVIDING THE GOVERNOR THE TOOLS NECESSARY FOR SUCH REORGANIZATION AND PRIORITIZATION AND FOR OTHER PURPOSES; AND TO CITE THIS ACT AS THE "GOVERNMENT PRIORITIES ACT OF 2018."

Senator Michael F.Q. San Nicolas, the Sponsor, will also hear:

**Resolution No. 310-34 (COR):** Introduced by Senator Michael F.Q. San Nicolas

Relative to respectfully petitioning the United States Congress, pursuant to 48 USC § 1423k, to enact legislation amending the Organic Act of Guam to include a provision of Guam Public Law 26-74 for the Government of Guam to deposit a required percentage of tax collections into the Guam Income Tax Refund Efficient Payment Trust Fund for the payment of income tax refunds, and that any such amendment be referenced as the "Vicente C. Pangelinan Amendment".

**Resolution No. 312-34 (COR):** Introduced by Senator Michael F.Q. San Nicolas

Relative to respectfully petitioning the United States Congress, pursuant to 48 USC § 1423k, to enact legislation amending the Organic Act of Guam to include a provision of Guam Public Law 24-222 such that any provision enacted by the Government of Guam which increases the public indebtedness of the Government of Guam by at least Twenty-Five Million Dollars (\$25,000,000), backed by the full faith and credit of the Government of Guam, must be approved by a majority of votes cast in an election before any such borrowing may be undertaken, with allowances for a state of emergency if so ratified by a two-thirds (2/3) vote of the Guam Legislature.

The hearing will broadcast on local television, GTA Channel 21, Docomo Channel 117/60.4 and stream online via I Liheslaturan Guåhan's YouTube live feed. If written testimonies are to be presented at the Public Hearing, the Committee requests that copies be submitted prior to the public hearing date and should be addressed to Senator Michael F.Q. San Nicolas.

Testimonies may be submitted via hand delivery to the Office of Senator Michael F.Q. San Nicolas at the DNA Building, Suite 407, 238 Archbishop Flores Street Hagåtña, Guam; at the mailroom of the Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910; or via email to [senatorsannicolas@gmail.com](mailto:senatorsannicolas@gmail.com). In compliance with the Americans with Disabilities Act, individuals requiring special accommodations or services should contact the Office of Senator Michael F.Q. San Nicolas at (671) 472-6453 or by sending an email to [senatorsannicolas@gmail.com](mailto:senatorsannicolas@gmail.com).

*Si Yu'os Ma'ase!* We look forward to your attendance and participation.

**Senator Michael F.Q. San Nicolas** <[senatorsannicolas@gmail.com](mailto:senatorsannicolas@gmail.com)>

Wed, Mar 7, 2018 at 4:13 PM

To: Guam Legislature Protocol <[protocol@guamlegislature.org](mailto:protocol@guamlegislature.org)>, mis <[mis@guamlegislature.org](mailto:mis@guamlegislature.org)>, "phnotice@guamlegislature.org" <[phnotice@guamlegislature.org](mailto:phnotice@guamlegislature.org)>

*Håfa Adai* All,

Please be advised that the Public Hearing for:

**Bill No. 219-34 (COR):** Introduced by Vice Speaker Therese M. Terlaje and Senator Dennis G. Rodriguez, Jr.

AN ACT TO AMEND §40112(m), CHAPTER 40, TITLE 5, GUAM CODE ANNOTATED AND ADD A NEW §40112(t) AND §40112(u), CHAPTER 40, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING MAYORS TO OFFER VETERAN STATUS DATA ON VERIFICATION OF RESIDENCY FORMS, INCLUDE THE SOLICITATION OF VETERAN DEMOGRAPHICS IN THEIR ANNUAL CENSUS AND CONDUCT SEMI-ANNUAL COMMUNITY OUTREACH EFFORTS TO VERIFY THE VETERAN POPULATION IN THEIR JURISDICTIONS FOR THE

3/8/2018

Gmail - SECOND NOTICE of Public Hearing- Wednesday, March 7, 2018

PURPOSE OF UPDATING THE GUAM VETERAN REGISTRY AND CONNECTING THE GUAM VETERAN POPULATION TO AVAILABLE SERVICES.

is ***POSTPONED UNTIL FURTHER NOTICE.***

*Si Yu 'os Ma 'ase!*

[Quoted text hidden]

GUAM DAILY POST • MONDAY, MARCH 5, 2018

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Phone: (671) 477-4651 • Fax: (671) 300-7565 TTY: (671) 472-3701  
GHURA Website: [www.ghura.gm](http://www.ghura.gm)



### INVITATION FOR BID

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**Due Date & Time:** March 14, 2018, 2:00 PM at the GHURA Main Office in Sinajana. Copies of the Bid Packet are available at the GHURA Main Office in Sinajana starting February 23, 2018 between the hours of 8:00 A.M. - 12:00 P.M. and from 1:00 P.M. - 4:00 P.M. except on weekends and holidays. GHURA reserves the right to waive minor informalities, cancel this solicitation at any time and reject all bids. For additional information, please call the Procurement Office at 476-1358, visit the GHURA website: [www.ghura.com](http://www.ghura.com)

**/s/ MICHAEL J. DUENAS**  
Executive Director

GHURA does not discriminate against persons with disabilities. The Chief Planner has been designated as Section 504 Coordinator. The Coordinator can be contacted at the above address and telephone numbers.



*I Misa' Trenchi' Kulture' na' Lihelhelhel' Gashan*  
34th Guam Legislature  
**Office of Senator Michael F.O. San Nicolas**  
Committee on General Government Operations, & Federal, Foreign, and Regional Affairs  
DNA Building, 239 Archbishop Flores St. Suite 407  
Hagåtña, Guam 96910



## NOTICE OF PUBLIC HEARING

Wednesday, March 7, 2018 at 10:30AM  
Public Hearing Room • Guam Congress Building  
163 Chalan Santo Papa Hagåtña, Guam

**BILL NO. 218-34 (C07)**—Theresa M. Teriño and Dennis B. Rodriguez  
AN ACT TO AMEND §40112(j), CHAPTER 40, TITLE 5, GUAM CODE ANNOTATED AND ADD A NEW §401120 AND §401120a, CHAPTER 40, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING MAYORS TO OFFER VETERAN STATUS DATA ON VERIFICATION OF RESIDENCY FORMS, INCLUDE THE SOLICITATION OF VETERAN DEMOGRAPHICS IN THEIR ANNUAL CENSUS AND CONDUCT SEMI-ANNUAL COMMUNITY OUTREACH EFFORTS TO VERIFY THE VETERAN POPULATION IN THEIR JURISDICTIONS FOR THE PURPOSE OF UPDATING THE GUAM VETERAN REGISTRY AND CONNECTING THE GUAM VETERAN POPULATION TO AVAILABLE SERVICES.

**BILL NO. 247-34 (C07)**—As Corrected by the Prime Sponsor: FRANK B. AGUIR, JR.  
AN ACT TO ADD A NEW CHAPTER 1A TO TITLE 5 OF GUAM CODE ANNOTATED; TO REPEAL § 1800 OF CHAPTER 18, TITLE 1, GUAM CODE ANNOTATED; TO REPEAL § 4207 OF ARTICLE 2, CHAPTER 4, TITLE 4, GUAM CODE ANNOTATED; TO REPEAL CHAPTER 11, TITLE 5, GUAM CODE ANNOTATED; RELATIVE TO ESTABLISHING EDUCATION, HEALTH AND PUBLIC SAFETY AS THE TOP PRIORITIES OF THE GOVERNMENT; TO RECOGNIZING THE GOVERNOR'S AUTHORITY TO REORGANIZE THE EXECUTIVE BRANCH OF THE GOVERNMENT; TO REMOVING IMPEDIMENTS TO REORGANIZATION; TO PROVIDING THE GOVERNOR THE TOOLS NECESSARY FOR SUCH REORGANIZATION AND PRIORITY-ZATION AND FOR OTHER PURPOSES; AND TO CITE THIS ACT AS THE "GOVERNMENT PRIORITIES ACT OF 2018."

**RESOLUTION NO. 310-04 (C07)**—Michael F.O. San Nicolas  
Relative to respectfully petitioning the United States Congress, pursuant to 48 USC §1422k, to enact legislation amending the Organic Act of Guam to include a provision of Guam Public Law 24-222 such that any provision enacted by the Government of Guam which increases the public indebtedness of the Government of Guam by at least Twenty-Five Million Dollars (\$25,000,000), backed by the full faith and credit of the Government of Guam, must be approved by a majority of votes cast in an election before any such borrowing may be undertaken, with allowances for a state of emergency if so notified by a two-thirds (2/3) vote of the Guam Legislature.

**RESOLUTION NO. 312-04 (C07)**—Michael F.O. San Nicolas  
Relative to respectfully petitioning the United States Congress, pursuant to 48 USC §1422k, to enact legislation amending the Organic Act of Guam to include a provision of Guam Public Law 24-222 such that any provision enacted by the Government of Guam which increases the public indebtedness of the Government of Guam by at least Twenty-Five Million Dollars (\$25,000,000), backed by the full faith and credit of the Government of Guam, must be approved by a majority of votes cast in an election before any such borrowing may be undertaken, with allowances for a state of emergency if so notified by a two-thirds (2/3) vote of the Guam Legislature.

If you require any special accommodations, auxiliary aids, or other special services, or for further information, please contact the Office of Senator Michael F.O. San Nicolas at [jpandera@sannicolas.org](mailto:jpandera@sannicolas.org) or 474-6455.

This ad is paid with government funds.

**LEADERS** continued from page 4

them know we turn directly to the Piti fire station," he said.

"I've lived in Piti for most of my life, and I know that we rely on the assistance of medics and firefighters a lot. It's always been that safety net for all of us living here."

The Piti mayor believes politics played a part in the decision to close the two stations, as well as the Hagåtña police precinct. He urges island leaders to remember what's at stake.

"Should it have been the first thing to close? No, I don't believe it should have," Alig said. "I'm hoping (politics) is not going to be the forefront of these issues because it affects our lives."

Deddo Mayor Melissa Savares also is worried about the safety of her constituents in Astumbo. The area, which includes a large elderly population and many wood-and-tin structures, is subject to fire-related emergencies and medic calls often, according to the mayor.

"The response time is critical. Anybody having a heart attack, you have seven minutes for that person to survive," Savares said, concerned that the nearest responders will have to cover more mileage and weave through more traffic to reach Astumbo residents.

The Deddo mayor said that Lt. Gov. Ray Tenorio assured her that a memorandum of agreement had been struck between GovGuam and the fire stations in Naval Base Guam and Andersen Air Force Base.

These stations would be called to

**“I’ve lived in Piti for most of my life, and I know that we rely on the assistance of medics and firefighters a lot. It’s always been that safety net for all of us living here.”**

— Piti Mayor Jesse Alig


emergencies in the event that other, surrounding municipal stations are preoccupied, she said.

However, Savares is still worried it won't be enough to prevent a loss of life in the event of dire emergencies, especially in Astumbo, where the population surpasses 15,000 people, she stated.

"No matter what their political aspirations are, between Adelup and the Legislature, that's not my concern. My concern is the safety of my people," she said.

"It's the administration's decision, until they decide that our people are important."


Savares suggested that GFD transfer personnel from its administrative offices to fire stations, in order to offset costs. She said lease agreements for the fire department's administrative offices contribute to a bigger budget.



### DEPARTMENT OF EDUCATION

#### DIVISION OF SPECIAL EDUCATION

500 Mariner Avenue  
Barrigada, Guam 96913-1608  
Telephone 671-475-0438 Fax 671-472-3001  
Email: [sped@doe.net](mailto:sped@doe.net)



## PUBLIC ANNOUNCEMENT

Guam Department of Education (DOE) through the Division of Special Education will be submitting for funding by May 18, 2018, the Guam Annual State Application for federal grant Part B of the Individuals with Disabilities Education Act (IDEA) as amended in 2004 for Federal Fiscal Year 2018 to the U.S. Department of Education (USDOE).

Pursuant to the USDOE grant application instructions, and public participation requirements as set forth in 34 CFR §300.185 Public Participation and §441(d) (7) of the General Education Provisions Act (GEPA) 20 U.S.C. 1230d (b) (7), DOE is publicly disseminating and making available the grant application for a 60-day period of review. In addition, there will be a 30-day period for public comment as outlined below:

**(60) day Public Availability Period: March 5, 2018 – May 3, 2018**  
**(30) day Public Comment Period: March 26, 2018 – April 24, 2018**

Beginning March 5, 2018, interested parties may visit the Department's website at <http://www.gdoe.net>. Click on Annual State Application under Part B Federal FY2018 for an electronic copy; or on the Division of Special Education website at [www.gdoe.net](http://www.gdoe.net) (Click on GDOE Links; under Division Links, click on Special Education) to download the grant application. Hard copies of the grant application will also be available for pick up on the dates above and for the duration of the public availability period at the Division of Special Education's Administrative Office located at Chief Brodie Memorial Elementary School, Room 1, from 8:00 AM – 5:00 PM, Monday through Friday, except on legal holidays. For special accommodations or alternate formats of the Grant application, please contact the Division at (671) 300-1322.

Beginning March 26, 2018, persons interested in providing public comment to the grant application must submit their comments in writing during the (30) day Public Comment Period to the Assistant Superintendent of Special Education utilizing the following methods:

- Hand-delivered comments to the Division of Special Education's Administrative Office address listed above.
- Email comments to: [Valinda S. Gabriel, Assistant Superintendent of Special Education at \[Valinda.S.Gabriel@doe.net\]\(mailto:Valinda.S.Gabriel@doe.net\)](mailto:Valinda.S.Gabriel@doe.net)
- Mail comments to: **Attention: Assistant Superintendent, Special Education**  
500 Mariner Avenue  
Barrigada, Guam 96913

This advertisement is totally voluntarily funded and paid for by the individual with Disabilities Education Act Grant Award #H27A10019-168



Committee on General Government Operations  
and Federal, Foreign & Regional Affairs  
Senator Michael F.Q. San Nicolas, *Chairman*  
*I Mina'Trentai Kuåttro na Liheslaturan Guåhan • 34<sup>th</sup> Guam Legislature*

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**PUBLIC HEARING**  
March 7, 2018 | 10:30 AM  
Public Hearing Room • Guam Congress Building

**AGENDA**

- I. Call to Order
- II. Opening Remarks and Announcements
- III. Item for Public Consideration

**BILL NO. 219-34 (COR)**—Therese M. Terlaje & Dennis G. Rodriguez, Jr.

AN ACT TO AMEND §40112(M), CHAPTER 40, TITLE 5, GUAM CODE ANNOTATED AND ADD A NEW §40112(T) AND §40112(U) , CHAPTER 40, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING MAYORS TO OFFER VETERAN STATUS DATA ON VERIFICATION OF RESIDENCY FORMS, INCLUDE THE SOLICITATION OF VETERAN DEMOGRAPHICS IN THEIR ANNUAL CENSUS AND CONDUCT SEMI-ANNUAL COMMUNITY OUTREACH EFFORTS TO VERIFY THE VETERAN POPULATION IN THEIR JURISDICTIONS FOR THE PURPOSE OF UPDATING THE GUAM VETERAN REGISTRY AND CONNECTING THE GUAM VETERAN POPULATION TO AVAILABLE SERVICES.

**BILL NO. 247-34 (COR)-AS CORRECTED BY THE PRIME SPONSOR—FRANK B. AGUON, JR.**

AN ACT TO ADD A NEW CHAPTER 1A TO TITLE 5 OF GUAM CODE ANNOTATED; TO REPEAL § 1800 OF CHAPTER 18, TITLE 1, GUAM CODE ANNOTATED; TO REPEAL § 4207 OF ARTICLE 2, CHAPTER 4, TITLE 4, GUAM CODE ANNOTATED; TO REPEAL CHAPTER 11, TITLE 5, GUAM CODE ANNOTATED; RELATIVE TO ESTABLISHING EDUCATION, HEALTH AND PUBLIC SAFETY AS THE TOP PRIORITIES OF THE GOVERNMENT, TO RECOGNIZING THE GOVERNOR'S AUTHORITY TO REORGANIZE THE EXECUTIVE BRANCH OF THE GOVERNMENT, TO REMOVING IMPEDIMENTS TO REORGANIZATION, TO PROVIDING THE GOVERNOR THE TOOLS NECESSARY FOR SUCH REORGANIZATION AND PRIORITIZATION AND FOR OTHER PURPOSES; AND TO CITE THIS ACT AS THE "GOVERNMENT PRIORITIES ACT OF 2018."



Committee on General Government Operations  
and Federal, Foreign & Regional Affairs

Senator Michael F.Q. San Nicolas, *Chairman*  
*I Mina'Trentai Kuåttro na Liheslaturan Guåhan* • 34<sup>th</sup> Guam Legislature

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**Senator Michael F.Q. San Nicolas, the Sponsor, will also hear:**

**RESOLUTION NO. 310-34 (COR):** Michael F.Q. San Nicolas

RELATIVE TO RESPECTFULLY PETITIONING THE UNITED STATES CONGRESS, PURSUANT TO 48 USC §1423K, TO ENACT LEGISLATION AMENDING THE ORGANIC ACT OF GUAM TO INCLUDE A PROVISION OF GUAM PUBLIC LAW 26-74 FOR THE GOVERNMENT OF GUAM TO DEPOSIT A REQUIRED PERCENTAGE OF TAX COLLECTIONS INTO THE GUAM INCOME TAX REFUND EFFICIENT PAYMENT TRUST FUND FOR THE PAYMENT OF INCOME TAX REFUNDS, AND THAT ANY SUCH AMENDMENT BE REFERENCED AS THE "VICENTE C. PANGELINAN AMENDMENT".

**RESOLUTION NO. 312-34 (COR):** Michael F.Q. San Nicolas

RELATIVE TO RESPECTFULLY PETITIONING THE UNITED STATES CONGRESS, PURSUANT TO 48 USC §1423K, TO ENACT LEGISLATION AMENDING THE ORGANIC ACT OF GUAM TO INCLUDE A PROVISION OF GUAM PUBLIC LAW 24-222 SUCH THAT ANY PROVISION ENACTED BY THE GOVERNMENT OF GUAM WHICH INCREASES THE PUBLIC INDEBTEDNESS OF THE GOVERNMENT OF GUAM BY AT LEAST TWENTY-FIVE MILLION DOLLARS (\$25,000,000), BACKED BY THE FULL FAITH AND CREDIT OF THE GOVERNMENT OF GUAM, MUST BE APPROVED BY A MAJORITY OF VOTES CAST IN AN ELECTION BEFORE ANY SUCH BORROWING MAY BE UNDERTAKEN, WITH ALLOWANCES FOR A STATE OF EMERGENCY IF SO RATIFIED BY A TWO-THIRDS (2/3) VOTE OF THE GUAM LEGISLATURE.

**IV. Closing Remarks**

**V. Adjournment**



*I Mina'Trentai Kuåttro Na Liheslaturan Guåhan*  
**SENATOR MICHAEL F.Q. SAN NICOLAS**  
Committee on General Government Operations, and  
Federal, Foreign, & Regional Affairs



**Public Hearing Sign-in Sheet**  
Wednesday, March 07, 2018 • 10:30 AM • Public Hearing Room, Guam Legislature

**Resolution No. 310-34 (COR) – Introduced by Senator Michael F.Q. San Nicolas**—RELATIVE TO RESPECTFULLY PETITIONING THE UNITED STATES CONGRESS, PURSUANT TO 48 USC §1423k, TO ENACT LEGISLATION AMENDING THE ORGANIC ACT OF GUAM TO INCLUDE A PROVISION OF GUAM PUBLIC LAW 26-74 FOR THE GOVERNMENT OF GUAM TO DEPOSIT A REQUIRED PERCENTAGE OF TAX COLLECTIONS INTO THE GUAM INCOME TAX REFUND EFFICIENT PAYMENT TRUST FUND FOR THE PAYMENT OF INCOME TAX REFUNDS, AND THAT ANY SUCH AMENDMENT BE REFERENCED AS THE "VICENTE C. PANGELINAN AMENDMENT".

NAME (please print clearly)	AGENCY/ ORGANIZATION	CONTACT NUMBER	ORAL TESTIMONY	WRITTEN TESTIMONY	IN FAVOR	NOT IN FAVOR
— NONE —	NONE	NONE	NONE	/	/	/
/	/	/	/	/	/	/



# Senator Michael F.Q. San Nicolas

Chairman, Committee on General Government Operations  
and Federal, Foreign and Regional Affairs  
*I Mina'Trentai Kuåttro na Liheslaturan Guåhan • 34<sup>th</sup> Guam Legislature*



## MEMBER VOTE SHEET

Resolution No. 310-34 (COR) - "RELATIVE TO RESPECTFULLY PETITIONING THE UNITED STATES CONGRESS, PURSUANT TO 48 USC §1423K, TO ENACT LEGISLATION AMENDING THE ORGANIC ACT OF GUAM TO INCLUDE A PROVISION OF GUAM PUBLIC LAW 26-74 FOR THE GOVERNMENT OF GUAM TO DEPOSIT A REQUIRED PERCENTAGE OF TAX COLLECTIONS INTO THE GUAM INCOME TAX REFUND EFFICIENT PAYMENT TRUST FUND FOR THE PAYMENT OF INCOME TAX REFUNDS, AND THAT ANY SUCH AMENDMENT BE REFERENCED AS THE "VICENTE C. PANGELINAN AMENDMENT".

Members of <i>I Liheslatura</i>	Signature	TO DO PASS	TO NOT PASS	TO REPORT OUT ONLY	TO ABSTAIN	TO PLACE IN INACTIVE FILE
Senator Michael F. Q. San Nicolas						
Speaker Benjamin J.F. Cruz						
Vice Speaker Therese M. Terlaje						
Legislative Secretary Régine Biscoe Lee				✓		
Senator Thomas C. Ada				✓		
Senator Joe S. San Agustin						
Senator Telena Cruz Nelson				✓		
Senator Frank B. Aguon, Jr. 3/8/18						
Senator Dennis G. Rodriguez, Jr.						
Senator James V. Espaldon						
Senator Mary Camacho Torres						
Senator Tommy A. Morrison				✓		
Senator Louise B. Muña				✓		
Senator Fernando Barcinas Esteves				✓		
Senator William M. Castro						



# Senator Michael F.Q. San Nicolas

Chairman, Committee on General Government Operations  
and Federal, Foreign and Regional Affairs  
*I Mina'Trentai Kuåttro na Liheslaturan Guåhan • 34<sup>th</sup> Guam Legislature*

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## SPONSOR'S REPORT DIGEST

**Resolution No. 310-34 (COR) - Michael F.Q. San Nicolas - RELATIVE TO RESPECTFULLY PETITIONING THE UNITED STATES CONGRESS, PURSUANT TO 48 USC §1423K, TO ENACT LEGISLATION AMENDING THE ORGANIC ACT OF GUAM TO INCLUDE A PROVISION OF GUAM PUBLIC LAW 26-74 FOR THE GOVERNMENT OF GUAM TO DEPOSIT A REQUIRED PERCENTAGE OF TAX COLLECTIONS INTO THE GUAM INCOME TAX REFUND EFFICIENT PAYMENT TRUST FUND FOR THE PAYMENT OF INCOME TAX REFUNDS, AND THAT ANY SUCH AMENDMENT BE REFERENCED AS THE "VICENTE C. PANGELINAN AMENDMENT".**

### I. OVERVIEW

Resolution No. 310-34 (COR) was introduced December 15, 2017 by Senator Michael F.Q. San Nicolas and was subsequently referred by the Committee on Rules to its Author December 22, 2017.

Senator San Nicolas convened a public hearing on Wednesday, March 7, 2018 in *I Liheslatura's* Public Hearing Room (Guam Congress Building). Amongst the items heard was Resolution No. 310-34 (COR). The Public Hearing began at 10:33 AM and was adjourned at 12:03 PM.

In accordance with the Open Government Law, public hearing notices were disseminated via electronic mail to all senators, stakeholders, and all main media broadcasting outlets. A 5-day notice was provided on Wednesday, February 28, 2018 and a 48-hour notice was provided on Monday, March 5, 2018. The notices were also published in the Guam Daily Post as well as on *I Liheslatura's* Calendar via the Guam Legislature website.

### SENATORS PRESENT

Senator Michael F.Q. San Nicolas, *Chairperson*  
Senator Régine Biscoe Lee, *Committee Member*  
Senator Telenia C. Nelson, *Committee Member*  
Vice Speaker Therese M. Terlaje  
Senator Frank B. Aguon, Jr.  
Senator William M. Castro  
Senator Louise B. Muña

### APPEARED BEFORE THE COMMITTEE

Ken Leon Guerrero, *Spokesperson, Guam Citizens for Public Accountability*



SUBMITTED WRITTEN TESTIMONY

-None-

**II. SUMMARY OF TESTIMONY AND DISCUSSION**

**Senator Michael F.Q. San Nicolas:**

*Next on the agenda, we have Resolution No. 310-34 introduced to myself, "Relative to respectfully petitioning the United States Congress, pursuant to 48 USC §1423k, to enact legislation amending the Organic Act of Guam to include a provision of Guam Public Law 26-74 for the Government of Guam to deposit a required percentage of tax collections into the Guam Income Tax Refund Efficient Payment Trust Fund for the payment of income tax refunds, and that any such amendment be referenced as the 'Vicente C. Pangelinan Amendment.'"*

*The purpose of this Resolution, just to simplify, is to make sure that it's in the Organic Act that the Public Law 26-74 requirement of depositing money into the refund trust account is actually done, so that money will actually be there to pay tax refunds.*

*Right now, we're entering the season where people are starting to file for their tax refunds and it also just so happens to be in the middle of this financial crisis where it's very, very obvious that tax refund money is not in the tax refund trust account, again. This problem is something that's been repeated year in and year out and what's unfortunate is that, absent Public Law 26-74, there actually is no mandate to put money aside for tax refunds. The way it's supposed to work is the withholding taxes that our people pay is supposed to be put into trust and those withholding taxes are supposed to be used to pay tax refunds when tax refunds become due.*

*Unfortunately, this government developed a habit of operating on those withholding taxes. And nowhere is that more evident than today, where, with the Trump tax cuts affecting withholding taxes, that is the primary impact on the cashflow of this government because withholding taxes are paid every two weeks from the paychecks of these employees. Those withholding taxes are supposed to be set aside and used to pay tax refunds. It's not. It's used to operate this government. And so there is no funding mechanism for tax refunds, except for Public Law 26-74. Unfortunately, this public law never gets followed. And so how do we pay tax refunds if the only funding mechanism for it is not followed? We deficit spend. We take from Section 30 money and we spend that money to pay for tax refunds, especially because it's now court-ordered. But what does that mean? Section 30 money is paid to the government at the end of September and is supposed to be used for the fiscal year to come.*

*When we use Section 30 money to pay off our tax refund obligation that we've accrued over the prior year, we have, therefore, spent ourselves into a deficit because that money is no longer available. Ironically, our shortfall today is sixty-seven million dollars (67,000,000) and the amount of Section 30 money that we spent was about sixty-seven million dollars (67,000,000). If we did not spend that Section 30 money for tax refunds, we would not be in this shortfall that we have today. And if we had just made the income*

tax refund deposits, we would not have had to spend that Section 30 money to pay those tax refunds.

And so, what this resolution seeks to do is ask the Congress to amend our Organic Act to mandate those deposits into the tax refund trust account so that we can make sure that money is going to be there, we stop our deficit spending, and we prevent circumstances, like today, where we are in a fiscal crisis because we're spending money that is supposed to be spent for other purposes. And so, I'm respectfully requesting that my colleagues please consider Resolution 310-34.

We don't have any individuals who have signed up to testify. Mr. Leon Guerrero, you're still present would you have any comments you would like to add?

### **Ken Leon Guerrero**

Yes I do. I thought long and hard about this Resolution and I decided that I'm against this Resolution and for this reason this is the Body that controls the purse and this is the Body that needs to change the way you do your budgeting and my suggestion would be that this Body limit budgets to 90% of collections of the previous year and make that a policy because if you limit the budget to the 90% of the collections of the previous year, you will have a hard verifiable number with which to allow appropriations from the Administration to take place because the way the process works now is, I'm the governor I wake up I have a vision. I saw unicorn run across the yard at Government House and therefore I have decided that \$900 million is the budget that I am going to project for the next year based on a unicorn running across the yard, in which case you guys then take that 800 900 million number and you whittle it down to we're only going to give you 830 and but then the revenue comes in it only comes in like it about 745. So you see this is where the problem comes from. We are making forecasts that have no basis in reality. How many years have we based a budget on what we expect to get from the Build-up? Here's what I heard when I attended the buildup hearings there will be a total of maybe 60 jobs created on Guam. The majority that jobs will be transferred from Okinawa that's the benefit to Guam from the buildup yeah we're going to get a little bump on construction but once we're past that construction we might get a little bit of a buildup in the local economy at the fast-food restaurants because we know the majority of the people coming with the buildup are going to continue to shop at Anderson and Naval Station so that's what I'm concerned about. My worry about this Resolution if approved, we're inviting the US Congress to micromanage Guam and I think that we need to show the US Congress that Guam has evolved enough politically that we can handle our own affairs and since this is the Body that controls the budget, I don't think we need to have the US Congress telling this Body how we can handle the budget. I think this Body right here can tell the Administration last year total receivables for the government of Guam were 800 million dollars we're going to authorize a budget of 790 million for next year that way if things get way out of whack we're not too far out of whack and if it close to the end of the year we got in 840 instead of 790, we can maybe look at the possibility of doing supplemental appropriations for capital projects or something like that. It's not so

*much that this Resolution is a good thing for Guam. The intent is good but I think the intent state is with this Body right here. What good does it do to pass a law that nobody follows? Well I'm gonna use your next Resolution as a perfect example. We in the public didn't know we had the right on Public Law 24-222. Once we and the public learned that we had the right, we've been very adamant about defending our right. In fact I'm going to be before the Superior Court later this week defending that right because now that we the people know we have the right to approve tax increases or to approve debt increases above 25 million, we kind of like that right and we're going to keep that right this legislature gave us that right, this legislature chose to ignore that right until recently and in the process of ignoring the right a few of us started wondering what is this clause and that keeps appearing and we did the research and since then we have been spreading the word and the people like it. We like the ability I bet the people in Puerto Rico wish they had a 24 222 they didn't we do and right now Puerto Rico is at a hundred and twenty two percent of their gross domestic product and debt we're only at 86. We like it we'd like to keep it at 86. So my testimony for both bills is this requires political will on your part. You have the power to enforce the law through the budget you approve and I recommend that you take that power and seriously use it and you use a cash accrual basis using the previous year as an example so that if at the end of the year you have a surplus great you can use it to retire debt or you can use it for capital projects but this is where the power lies this in my opinion is the most powerful part of government right here because you are our representatives and we're we're when I say the people a lot of the people that I'm talking with right now are happy to see the evolution in this Body that we've seen in this session. We still have a long way to go but we are seeing the kinds of things that we hope to see out of this Body and that's why I think the Resolutions are not needed. What's needed is political will in this Body and we need more people to stand up and then we won't need those. I understand why you're putting him in there because we have laws on the books that aren't enforced and because they aren't enforced we're in the predicament we're in but this is you guys are the police, you guys are the ones that are supposed to keep the children in line and when I say the children in line and the guys that are running around we can't be broken we still have checks you know that's the administration so that's my testimony on both.*

**Senator Michael F.Q. San Nicolas**

*Thank You Mr. Leon Guerrero. I just wanted to – in light of your testimony actually inform you that there was an amendment last week that was introduced that passed by majority of senators to strike 24-222 –*

**Ken Leon Guerrero**

*Yeah, I know, but the bill didn't pass that's the amendment passed, the bill didn't pass and I don't want you to think that we're not paying attention to who's supporting different amendments because we are.*

**Senator Michael F.Q. San Nicolas**

*The reason that I'm raising that point Mr. Leon Guerrero is that in line with the Resolution, the point of the Resolution is to put these things into the organic act so they cannot be taken away by an amendment on a bill or as a writer or as a separate piece of legislation with just eight votes and a signature of a governor, so and I appreciate the testimony that you're providing but I think that it's kind of reinforcing the intent of the Resolution.*

**Ken Leon Guerrero**

*I understand the intent of the Resolution and what I'm trying to do is to get us to the next level which is why are we the only territory without a constitution you know. If we had a constitution and that was included in that constitution, but guess who drives that discussion and drives that argument it's not Adelup, it's you guys you know. I mean I've heard all I've heard Adelup talk. I've heard former governors talk, but the people I haven't heard talking are you guys. You were the ones that need to be talking. Now the reason why I think that a constitution is badly needed is just for the reasons why you're proposing these amendments, so that we can make laws for the good of the people that have a chance to endure and not be notwithstanding out of existence and I support that but I think the better way to go would be for this Body to get serious about our Constitution because if we're going to ask Congress to start reviewing laws about how we appropriate our tax collections, how we pass tax increases in debt bills next thing you know we're gonna be asking Congress to rule on you know what qualifies for vesting in the retirement fund and what director what level of SUV a director of a government agency gets no that's an extreme example but when we start asking Congress to meddle in our affairs, where do they stop you know. We are we have evolved as an entity and I say that I have the advantage of hindsight because I was gone for 28 years. The Guam that I left is so much different than the Guam I came back to you and it makes me proud because what I came back to was so good compared to what I left and that's why I'm in this fight. I guess I've been in this fight now for 10 years going on 11. I've been in this since 2007 as a community advocate and that's why I do what I do and why I testified on those two amendments the way I did. I liked the intent I liked the reasoning. I like the thought purpose but the only thing I don't like is the fact that this Body is a didn't have the political will to make those things reality that notwithstanding was way too easy and what did they do you know, we transferred debt from the people to other people you know we didn't do our people any good and I like I promised earlier short answer.*

**Senator Michael F.Q. San Nicolas**

*Thank You Mr. Leon Guerrero. Did any of my colleagues have any other questions for Mr. Leon Guerrero regarding this Resolution? If none, thank you for testimony. We'll consider Resolution 310 - 34 as being heard.*

**-- End of Public Hearing on Resolution No. 310-34 (COR) --**


**III. FINDINGS AND RECOMMENDATIONS**

The Author hereby reports out **Resolution No. 310-34 (COR)** - "RELATIVE TO RESPECTFULLY PETITIONING THE UNITED STATES CONGRESS, PURSUANT TO 48 USC §1423K, TO ENACT LEGISLATION AMENDING THE ORGANIC ACT OF GUAM TO INCLUDE A PROVISION OF GUAM PUBLIC LAW 26-74 FOR THE GOVERNMENT OF GUAM TO DEPOSIT A REQUIRED PERCENTAGE OF TAX COLLECTIONS INTO THE GUAM INCOME TAX REFUND EFFICIENT PAYMENT TRUST FUND FOR THE PAYMENT OF INCOME TAX REFUNDS, AND THAT ANY SUCH AMENDMENT BE REFERENCED AS THE "VICENTE C. PANGELINAN AMENDMENT" with the recommendation to TO REPORT OUT ONLY.

**I MINA'TRENTAI KUÁTTRO NA LIHESLATURAN GUÁHAN**  
**2017 (FIRST) Regular Session**

Resolution No. 310-34 (COR)

Introduced by:

Michael F.Q. San Nicolas 

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**Relative to respectfully petitioning the United States Congress, pursuant to 48 USC §1423k, to enact legislation amending the Organic Act of Guam to include a provision of Guam Public Law 26-74 for the Government of Guam to deposit a required percentage of tax collections into the Guam Income Tax Refund Efficient Payment Trust Fund for the payment of income tax refunds, and that any such amendment be referenced as the “Vicente C. Pangelinan Amendment”.**

**BE IT RESOLVED BY I LIHESLATURAN GUÁHAN:**

**WHEREAS**, in the Twenty-Sixth (26<sup>th</sup>) Guam Legislature, Senator Vicente C. Pangelinan introduced Bill No. 247 (COR), which was enacted as Public Law 26-74 on March 7, 2002, that establishes the Income Tax Refund Efficient Payment Trust Fund and requires that the Government of Guam directly deposit within ten (10) days at the end of each month or quarter to the Trust Fund percentages of the Payroll Withholding Tax collections, Self-Employed Payroll Withholding Tax collections, and Income Tax collections (Exhibit 1); and

**WHEREAS**, Public Law 26-74 recognizes the Government of Guam’s responsibility to promptly process income tax returns and pay income tax refunds to Guam’s taxpayers, seeking to remedy a long history of deficit spending and bond borrowing that has negatively compromised the fiscal stability of the Government of Guam; and

**WHEREAS**, the United States commonly uses Withholding Tax collections to pay income tax refunds, while the Government of Guam uses such collections to

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1 fund government operations, resulting in shortfalls or delays in the payment of  
2 income tax refunds; and

3 **WHEREAS**, the Government of Guam was unable to set aside money to  
4 pay for income tax refunds for nearly two decades and has relied on accumulated  
5 deficits and subsequent borrowing on the bond market to pay accrued income tax  
6 refund payments owed to taxpayers; and

7 **WHEREAS**, in August 1994, the Government of Guam borrowed Forty-  
8 five Million dollars (\$45,000,000) on the bond market, all of which were used to  
9 pay for 1993 tax refunds, under the General Obligation Bonds 1994 Series A, as  
10 authorized by Public Law 22-138; and

11 **WHEREAS**, in June 1995, the Government of Guam borrowed One  
12 Hundred Fifteen Million dollars (\$115,000,000) on the bond market, of which  
13 Forty-one Million dollars (\$41,000,000) were used to pay for 1994 tax refunds,  
14 under the General Obligation Bonds 1994 Series A, as authorized by Public Law  
15 22-138; and

16 **WHEREAS**, in June 2009, the Government of Guam borrowed Two  
17 Hundred Seventy-one Million Seventy Thousand dollars (\$271,070,000) on the  
18 bond market, of which One Hundred Twelve Million dollars (\$121,000,000) were  
19 used to pay for delinquent tax refunds for prior years, under the General Obligation  
20 2009 Bonds, Series A, as authorized by Public Law 30-24; and

21 **WHEREAS**, in December 2011, the Government of Guam borrowed Two  
22 Hundred Thirty-five Million dollars (\$235,000,000) on the bond market, of which  
23 One Hundred Ninety-eight Million dollars (\$198,000,000) were used to pay for  
24 2010 tax refunds and prior years, under the Business Privilege Tax Bonds Series  
25 2011A, as authorized by Public Law 30-24; and

26 **WHEREAS**, in June 2012, the Government of Guam borrowed One  
27 Hundred Eight Million Seven Hundred Thousand dollars (\$108,700,000) on the

1 bond market, of which Sixty Million dollars (\$60,000,000) was used to pay for  
2 2010 and 2011 tax refunds, under the Business Privilege Tax Bonds Series 2012B,  
3 as authorized by Public Law 30-24; and

4 **WHEREAS**, in April 2011, a class action lawsuit filed on behalf of Guam  
5 residents Jeffrey and Rea Paeste, and Sharon and Glenn Zapanta, challenged the  
6 Government of Guam's failure to pay tax refunds to its taxpayers in a timely  
7 manner; and

8 **WHEREAS**, in January 2013, District Court Judge Consuelo Marshall  
9 issued a permanent injunction in the case of *Paeste, et al. v. Government of Guam*  
10 (Exhibit 2), ordering that the Government of Guam must pay most tax refunds no  
11 later than six (6) months after tax returns are due; and

12 **WHEREAS**, in December 2011, the Guam Office of Public Accountability  
13 released a report of the performance audit of the Income Tax Refund Efficient  
14 Payment Trust Fund (Exhibit 3), and concluded that the Government of Guam  
15 failed to pay Forty-one Million dollars (\$41,000,000) for Fiscal Year 2011, citing  
16 that the Government of Guam Department of Administration failed to adhere to the  
17 requirements of P.L. 26-74 when it did not always deposit funds directly into the  
18 Trust Fund and when it commingled income tax collections in the General Fund;  
19 and

20 **WHEREAS**, the taxpayers of Guam have seen a historic pattern of the  
21 Government of Guam failing to set aside sufficient money to pay income tax  
22 refunds, as mandated in Guam Public Law 26-74, relying on federal Section 30  
23 funds to cover shortfalls (Exhibit 4), despite the budget of the Government of  
24 Guam increasing every fiscal year (Exhibit 5); and

25 **WHEREAS**, the Government of Guam's reliance on federal Section 30  
26 funds that arrive at the end of the fiscal year continues to slow the rate of the



1 issuance of income tax refunds, with taxpayers having to wait longer and being  
2 pushed farther along the issuance schedule; and

3 **WHEREAS**, federal Section 30 funds are being expended in the fiscal year  
4 they are received to fund income tax refund shortfalls, yet continue to be factored  
5 in the ensuing fiscal year they are intended to fund, resulting in immediate deficit  
6 spending that makes fiscal year budgets unbalanced upon enactment; and

7 **WHEREAS**, the Government of Guam does not have a locally enacted  
8 Constitution and, instead, operates under the Organic Act of Guam; and the  
9 enactment of an amendment to the Organic Act of Guam including the provisions  
10 of Guam Public Law 26-74, requiring that the Government of Guam deposit tax  
11 collections in the Income Tax Refund Efficient Payment Trust Fund as  
12 enumerated, would prevent further unbalanced budgeting, deficit spending, chronic  
13 borrowing, and future burdens on the taxpayers of Guam; now therefore be it

14 **RESOLVED**, that *I Mina'Trentai Kuåttro Na Liheslaturan Guåhan* does  
15 hereby, on behalf of the people of Guam, respectfully petition the United States  
16 Congress, pursuant to 48 USC §1423k, to enact legislation amending the Organic

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17 Act of Guam to include a provision of Guam Public Law 26-74 for the  
18 Government of Guam to deposit a required percentage of tax collections into the  
19 Guam Income Tax Refund Efficient Payment Trust Fund for the payment of  
20 income tax refunds, and that any such amendment be referenced as the "Vicente C.  
21 Pangelinan Amendment"; and be it further

22 **RESOLVED**, that the Speaker certify, and the Legislative Secretary attest  
23 to, the adoption hereof, and that copies of the same be thereafter transmitted to the  
24 Honorable Vice President Mike Pence, President of the United States Senate; the  
25 Honorable Speaker Paul Ryan, United States House of Representatives; Honorable  
26 Representative Madeleine Z. Bordallo, Guam's Delegate to the United States

- 1 House of Representatives; and the Honorable Eddie Baza Calvo, *I Maga'láhen*
- 2 *Guáhan*.

**DULY AND REGULARLY ADOPTED BY *I MINA'TRENTAI KUÁTTRO NA LIHESLATURAN GUÁHAN* ON THE \_\_\_ DAY OF \_\_\_\_\_, 2017.**

---

**BENJAMIN J.F. CRUZ**  
Speaker

---

**RÉGINE B. LEE**  
Legislative Secretary

# Exhibit 1



CARL T.C. GUTIERREZ  
GOVERNOR OF GUAM

OFFICE OF THE LEGISLATIVE SECRETARY  
ACKNOWLEDGMENT RECEIPT  
Received By [Signature]  
Time 9:30 PM  
Date 3/7/02

MAR 07 2002

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 Senator Brown:

Enclosed please find Bill No. 247 (COR) "AN ACT TO ADD CHAPTER 51 AND TO AMEND § 50104 BOTH OF TITLE 11 AND TO ADD §§ 4102(a)(17) AND 4102.1 TO TITLE 4, ALL OF THE GUAM CODE ANNOTATED, RELATIVE TO MAXIMIZING REVENUES FROM THE "INCOME TAX REFUND RESERVE FUND" AND FOR OTHER PURPOSES" which I have signed into law as Public Law No. 26-74.

In better economic times, this bill would be a good method of managing funds to pay for tax processing and tax refund payments. These are not good economic times. What this legislation would mean is that approximately \$5 Million in cash would have to be set aside every month. With the short cash flow, this would impact on the payment of vendors, payroll, retirement benefits, and other daily obligations of the government. In fact, if this amount of cash each month has to be idle, further cuts of government payments, and even payroll, will need to be made. While this legislation does not take effect until October 1, 2002, this will leave a window of time to revisit the method of cash management contained in this bill. The end result is that this legislation further erodes flexibility of cash management.

This legislation sets up another fund for the payment of income tax refunds. Currently, money to pay income tax refunds is set aside in the "Income Tax Refund Reserve Fund," and paid from that fund. This legislation creates another fund, the "Income Tax Refund Efficient Payment Trust Fund." This second fund is created by placing, at the end of each month, a percentage collected from Payroll Withholding Taxes and income tax collections, along with, at the end of each quarter, a percentage collected from Self-Employed Payroll Withholding Taxes.

The second fund is supposed to gather interest and investment earnings. These interest and investment earnings are then to be used for hiring temporary income tax returns processors for up to 3 months each tax season. The interest is subject to legislative

0713

Legislative Secretary  
B247;PL26-74  
March, 2002  
Page 2

appropriation for this purpose, after a budget for this purpose is submitted to the Legislature.

Finally, when refunds are due to be paid out, money from the second fund, the "Income Tax Refund Efficient Payment Trust Fund", is shifted into the first fund, the "Income Tax Refund Reserve Fund", and then paid out to the taxpayer. The interest and investment earnings do not get shifted to the first fund.

The second fund, or trust fund, and method of hiring seasonal employees to process returns, is effective for next fiscal year, starting October 1, 2002.

The legislation, finally, provides for \$100,000 to be used for extra personnel hired to process the currently due tax returns.

Very truly yours,



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

Attachments: original bill for vetoed legislation or  
copy of bill for signed or overridden legislation  
and legislation enacted without signature


---

cc: The Honorable Antonio R. Unpingco  
Speaker

MINA'BENTE SAIS NA LIHESLATURAN GUÁHAN  
2002 (SECOND) Regular Session

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

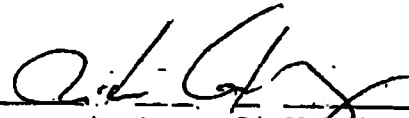
This is to certify that Bill No. 247 (COR) "AN ACT TO ADD CHAPTER 51 AND TO AMEND § 50104 BOTH OF TITLE 11 AND TO ADD §§ 4102(a)(17) AND 4102.1 TO TITLE 4, ALL OF THE GUAM CODE ANNOTATED, RELATIVE TO MAXIMIZING REVENUES FROM THE 'INCOME TAX REFUND RESERVE FUND' AND FOR OTHER PURPOSES," was on the 28<sup>th</sup> day of February, 2002, duly and regularly passed.

  
\_\_\_\_\_  
ANTONIO R. UNPINGCO  
Speaker

Attested:

  
\_\_\_\_\_  
JOANNE M.S. BROWN  
Senator and Legislative Secretary

.....  
This Act was received by *I Maga'láhen Guáhan* this 28 day of Feb, 2002,  
at 11:50 o'clock PM.

  
\_\_\_\_\_  
Assistant Staff Officer  
*Maga'láhi's Office*

APPROVED:

  
\_\_\_\_\_  
CARL T. C. GUTIERREZ  
*I Maga'láhen Guáhan*

Date: 3-7-02

Public Law No. 26-74

**MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN**  
**2002 (SECOND) Regular Session**

**Bill No. 247 (COR)**

As amended by the Author and  
amended on the Floor.

Introduced by:

V. C. Pangelinan

K. S. Moylan

A. R. Unpingco

J. F. Ada

T. C. Ada

F. B. Aguon, Jr.

J. M.S. Brown

E. B. Calvo

F. P. Camacho

M. C. Charfauros

Mark Forbes

L. F. Kasperbauer

L. A. Leon Guerrero

A. L.G. Santos

J. T. Won Pat

---

**AN ACT TO ADD CHAPTER 51 AND TO AMEND §  
50104 BOTH OF TITLE 11 AND TO ADD §§ 4102(a)(17)  
AND 4102.1 TO TITLE 4, ALL OF THE GUAM CODE  
ANNOTATED, RELATIVE TO MAXIMIZING  
REVENUES FROM THE "INCOME TAX REFUND  
RESERVE FUND" AND FOR OTHER PURPOSES.**

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

2 **Section 1. Legislative Findings and Intent. I *Liheslaturan Guåhan***  
3 **finds that each year, the Department of Revenue and Taxation ("DRT") finds**  
4 **itself in a difficult situation, trying to find ways to promptly process Guam's**  
5 **taxpayers' income tax returns and timely pay the refunds due. Each year,**

1 DRT cites shortage of staff as the reason for delays in processing the income  
2 tax returns. *However*, through legislative hearings and discussions, the  
3 Director of DRT testified that *if* such staff shortages were filled, another cause  
4 of delay would be the lack of office equipment, such as computers.

5 Such problems in the delay of processing the income tax returns have  
6 greatly burdened Guam's taxpayers financially, as they patiently wait for  
7 their income tax returns so critical to making ends meet.

8 Therefore, it is the intent of *I Liheslaturan Guåhan* to develop a program  
9 to provide the resources to DRT to promptly process income tax returns, and  
10 to issue the refunds to Guam taxpayers.

11 Section 2. Chapter 51 is hereby *added* to Division 2 of Title 11 of the  
12 Guam Code Annotated to read as follows:

13 **"Chapter 51.**

14 **Income Tax Refund Efficient Payment Trust Fund Act of 2002.**

15 **Section 51101. Creation of the Income Tax**

16 **Return Efficiency Trust Fund.**

17 **Section 51102. Deposit of Funds.**

18 **Section 51103. Expenditures from the**  
19 **Trust Fund.**

20 **Section 51104. Contracts.**

21 **Section 51105. Prohibitions Against**  
22 **Encumbrances.**

23 **Section 51106. Reports.**

24 **Section 51107. No Transfer Authority.**

1           **Section 51108. Effective Date.**

2           **Section 51101. Creation of the Income Tax Refund Efficient**  
3 **Payment Trust Fund.**

4           (a) There is hereby created, separate and apart from all  
5 other funds of the government of Guam, a trust fund known as  
6 the Income Tax Refund Efficient Payment Trust Fund ('Trust  
7 Fund'). The Trust Fund shall *not* be commingled with the General  
8 Fund or any other funds of the government of Guam, and it shall  
9 be maintained in a separate bank account, administered by the  
10 Tax Commissioner. The Trust Fund's interest and investment  
11 earnings shall be subject to legislative appropriation and shall be  
12 expended *exclusively* for the purposes set forth under § 51103 of  
13 this Act.

14           (b) The deposits made to the Trust Fund pursuant to §  
15 51102 shall be invested or reinvested into interest bearing  
16 instruments, United States treasury notes, investment grade and  
17 insured corporate notes, and other like instruments which are  
18 readily convertible to cash needed to pay income tax refunds.

19           **Section 51102. Deposit of Funds.**

20           (a) The Director of the Department of Administration  
21 ('DOA') shall directly deposit within ten (10) days at the end of  
22 each month to the Trust Fund a percentage of the Payroll  
23 Withholding Taxes collections for the month equal to its  
24 percentage of the budgeted forecasted amount set aside for



1 income tax refunds, earned income tax credits and child tax  
2 credits adopted in that fiscal year's budget, so that at the end of  
3 the calendar year, the total amount set aside for income tax  
4 refunds, earned income tax credits and child tax credits shall have  
5 been deposited into the Trust Fund. The funds deposited in the  
6 Trust Fund by the Director of DOA shall *automatically* be  
7 transferred to the Income Tax Reserve Fund once the Tax  
8 Commissioner is ready to make the necessary payments pursuant  
9 to § 50105 of Chapter 50, Division 2 of Title 11 of the Guam Code  
10 Annotated. The interest and investment earnings shall remain  
11 within the Trust Fund.

12 (b) The Director of DOA shall directly deposit within ten  
13 (10) days at the end of each quarter to the Trust Fund a percentage  
14 of the Self-Employed Payroll Withholding Taxes collections for the  
15 quarter equal to its percentage of the budgeted forecasted amount  
16 set aside for income tax refunds, earned income tax credits and  
17 child tax credits adopted in that fiscal year's budget, so that at the  
18 end of the calendar year, the total amount set aside for income tax  
19 refunds, earned income tax credits and child tax credits shall have  
20 been deposited into the Trust Fund. The funds deposited into the  
21 Trust Fund by the Director of DOA shall *automatically* be  
22 transferred to the Income Tax Reserve Fund, once the Tax  
23 Commissioner is ready to make the necessary payments pursuant  
24 to § 50105 of Chapter 50, Division 2 of Title 11 of the Guam Code

1           Annotated. The interest and investment earnings shall remain  
2           within the Trust Fund.

3           (c) The Director of DOA shall directly deposit within ten  
4           (10) days at the end of each month to the Trust Fund a percentage  
5           of income tax collections for the month equal to its percentage of  
6           the budgeted forecasted amount set aside for income tax refunds,  
7           earned income tax credits and child tax credits adopted in that  
8           fiscal year's budget, so that at the end of the calendar year, the  
9           total amount set aside for income tax refunds, earned income tax  
10          credits and child tax credits shall have been deposited into the  
11          Trust Fund. The funds deposited into the Trust Fund by the  
12          Director of DOA shall *automatically* be transferred to the Income  
13          Tax Reserve Fund, once the Tax Commissioner is ready to make  
14          the necessary payments pursuant to § 50105 of Chapter 50,  
15          Division 2 of Title 11 of the Guam Code Annotated. The interest  
16          and investment earnings shall remain within the Trust Fund.

17          **Section 51103. Expenditures from the Trust Fund.** In order  
18          for *I Liheslaturan Guåhan* to make the proper legislative appropriation  
19          pursuant to § 51101(a) of this Act, the Tax Commissioner shall submit to  
20          *I Liheslaturan Guåhan* on the 15<sup>th</sup> day of January each year a detailed  
21          budget request of itemized cost of allowable expenditure, for an  
22          appropriation from the earnings of the Trust Fund. All interest and  
23          investment earnings from the Trust Fund pursuant to § 51101(b) of this  
24          Act shall be *exclusively* expended for the following purposes:

1           (a) Notwithstanding other provisions of law, the Department of  
2 Revenue and Taxation is hereby authorized to either enter into contracts  
3 with *temporary* income tax returns processors ('processors'), or to hire  
4 seasonal employees, as deemed necessary by the Tax Commissioner  
5 anytime during the period of filing dates established by the Internal  
6 Revenue Service for a period of *not more than* three (3) months to process  
7 income tax returns.

8           (1) The Department of Revenue and Taxation shall  
9 prioritize the processing of income tax returns according to their  
10 filing date.

11           (2) The Department of Revenue and Taxation shall submit  
12 to *I Liheslaturan Guâhan* a monthly report on the status of the  
13 income tax processing, which shall include the following:

14                   (i) number of income tax returns processed;

15                   (ii) number of income tax refunds issued and the

16                   total dollar amount;

17                   (iii) number of income tax returns waiting to be  
18 processed;

19                   (iv) expected date of completion for the processing of  
20 income tax returns pending; *and*

21                   (v) any other pertinent information.

22           (b) proper training of employees hired pursuant to Subsection  
23 (a) of this Section.

24           (c) computers and other equipments necessary to quickly  
25 process the income tax returns.

1           **Section 51104. Contracts.** *If the Department of Revenue and*  
2 *Taxation chooses to enter into contracts with temporary income tax*  
3 *returns processors, the Department of Revenue and Taxation shall*  
4 *promulgate rules and regulations governing the contract. The*  
5 *processors under contracts shall be deemed independent contractors*  
6 *and not employees of the government of Guam, nor shall they be*  
7 *entitled to any benefits otherwise available to government of Guam*  
8 *employees, including, but not limited to, sick leave, annual leave,*  
9 *retirement, worker's compensation, group life insurance, group medical*  
10 *insurance, or periodic or other step increases in wages.*

11           **Section 51105. Prohibitions Against Encumbrances.** Any and  
12 all expenditures from the Trust Fund shall be for the payment outlined  
13 in § 51103, and for no other purpose. The Trust Fund shall *not* be  
14 subject to or permit *I Maga'lahaen Guåhan* to pledge the Trust Fund for  
15 ~~payments or repayments of any government of Guam general fund~~  
16 obligations or obligations of any autonomous agency, public  
17 corporation or government instrumentality.

18           **Section 51106. Reports.** The Tax Commissioner and the  
19 Director of the Department of Administration shall report to *I*  
20 *Maga'lahaen Guåhan* and *I Liheslaturan Guåhan* every deposit and the  
21 current balance of the Trust Fund within fifteen (15) days of every  
22 deposit made to the Trust Fund.

1           **Section 51107. No Transfer Authority.**     The money placed  
2 in the Trust Fund is *not* subject to any transfer authority of *I Maga'laha*  
3 *Guåhan*.

4           **Section 51108. Effective Date.**     The provisions of the Income  
5 Tax Refund Efficient Payment Trust Fund Act of 2002 shall be effective  
6 on October 1, 2002."

7           **Section 3.** Section 50104 of Chapter 50, Division 2 of Title 11 of the  
8 Guam Code Annotated is hereby *amended* to read as follows:

9           **"Section 50104. Revenues Reserved for Income Tax Refunds,**  
10 **Earned Income Tax Credits and Child Tax Credits.**

11           (a) In accordance with the formula provided for in § 50103  
12 of this Chapter, the Director of Administration shall set aside all  
13 money reserved for income tax refunds, earned income tax credits  
14 and child tax credits from income tax receipts."

~~15           **Section 4.** Section 4102(a)(17) is hereby *added* to Article 1, Chapter 4 of~~  
16 Title 4 of the Guam Code Annotated to read as follows:

17           "(17)           persons employed on a seasonal basis."

18           **Section 5.** Section 4102.1 is hereby *added* to Article 1, Chapter 4 of Title  
19 4 of the Guam Code Annotated to read as follows:

20           **"Section 4102.1. Seasonal Employment.**

21           (a) **Appropriate Use.**           Seasonal     employment  
22 allows an agency to develop an experienced cadre of employees  
23 under career appointment to perform work which recurs

1 predictably year-to-year, with work expected to last *no more than*  
2 three (3) months.

3 (b) **Length of Season.** Agencies determine the length  
4 of the season, *unless* prescribed by law, subject to the condition  
5 that it be clearly tied to nature of the work. The season must be  
6 defined as closely as practicable so that an employee will have a  
7 reasonable clear idea of how much work that person can expect  
8 during the year.

9 (c) **Employment Agreement.** An employment agreement  
10 must be executed between the agency and the seasonal employee  
11 *prior* to the employee's entering on duty. At a minimum, the  
12 agreement must inform the employee:

13 (1) that the employee is subject to periodic release  
14 and recall as a condition of employment;

15 (2) the minimum and maximum period the  
16 employee can expect to work;

17 (3) the basis on which release and recall procedures  
18 will be effected; *and*

19 (4) that there shall be no benefits to which the  
20 employee will be entitled while in a non-pay status.

21 (d) **Release and Recall Procedures.** A seasonal employee  
22 is released to non-pay status at the end of a season and recalled to  
23 duty the next season. Release and recall procedures must be  
24 established in advance and uniformly applied. They may be

1 based upon performance, seniority, veterans' reference, other  
2 appropriate indices, or a combination of factors. *If* an agency  
3 intends to have an employee work less than the minimum amount  
4 of time specified in the employment agreement, the agency may  
5 develop a new employment agreement to reflect changing  
6 circumstances.

7 (e) **Unclassified Service.** It is impracticable for seasonal  
8 employees to be under the classified service, as seasonal  
9 employment is *not* required on a permanent day-to-day basis.  
10 Seasonal employees are only utilized for a short period each year,  
11 performing work that is expected to last *no more than* three (3)  
12 months. Therefore, seasonal employees shall be under the  
13 unclassified service. In addition, seasonal employees shall *not* be  
14 entitled to any benefits otherwise available to other government of  
15 Guam employees, including, but *not* limited to, sick leave, annual  
16 leave, retirement, worker's compensation, group life insurance,  
17 group medical insurance, or periodic or other step increases in  
18 wages."

19 **Section 6.** Notwithstanding any other law, the Department of Revenue  
20 and Taxation is hereby authorized to extend the employment of the  
21 individuals hired pursuant to Public Law Number 26-50, and to pay overtime  
22 hours for current employees until the appropriation made in § 7 of this Act is  
23 fully expended, in order to process outstanding income tax returns.

1           **Section 7.** There is hereby appropriated the sum of One Hundred  
2 Thousand Dollars (\$100,000.00) from the General Fund to the Department of  
3 Revenue and Taxation to be used for the funding pursuant to Section 6 of this  
4 Act.

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



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Exhibit 2

**FILED**  
DISTRICT COURT OF GUAM

JAN 30 2013

*R*  
JEANNE G. QUINATA  
CLERK OF COURT

UNITED STATES DISTRICT COURT  
DISTRICT OF GUAM

RIA MIALIZA O. PAESTE, et al.,

Plaintiffs,

v.

GOVERNMENT OF GUAM, et al.,

Defendants.

No. CV 11-00008 CBM

PERMANENT INJUNCTION AND  
FINAL JUDGMENT

On August 21, 2012, the Court held a hearing on Plaintiffs' motion for summary judgment. (Doc. No. 153.) Following argument by the parties, the Court granted Plaintiffs' motion as to both claims, granted Plaintiffs' request for declaratory relief, and then issued a minute order to that effect. (Doc. No.171.) The Court issued in a separate document findings of fact and conclusions of law in support of its ruling and in support of the permanent injunction and final judgment set forth below.

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**I. TERMS OF THE PERMANENT INJUNCTION**

**A. Timely Payment of Refunds**

For purposes herein, a "claim for refund" refers to a valid tax return or other claim for refund recognized by the Internal Revenue Code in effect on Guam. The Government of Guam is required to comply with this Court's Order regarding the timely payment of refunds beginning one month from the entry of this Order, and the time limits imposed apply not only to claims for refund filed in the future, but also to claims for refund that have already been filed as of the date of the entry of this Order.

1. For any GTIT claim for refund designated "E" status (or otherwise determined to contain an error which must be corrected before a refund can be paid) that is later amended, supplemented, or otherwise corrected such that a refund is determined to be owed, the Government of Guam shall pay the refund no later than six months after the claim for refund is designated "A" status or otherwise determined to have a refund owed, or six months from the due date for filing the claim for refund, whichever is later in time.

~~2. For any GTIT claim for refund designated "S" status (or otherwise subject to audit, investigation, or some other such practice that is expressly authorized by the provisions of the Internal Revenue Code in effect on Guam) that is later designated as "A" status or otherwise determined to have a refund owed, the Government of Guam shall pay the corresponding refund no later than six months after the claim for refund is designated "A" status or otherwise determined to have a refund owed, or six months from the due date for filing the claim for refund, whichever is later in time.~~

3. For any GTIT claim for refund designated "A" status or otherwise determined to have a refund owed that have not previously been designated as "E" or "S" status, the Government of Guam shall pay the corresponding refund no

1 later than six months after the filing of the claim for refund or six months from the  
2 due date for filing the claim for refund, whichever is later in time.

3 4. No part of this Order shall be construed to interfere with the Government of  
4 Guam's right to conduct offsets, garnishments, audits, or any other such processes  
5 or procedures that are expressly authorized by the provisions of the Internal  
6 Revenue Code in effect on Guam:

7 **B. Reporting Requirements**

8 5. For a period of five years, beginning one month from the date of this Order,  
9 Defendants shall serve on Class Counsel a written report, on a quarterly basis, that  
10 states, separately for each tax year:

11 a. The number and dollar value of GTIT refunds paid during the quarter  
12 leading up to the date the report is served.

13 b. The number and dollar value of GTIT refunds paid during the quarter  
14 leading up to the date the report is served, which were paid more than six  
15 months after the corresponding claims for refund were filed.<sup>1</sup>

16 c. For each of the following categories, the number of claims for  
17 refunds that have not yet been paid and the total dollar amount owed:

18 i. Claims for GTIT refunds the DRT has designated as "A status"  
19 (or otherwise processed and concluded that refunds were owed).

20 ii. Claims for GTIT refunds the DRT has designated as "E status"  
21 or "S status" (or some other designation indicating a problem that  
22 needs to be resolved before a refund can be paid).

23 iii. Claims for GTIT refunds that were filed at least six months  
24 ago.

25  
26 <sup>1</sup> For the purposes of this paragraph, the date on which a claim for GTIT refund was filed shall  
27 be the later of (i) the filing due date for the claim, (ii) the actual filing date of the claim, and (iii)  
28 the date on which the refund was converted to "A status" if it was initially marked "E status" or  
"S status" (or some other designation indicating a problem that needed to be resolved before the  
refund could be paid).

1 These reports will be due on March 31, June 30, September 30, and December 31  
2 of each year unless these dates fall on a weekend or court holiday, in which case  
3 the reports will be due the following court workday. The first report shall be filed  
4 no later than April 1, 2013, as March 31, 2013 falls on a Saturday.

5 6. The written reports shall contain the signature of at least one Defendant  
6 who attests that the report is compiled based on the information obtained from  
7 electronically stored DRT records.

8 **C. Suspension and Discontinuation of Expedited Refund Payments**

9 7. The Government of Guam and Defendants Calvo, Manglofia, and Camacho  
10 shall immediately suspend and discontinue the operation of the GTIT expedited  
11 refund program, i.e., prioritizing the payment of refunds to some taxpayers based  
12 on hardship, need, or any other reason. The Department of Revenue and Taxation  
13 shall prioritize the processing of claims for GTIT refunds and the payment of  
14 GTIT refunds according to the filing date of the claim for refunds.

15 8. If, within five years of entry of this order, Defendants move for  
16 modification of this injunction to initiate a new practice of prioritizing certain  
17 ~~GTIT refunds based on taxpayer need, Defendants shall first present Class~~  
18 Counsel with written notice, 30 days in advance, of their intent to do so. Any such  
19 motion must include a detailed description of the laws, regulations, and/or rules  
20 that will underlie the practice. The proposed practice must comport with the  
21 Organic Act of Guam, the United States Constitution, and all other applicable  
22 laws. Class counsel shall have the right to object to and take discovery related to  
23 any proposal before a decision on its legality will be made.

24 **D. Enforcement**

25 9. If, after six months following the entry of this Order, Defendants have  
26 failed to fully comply with the terms of this injunction, Plaintiffs may file a  
27 motion with the Court requesting appointment of a receiver pursuant to Fed. R.  
28 Civ. P. 66, sequestration of government funds, initiation of contempt proceedings,

1 or any other order necessary to ensure compliance with the terms of this  
2 injunction.

3 **E. Miscellaneous**

4 10. This Order shall be deemed to have been served upon Defendants at the  
5 time of its execution by the Court. The injunction shall bind Defendants and all  
6 other persons and entities listed in Rule 65(d)(2) of the Federal Rules of Civil  
7 Procedure, including Defendants' successors in office. See Fed. R. Civ. P. 25(d);  
8 *Salt River Project Agr. Imp. & Power Dist. v. Lee*, 672 F.3d 1176, 1180 (9th Cir.  
9 2012). Defendants shall, within five (5) days of the date of this Order, email a  
10 copy of this Order to DRT and DOA personnel involved in the processing and  
11 payment of Guam income tax refunds.

12 11. Plaintiffs shall file their motion for attorney's fees and costs no later than 14  
13 days after the entry of this Order. See generally Fed. R. Civ. P. 54.

14 12. The Court shall retain jurisdiction over this matter for all proceedings  
15 involving the interpretation, enforcement, or modification of this Permanent  
16 Injunction.

17 **II. CONCLUSION**

18 The Clerk of Court is directed to enter judgment in this matter in favor of  
19 Plaintiffs and against Defendants.

20  
21 **IT IS SO ORDERED.**

22  
23 DATED: January 30, 2013

By   
24 **CONSUELO B. MARSHALL**  
25 **UNITED STATES DISTRICT JUDGE**

# Exhibit 3



## **Government of Guam Income Tax Refund Efficient Payment Trust Fund**

**Performance Audit  
October 2010 through September 2011**

**OPA Report No. 11-10  
December 2011**

**Distribution:**

**Governor of Guam  
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Director, Department of Administration  
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**Executive Summary**  
**Government of Guam Income Tax Refund Efficient Payment Trust Fund**  
**OPA Report No. 11-10, December 2011**

The Income Tax Refund Efficient Payment Trust Fund (Trust Fund) was established to contain the mandated set-aside portion of income tax revenues to pay tax refunds in a timelier manner. Using the formula prescribed in the Trust Fund Act of 2002, we calculated that, from October 1, 2010 to September 30, 2011, \$93.1 million (M) should have been deposited in the Trust Fund. Of the total, \$50.3M was paid out in prior year refunds and \$1.8M remains in the Trust Fund. Contrary to the law's intent, \$41M was used to fund government operations. DOA's Deputy Financial Manager told us that cash shortfalls restrict the department's ability to transfer the required portion to the Fund.

As stated in previous audits, overestimating anticipated revenues and expending beyond appropriations continue to fuel GovGuam's penchant to live beyond its means. With an overestimation of revenues by nearly \$38M, FY2011 was no different. Similarly, expenditures totaled \$524M, not including year-end accruals, unbudgeted expenditures such as the Mental Health receiver of \$16M, and audit adjustments, all of which add up significantly.

GovGuam's FY 2010 financial audit reported the tax refund liability to be \$278.3M, prompting enactment of P.L. 31-76 authorizing the sale of the bonds not to exceed \$343.7M, of which \$198M would pay a portion of long overdue tax refunds, plus interest. After Standard & Poor's gave GovGuam its highest investment rating, bonds totaling \$235M sold quickly, and tax refund checks totaling \$198M were paid out in December 2011. Despite the payouts, however, the tax refund liability stands at \$127.6M as of December 2011 and continues to grow.

**Tax Refund Payments Short \$41M**

Income tax revenues for FY 2011 totaled \$363.8M, of which \$93.1M (25.6%) should have been deposited into the Trust Fund. As specified in §51102 of Title 11 GCA, the set-aside amount is calculated by taking income tax collections and multiplying the ratio of the FY 2011 Budget Act tax refund provision (\$100.1M) to total projected income taxes (\$391.4M). We found that DOA did not procedurally comply with directly depositing the set-aside amounts into the Trust Fund for subsequent transfer to the Income Tax Reserve Fund to pay tax refunds. Although some tax refunds were paid, the Fund was shortchanged by \$41M as a result of GovGuam's ongoing cash deficiency and inability to reduce expenditures in light of declining revenues. See the table below for details.

	<b>A</b>	<b>B = A*25.6%</b>	<b>C</b>	<b>D= C-B</b>
<b>Month</b>	<b>Actual Income Tax Collections</b>	<b>Required Deposits</b>	<b>Tax Refund Payments</b>	<b>Variance</b>
10-Oct	\$24,886,116	\$6,370,846	\$8,059,903	\$1,689,057
10-Nov	19,806,368	5,070,430	7,719,376	2,648,946
10-Dec	35,818,109	9,169,436	3,453,239	(5,716,197)
11-Jan	38,292,291	9,802,826	2,032,190	(7,770,636)



	<b>A</b>	<b>B = A*25.6%</b>	<b>C</b>	<b>D= C-B</b>
<b>Month</b>	<b>Actual Income Tax Collections</b>	<b>Required Deposits</b>	<b>Tax Refund Payments</b>	<b>Variance</b>
11-Feb	18,203,470	4,660,088	2,739,248	(1,920,840)
11-Mar	33,153,259	8,487,234	2,160,935	(6,326,299)
11-Apr	51,507,272	13,185,862	4,859,843	(8,326,019)
11-May	19,342,913	4,951,786	6,747,673	1,795,887
11-Jun	38,348,257	9,817,154	4,337,703	(5,479,451)
11-Jul	23,581,787	6,036,937	2,587,929	(3,449,008)
11-Aug	21,384,813	5,474,512	3,183,759	(2,290,753)
11-Sep	39,541,751	10,122,688	2,444,534	(7,678,154)
<b>Subtotals</b>	<b>\$363,866,406</b>	<b>\$93,149,800</b>	<b>\$50,326,332</b>	<b>(\$42,823,468)</b>
		<b>Trust Fund Balance as of 9/30/11</b>		<b>\$1,804,085</b>
		<b>Total Variance</b>		<b>(\$41,019,383)</b>

According to the Bureau of Budget and Management Research's (BBMR) September 30, 2011 Consolidated Revenue and Expenditures Report, only \$363.8M in income taxes was actually collected, \$27.6M short of the \$391.4M projected in the FY 2011 Budget Act. Actual total revenues amounted to \$620.2M, nearly \$38M short of the \$658M anticipated and budgeted. In response to lesser-than-anticipated revenue collections, the administration implemented a three-percent reserve in the third quarter of FY 2011.

#### **DOA Complicated the Process for Tax Refunds by not Complying with the Trust Fund Act**

DOA did not adhere to other procedural requirements which complicated the process of reconciling Trust Fund deposits with the amounts remitted in tax refunds. DOA did not always deposit funds directly into the Trust Fund. Contrary to law, income tax collections were comingled in the General Fund. Additionally, transfers from the Trust Fund can only be made upon the Tax Commissioner's written request to pay refunds, but we noted that transfers were made to fund GovGuam operations.

#### **Conclusion**

The Office of Public Accountability was mandated by the Supplemental Appropriations Act of 2011 (P.L. 31-74) to audit the Trust Fund, which was established to ensure the availability of cash to pay tax refunds at the end of the fiscal year. As of September 30, 2011, GovGuam paid \$50.3M in tax refunds, \$41M short of the \$93.1M that should have been available. Without the \$41M infusion, government operations would have been negatively impacted. So long as GovGuam continues to spend more than it makes and overestimate what it thinks it will collect, operations will continue to need subsidies and tax refund liabilities will continue to grow.

DOA acknowledged that the government has not been in compliance with the law due to cash challenges resulting from the ongoing General Fund deficit. Going forward DOA intends to comply with the procedural requirements of the Trust Fund Act.

Doris Flores Brooks, CPA, CGFM  
Public Auditor



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## **Introduction**

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This report presents the results of our audit of the Income Tax Refund Efficient Payment Trust Fund as mandated in the Supplemental Appropriations Act of 2011, Public Law (P.L.) 31-74. Our objective was to determine the amount of income tax refunds paid between October 1, 2010 and September 30, 2011 in accordance with §51102 of the Trust Fund Act of 2002, Chapter 51 of Title 11, Guam Code Annotated (GCA).

The audit scope and methodology are detailed in Appendix 1.

## **Background**

The Income Tax Refund Efficient Payment Trust Fund was established in March 2002 to ensure that projected income tax refunds would be paid in a timely manner according to a formula prescribed in law. Specifically, 11 GCA § 51102 prescribed that a portion of income tax collections be set aside in the following manner:

The DOA Director shall directly deposit, upon receipt of any payment of income tax, including, but not limited to, individual, corporate and withholding taxes, interest and penalties, to the Trust Fund a portion of the tax payment received to be calculated by multiplying the amount of the tax payment received by the quotient derived by the provision for tax refunds (the dividend) divided by the total income taxes, including, but not limited to, individual, corporate and withholding taxes, interest and penalties, (the divisor) amounts adopted in the pertinent government of Guam fiscal year budget, so that, at the end of the fiscal year, the total amount set aside in said budget for income tax refunds, the earned income tax credit and advanced child tax credits shall have been deposited in said Fund.

Revenues in the Trust Fund were authorized to be invested so that the Department of Revenue of Taxation (DRT) could utilize the interest and investment earnings to promptly process income tax returns. Authorized expenditures include: a) Contracting temporary tax return processors or hiring seasonal employees; (b) Training processors or seasonal employees; and (c) Purchasing computers and other equipment necessary to quickly process income tax returns.<sup>1</sup> Because of nominal deposits, the Trust Fund earned only \$3,395 in interest for Fiscal Year (FY) 2011.

The Trust Fund Act also mandated the following:

- The Trust Fund shall not be commingled with the General Fund or any other funds of the Government of Guam (GovGuam);

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<sup>1</sup> P.L. 26-74.

- Trust Fund deposits should be invested or reinvested into interest bearing instruments, United States Treasury notes, investment grade and insured corporate notes, and other like instruments which could readily be converted to cash to pay tax refunds; and
- Transfers from the Trust Fund should be made only to the Income Tax Reserve Fund (Reserve Fund) upon the written request of the Tax Commissioner to pay income tax refunds, earned income tax credits, advanced child tax credits, tax rebates and for no other purpose.

## Results of Audit

Between October 1, 2010 and September 30, 2011, GovGuam collected \$363.8 million (M) in income taxes. Based on the formula in law, \$93.1M should have been deposited into the Trust Fund, but due to continuing cash shortages, only \$50.3M was paid in tax refunds; approximately \$41M was used to pay government operations and a balance of \$1.8M remains. DOA did not follow other procedural requirements of the Trust Fund Act, which complicated the process of reconciling Trust Fund deposits and tax refund payments.

The Trust Fund's creation was well-intended, but the practicality of setting aside funds to provide investment earnings is doubtful. As evidenced by the General Fund's FY 2010 deficit of \$336.4M, GovGuam lacks the cash reserves to comply with the requirement to invest. In addition, income tax revenues for FY 2011 were overestimated by \$27.6M. The figure adopted in the Budget Act was \$391.4M, but only \$363.8M was actually collected. Preliminary expenditures total \$524M compared to appropriations of \$542.5M, or an available balance of \$18.5M. However, the \$524M does not include year-end accruals, unbudgeted expenditures such as the Mental Health receiver of \$16M, and audit adjustments, all of which add significantly to this number.

The tax refund liability reported in the FY 2010 GovGuam financial audit was \$278.3M, prompting the authorization to issue bonds. P.L. 31-76 authorized the Governor to issue one or more series of bonds not to exceed \$343.7M, of which \$198M would be utilized to pay a portion of past tax liabilities plus interest. With Standard & Poor's giving GovGuam its highest investment rating this year, \$235M in bonds were sold in November 2011. Although past due refunds totaling \$198M were paid down from bond proceeds, the estimated tax liability as of December 31, 2011 is \$127.6M. Because no cash reserves have been established to pay down this liability, GovGuam will continue to struggle to pay tax refunds in compliance with the Trust Fund Act.

### Tax Refund Payments Short \$41M

As specified in 11 GCA §51102, the set-aside amount is calculated by applying to income tax collections the ratio of the FY 2011 Budget Act provision for tax refunds (\$100.1M) to total projected income taxes (\$391.4M), or 25.6%. By September 30, 2011, total tax collections came to \$363.8M, as shown in the table below. Appendix 3 is a breakdown by month.

**Table 1: FY 2011 Income Tax Collections**

Acct No.	Income Taxes	Total
310051101	Individual	\$67,005,493
310051102	Corporation	107,882,788
310051103	Withholding	183,038,152
310051104	Withholding - COLA	125,020
310051189	Interest	\$3,023,592
310051190	Penalty-Inc Tax	2,728,056
310051191	Penalty-IT no SS	62,604
310051192	Penalty-EITC	700

Acct No.	Income Taxes		Total
	Subtotal Interest & Penalties		5,814,953
	Total Income Taxes		\$363,866,406

As of September 2011, Trust Fund deposits should have totaled \$93.1M (\$363.6M x 25.6%), which should have been transferred to the Reserve Fund. We found, however, that GovGuam was not collecting revenues as estimated and that the Trust Fund was not just being used to pay tax refunds. The overestimation in revenues and nominal efforts to reduce expenditures caused DOA to limit tax refund payments and instead fund operations. DOA's AS 400 accounting system revealed that only \$50.3M was paid in refunds. Of the remaining \$42.8M, \$41M was utilized to pay government operations, leaving the Trust Fund's balance at \$1.8M. See Appendix 2 and Table 2 below for details.

**Table 2: Estimated vs. Actual Tax Refund Payments**

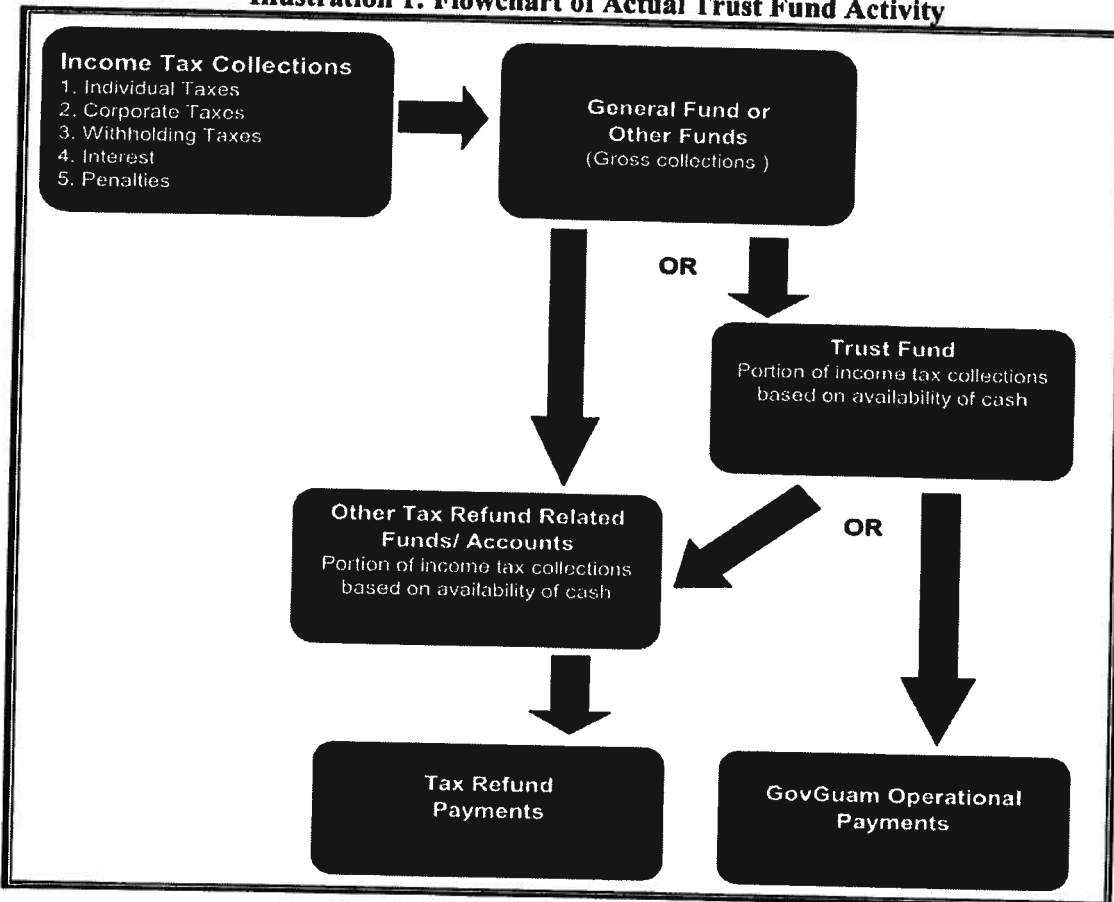
	A	B = A*25.6%	C	D = C-B
Month	Actual Income Tax Collections	Required Deposits	Tax Refund Payments	Variance
10-Oct	\$24,886,116	\$6,370,846	\$8,059,903	\$1,689,057
10-Nov	19,806,368	5,070,430	7,719,376	2,648,946
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<b>Subtotals</b>	<b>\$363,866,406</b>	<b>\$93,149,800</b>	<b>\$50,326,332</b>	<b>(\$42,823,468)</b>
		<b>Trust Fund Balance as of 9/30/11</b>		<b>\$1,804,085</b>
		<b>Total Variance</b>		<b>(\$41,019,383)</b>

## Tax Refund Process Complicated by Non-Compliance

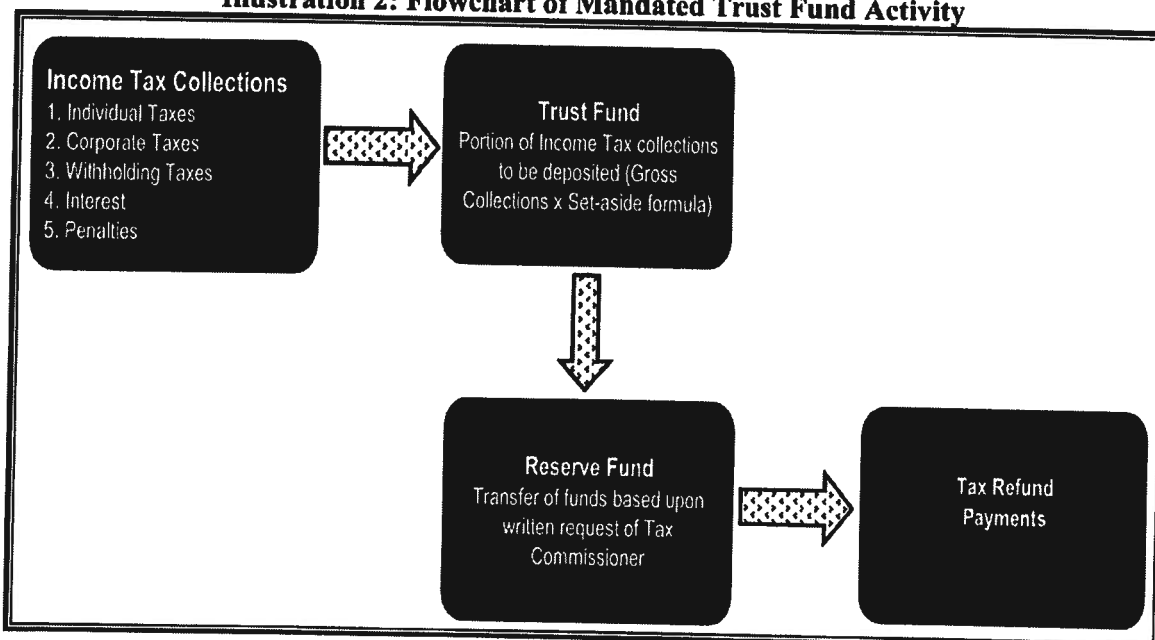
Our audit noted noncompliance with other procedural matters. For instance, we found that all tax collections are deposited into the General Fund, despite 11 GCA § 51102's prohibition against the co-mingling of funds and its requirement to deposit set-aside amounts for income tax payments directly into the Trust Fund. Though few, we did find transfers from the General Fund to the Trust Fund.

Only upon the Tax Commissioner's written request can cash from the Trust Fund be transferred to the Reserve Fund for payment of tax refunds and credits. However, we found that transfers from Trust Fund were made to other income tax refund-related accounts (such as the Income Tax Reserve Fund) or to GovGuam operational accounts. In other instances, the Trust Fund was bypassed and transfers were made from the General Fund directly to other accounts to process tax refunds. See Illustration 1 for the actual transaction flow to and from the Trust Fund. See illustration 2 for the process prescribed by law and should have been followed.

**Illustration 1: Flowchart of Actual Trust Fund Activity**



**Illustration 2: Flowchart of Mandated Trust Fund Activity**



As a result of the non-compliance with mandated procedures, deposits into the Trust Fund for FY 2011 amounted to only \$28.5M, thus resulting in only \$3,395 of interest. We also found that none of the transfers went to the Reserve Fund. However, \$1M did go to an account associated with the payment of tax refunds. The remaining \$25.7M in transfers funded GovGuam operations. Specifically, \$22.2M was transferred to the General Fund and \$3.5M was transferred to a DOA payroll account. As of September 30, 2011, the Trust Fund's balance is \$1.8M. See Table 3 for an overview of Trust Fund activity. See Table 4 for Trust Fund details.

**Table 3: FY 2011 Trust Fund Activity**

<b>Deposits:</b>	
Set-Aside	\$28,488,290
Interest	\$3,395
<b>Total Deposits</b>	<b>\$28,491,685</b>
<b>Transfers Out:</b>	
Transfer to General Fund	(\$22,155,685)
Transfer to Payroll Account	(\$3,531,914)
Transfer to Income Tax Related Account	(\$1,000,000)
<b>Total Transfers Out</b>	<b>(\$26,687,600)</b>
<b>Trust Fund Balance</b>	<b>\$1,804,085</b>

**Table 4: FY 2011 Trust Fund Transaction Details**

Date	TRANCODE	AMOUNT
10/29/2010	SET ASIDE	\$4,816,875.00
10/31/2010	INTEREST	49.60
11/10/2010	Transfer Out to General Fund	(1,000,000.00)
11/11/2010	Transfer Out to DOA Payroll Account	(1,501,914.33)
11/12/2010	Transfer Out to General Fund	(1,245,540.28)
11/15/2010	Transfer Out to Income Tax Related Account	(1,000,000.00)
11/30/2010	INTEREST	184.13
11/30/2010	Transfer Out to General Fund	(70,000.00)
12/31/2010	INTEREST	0.07
1/31/2011	INTEREST	0.07
2/7/2011	SET ASIDE	1,651,500.00
2/28/2011	INTEREST	124.49
3/16/2011	SET ASIDE	550,500.00
3/17/2011	SET ASIDE	201,735.79
3/22/2011	SET ASIDE	3,303,000.00
3/31/2011	INTEREST	329.06
4/21/2011	SET ASIDE	2,202,000.00
4/26/2011	SET ASIDE	821,555.94
4/29/2011	INTEREST	675.89
5/17/2011	SET ASIDE	1,651,500.00
5/30/2011	Transfer Out to General Fund	(3,800,000.00)
5/31/2011	INTEREST	985.83
6/7/2011	Transfer Out to General Fund	(2,400,000.00)
6/9/2011	Transfer Out to General Fund	(1,000,000.00)

Date	TRANCODE	AMOUNT
6/10/2011	Transfer Out to DOA Payroll Account	(930,000.00)
6/10/2011	SET ASIDE	1,651,500.00
6/10/2011	Transfer Out to General Fund	(2,647,234.59)
6/10/2011	Transfer Out to General Fund	(1,000,000.00)
6/10/2011	Transfer Out to General Fund	(253,000.00)
6/14/2011	SET ASIDE	1,000,000.00
6/15/2011	SET ASIDE	1,000,000.00
6/22/2011	SET ASIDE	2,000,000.00
6/23/2011	SET ASIDE	5,000,000.00
6/30/2011	INTEREST	486.93
7/8/2011	SET ASIDE	1,119,955.19
7/8/2011	Transfer Out to DOA Payroll Account	(1,100,000.00)
7/8/2011	Transfer Out to General Fund	(4,500,000.00)
7/8/2011	Transfer Out to General Fund	(1,119,955.19)
7/8/2011	Transfer Out to General Fund	(1,119,955.19)
7/29/2011	INTEREST	403.82
8/8/2011	Transfer Out to General Fund	(2,000,000.00)
8/31/2011	INTEREST	78.39
9/22/2011	SET ASIDE	1,518,167.92
9/30/2011	INTEREST	76.27
<b>Balance</b>		<b><u>\$1,804,084.81</u></b>

According to DOA, if all \$28.5M in deposits went to tax refunds, government operations could not have been sustained. Moreover, ongoing cash shortfalls limited the amount of tax refunds that could be processed. As of September 2011, the Bureau of Budget and Management Research (BBMR) reported actual gross revenues (before income tax accruals) to be \$620.2M or \$37.7M below the FY 2011 Budget Act's anticipation of \$657.9M. However, there was no corresponding effort to reduce appropriated expenditures by a similar amount, except for three-percent reserve in the third quarter. See Appendix 4 for BBMR's Consolidated Revenue and Expenditure Report.

### **Income Tax Refund Liability**

Of the required \$93.1M set-aside deposit to the Trust Fund in FY 2011, \$50.3M was paid out in prior year refunds. Ideally, the \$93.1M should have been sitting in a bank account earning interest as of September 30, 2011 so that when tax returns are filed up to April 15, 2012, refund checks can be processed timely.

Although the proceeds from the Business Privilege Tax Bonds (Series 2011A) paid \$198M in refunds, GovGuam's income tax liability, as of December 2011, is estimated to be \$127.6M. See Table 5 below for details. Because no cash reserves have been set aside to pay down this liability, GovGuam will continue to struggle to pay tax refunds, despite the intention of the Trust Fund Act.



**Table 5: FY 2011 Trust Fund Transaction Details**

<b>Income Tax Liability</b>	
Beginning Balance (FY 2010 Income Tax Liability):	\$278,286,760
Less: Tax refunds processed during FY 2011	50,326,332
Plus: Estimated FY 2011 Tax Liability*	78,750,000
Estimated FY 2011 Income Tax Liability (9/30/11)	306,710,428
Less: Tax refunds processed during October and November 2011	7,396,726
Less: Tax refunds paid through the Business Privilege Tax Bonds, Series 2011A (December 2011)	198,000,000
Plus: Estimated FY 2011 Tax Liability**	26,250,000
<b>Estimated Ending Balance (as of 12/31/11)</b>	<b>\$127,563,702</b>

*Notes:*

\*Amount equals to estimated CY 2011 Tax Liability (\$105,000,000) multiplied by 75% or (9/12 months applicable to FY 2011).

\*\*Amount equals to estimated CY 2011 Tax Liability (\$105,000,000) - \$78,750,000 that was accrued for 9/30/11.

**Other Matters**

P.L. 31-74 mandated OPA to conduct a monthly audit of the Trust Fund. However, due to DOA's inability to close its books on a quarterly basis and provide regular statements of revenues, expenditures, and changes in deficit, we recommend amending the law to conduct an *annual* Trust Fund audit.

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## **Conclusion**

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We found that the Trust Fund was not being administered in accordance with the provisions of the Trust Fund Act, that the Trust Fund should have held \$93.1M, that only \$50.3M was processed for tax refunds, and that the \$41M went for government operations. We also found that continuing budgetary shortfalls in actual revenue collections and minimal reduction in expenditures restricted DOA's ability to set-aside the required funds. DOA's lack of monitoring and failure to comply with procedural requirements of the Trust Fund Act complicated our reconciliation of the amount of tax refunds processed. We therefore recommend DOA assign personnel to monitor the Trust Fund and ensure compliance with the Trust Fund Act.

The tax refund liability reported in the FY 2010 GovGuam financial audit was \$278.3M, inclusive of unpaid Earned Income Tax Credits and interest on unpaid prior-year tax refunds. Even after paying \$198M of bond proceeds for past tax liabilities, the FY 2011 income tax liability is estimated at \$127.6M. In addition, FY 2011's income tax collection of \$363.8M falls \$27.6M short of GovGuam's \$391.4M projection. While expenditures totaled \$524M, this does not include the year-end accruals, unbudgeted expenditures such as the Mental Health receiver of \$16M, and audit adjustments, all of which will add significantly to this number. The continuing shortfall in estimated revenues and inescapable growth in tax liability will undoubtedly affect DOA's ability to comply with the requirements of the Trust Fund Act.

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## **Management Response & OPA Reply**

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In November 2011, we met with the DOA Director who generally concurred with our audit findings and recommendations. In its management response, DOA acknowledged that the government has not been in compliance with the law due to cash challenges resulting from the ongoing General Fund deficit. Going forward DOA intends to comply with the procedural requirements of the Trust Fund Act. Refer to Appendix 5 for DOA's management response.

We also met with the Chairman of the Committee on Appropriations, Taxation, Public Debt, Banking, Insurance, Retirement and Land and the Office of Finance and Budget staff, who subsequently provided feedback and updates to the report, which were incorporated as appropriate.

The legislation creating the Office of Public Accountability requires agencies to prepare a corrective action plan to implement audit recommendations, to document the progress of implementing the recommendations, and to endeavor to complete implementation of the recommendations no later than the beginning of the next fiscal year. We will be contacting DOA to provide the target date and title of the official(s) responsible for implementing the recommendation.

We appreciate the cooperation given us by the officials of the Department of Administration; Department of Revenue and Taxation; Treasurer of Guam, and the Chairman of the Committee on Appropriations, Taxation, Public Debt, Banking, Insurance, Retirement and Land; and the Office of Finance and Budget.

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OFFICE OF PUBLIC ACCOUNTABILITY



Doris Flores Brooks, CPA, CGFM  
Public Auditor

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**Appendix 1:****Scope, Methodology, and Prior Audit Coverage**

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The objective of this engagement was to determine the amount of income tax refunds paid in accordance with §51102 of the Trust Fund Act of 2002, Chapter 51 of Title 11, Guam Code Annotated (GCA).

The scope of the audit is from October 1, 2010 and September 30, 2011, and other periods as deemed necessary. The audit was conducted at DOA in Hagatna and DRT in Barrigada.

Our methodology included reviewing the Income Tax Refund Efficient Payment Trust Fund Act of 2002 and other relevant laws, rules and regulations, policies, and transactions involving the Trust Fund. We interviewed pertinent officials from DOA, DRT and the Treasurer of Guam. Additionally, we obtained financial reports and other relevant information from these and other parties relevant to our engagement. We also reviewed transactions recorded in DOA's AS400 accounting system. However, we did not verify the accuracy or completeness of the data provided or recorded in the AS 400 system.

We conducted this assessment in accordance with the standards for performance audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States of America. These standards require that we plan and perform the assessment to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. The evidence obtained provides a reasonable basis for our assessment and conclusions based on our objectives. However, we did not assess internal controls relative to the Income Tax Refund Efficient Payment Trust Fund.

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**Prior Audit Coverage**

We did not identify any prior audit related to our audit objective of determining the amount of income tax refunds paid in accordance with the Income Tax Refund Efficient Payment Trust Fund Act of 2002 (Chapter 51 of Title 11 of the Guam Code Annotated (GCA)); nor was DOA or DRT aware of any prior audits specific to the Trust Fund.

**Appendix 2:  
AS 400 Tax Refunds**

Acct No.	Account Name	Oct-10	Nov-10	Dec-10	Jan-11	Feb-11	Mar-11	Apr-11
110032110	Reserved for Income Tax Claims	\$7,837,473	\$7,489,671	\$3,338,688	\$1,895,762	\$1,636,877	\$2,043,321	\$2,427,099
110032115	Reserved for EITC Settlement Judgment	-	-	-	-	1,005,016	-	2,282,688
110032116	Reserved for Inc Tax Rebate - 2007	(6,080)	-	-	-	-	(6,083)	-
110072191	Interest on Tax Refund	228,298	229,705	114,551	136,428	97,354	123,419	150,056
110072191	Interest on Tax Refund	212	-	-	-	-	279	-
<b>Total Tax Refunds Processed</b>		<b>\$8,059,903</b>	<b>\$7,719,376</b>	<b>\$3,453,239</b>	<b>\$2,032,190</b>	<b>\$2,739,248</b>	<b>\$2,160,935</b>	<b>\$4,859,843</b>

**BREAKDOWN OF TAX REFUNDS PROCESSED:**

**CHECKS PROCESSED:**

110010416	BOG Income Tax Acct	\$7,736,241	\$7,387,494	\$3,283,202	\$1,870,502	\$1,482,752	\$1,739,817	\$1,951,814
130310220	EIC Settlement Tax Acct	-	-	-	-	913,927	-	2,112,485
110010416	BOG Income Tax Acct	7,150	-	-	-	-	10,110	-
<b>Tax Refund Checks</b>		<b>7,743,392</b>	<b>7,387,494</b>	<b>3,283,202</b>	<b>1,870,502</b>	<b>2,396,679</b>	<b>1,749,927</b>	<b>4,064,299</b>

**OFFSETS/ GARNISHMENTS:**

1100-111**	Inc Tax Receivable	(31,342)	(53,126)	(34,595)	(24,262)	(101,270)	(260,640)	(433,329)
1100-112**	GRT Receivable	(160)	(13,024)	(14,538)	(350)	(9,060)	(18,792)	(31,884)
1100-23178	OAG (Child Support) offset	56,108	69,174	24,197	11,828	67,573	31,289	74,668
1100-23691	GHURA offset	2,248	-	259	976	-	90	2,345
1100-23692	GMHA offset	211,605	169,903	60,491	119,276	117,064	55,908	167,904
1100-23695	UOG offset	-	-	-	-	-	3,539	6,267
1100-23696	District Court	5,312	4,872	-	-	769	-	3,480
1100-24312	GRT Revenues	31,342	53,126	34,595	24,262	101,270	260,640	433,329
1100-24313	Income Tax Revenues	160	13,024	14,538	350	9,060	18,792	31,884
3100-511**	DRT (Income Taxes)	39,907	70,757	67,102	29,176	139,717	291,574	491,498
3100-512**	DRT (Gross Receipts Taxes)	1,332	17,175	17,988	431	17,445	28,413	49,382
Variance		-	-	-	-	-	195	-
<b>Tax Refund Offsets</b>		<b>316,512</b>	<b>331,882</b>	<b>170,037</b>	<b>161,687</b>	<b>342,568</b>	<b>411,009</b>	<b>795,544</b>

<b>Total Tax Refunds Processed</b>		<b>\$8,059,903</b>	<b>\$7,719,376</b>	<b>\$3,453,239</b>	<b>\$2,032,190</b>	<b>\$2,739,248</b>	<b>\$2,160,935</b>	<b>\$4,859,843</b>
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**Appendix 2:  
AS 400 Tax Refunds**

Acct No.	Account Name	May-11	Jun-11	Jul-11	Aug-11	Sep-11	Totals
110032110	Reserved for Income Tax Claims	\$6,439,660	\$4,035,719	\$2,436,686	\$3,008,095	\$2,306,617	\$44,895,669
110032115	Reserved for EITC Settlement Judgment	-	-	-	2,025	-	3,289,729
110032116	Reserved for Inc Tax Rebate - 2007	-	-	(7,294)	3,753	-	(15,704)
110072191	Interest on Tax Refund	308,013	301,983	158,458	169,216	137,916	2,155,398
110072191	Interest on Tax Refund	-	-	80	669	-	1,241
<b>Total Tax Refunds Processed</b>		<b>\$6,747,673</b>	<b>\$4,337,703</b>	<b>\$2,587,929</b>	<b>\$3,183,759</b>	<b>\$2,444,534</b>	<b>\$50,326,331</b>

**BREAKDOWN OF TAX REFUNDS PROCESSED:**

**CHECKS PROCESSED:**

110010416	BOG Income Tax Acct	\$6,224,600	\$3,474,247	\$2,139,605	\$2,266,791	\$2,162,518	\$41,719,584
130310220	EIC Settlement Tax Acct	-	-	-	2,025	-	3,028,437
110010416	BOG Income Tax Acct	-	-	6,476	19,534	-	43,270
<b>Tax Refund Checks</b>		<b>6,224,600</b>	<b>3,474,247</b>	<b>\$2,146,081</b>	<b>\$2,288,351</b>	<b>\$2,162,518</b>	<b>\$44,791,292</b>

**OFFSETS/ GARNISHMENTS:**

1100-111**	Inc Tax Receivable	(163,916)	(394,522)	(224,201)	(523,223)	(103,735)	(2,348,159)
1100-112**	GRT Receivable	(49,102)	(65,104)	(40,074)	(83,388)	(42,396)	(367,873)
1100-23178	OAG (Child Support) offset	54,248	84,634	25,572	19,871	30,961	550,122
1100-23691	GHURA offset	-	8,283	364	-	1,710	16,275
1100-23692	GMHA offset	147,992	216,853	86,759	83,015	48,243	1,485,015
1100-23695	UOG offset	4,201	-	-	-	-	14,007
1100-23696	District Court	-	1,170	4,980	-	-	20,583
1100-24312	GRT Revenues	163,916	394,522	224,201	523,223	103,735	2,348,159
1100-24313	Income Tax Revenues	49,102	65,104	40,074	83,388	42,396	367,873
3100-511**	DRT (Income Taxes)	247,356	460,802	272,070	673,206	133,186	2,916,352
3100-512**	DRT (Gross Receipts Taxes)	67,616	91,714	52,103	119,301	67,916	530,816
	Variance	1,660	-	-	14	-	1,869
<b>Tax Refund Offsets</b>		<b>523,073</b>	<b>863,456</b>	<b>441,848</b>	<b>895,394</b>	<b>282,016</b>	<b>5,533,170</b>

<b>Total Tax Refunds Processed</b>		<b>\$6,747,673</b>	<b>\$4,337,703</b>	<b>\$2,587,929</b>	<b>\$3,183,759</b>	<b>\$2,444,534</b>	<b>\$50,324,847</b>
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**Appendix 3:**

**AS 400 Income Tax Revenues**

Acct No.	Income Taxes	Oct. 2010	Nov. 2010	Dec. 2010	Jan. 2011	Feb. 2011	Mar. 2011	Apr. 2011
310051101	Individual	\$4,221,328	\$6,812,509	\$1,873,301	\$7,042,025	\$1,284,240	\$5,168,317	\$23,156,176
310051102	Corporation	6,864,734	543,482	18,280,931	11,281,379	1,171,689	11,830,496	9,992,406
310051103	Withholding	13,518,255	12,270,101	15,219,151	17,989,802	15,420,085	15,907,980	17,295,079
310051104	Withholding - COLA		5,144	5,099	-	61,864	1,926	49,328
310051189	Interest	107,919	60,534	108,478	1,118,961	76,797	93,562	847,460
310051190	Penalty-Inc Tax	171,074	113,270	330,273	859,525	187,965	150,413	165,406
310051191	Penalty-IT no SS	2,807	1,328	876	600	381	565	1,087
310051192	Penalty-EITC	-	-	-	-	450	-	250
	Subtotal Interest & Penalties	281,799	175,132	439,627	1,979,086	265,593	244,540	1,014,202
	<b>Total Income Taxes</b>	<b>\$24,886,116</b>	<b>\$19,806,368</b>	<b>\$35,818,109</b>	<b>\$38,292,291</b>	<b>\$18,203,470</b>	<b>\$33,151,259</b>	<b>\$51,507,272</b>

Acct No.	Income Taxes	May 2011	Jun. 2011	Jul. 2011	Aug. 2011	Sept. 2011	Total
310051101	Individual	\$1,710,213	\$4,161,342	\$3,283,446	\$3,161,567	\$5,130,029	\$67,005,493
310051102	Corporation	3,403,861	17,172,062	6,837,748	2,024,798	18,479,123	107,882,788
310051103	Withholding	13,994,830	16,645,668	13,280,572	15,844,682	15,651,948	183,038,152
310051104	Withholding - COLA	-	1,572	88	-	-	125,020
310051189	Interest	89,467	141,254	87,110	175,796	116,254	3,023,592
310051190	Penalty-Inc Tax	106,257	222,114	90,411	172,010	159,338	2,728,056
310051191	Penalty-IT no SS	38,284	4,246	2,412	5,960	4,058	62,604
310051192	Penalty-EITC	-	-	-	-	-	700
	Subtotal Interest & Penalties	234,009	367,614	179,933	353,766	279,651	5,814,953
	<b>Total Income Taxes</b>	<b>\$19,342,913</b>	<b>\$38,348,257</b>	<b>\$23,581,787</b>	<b>\$21,384,813</b>	<b>\$39,541,751</b>	<b>\$363,866,406</b>

Appendix 4:  
**BBMR Consolidated Revenue/Expenditure Report**

Government Of Guam Consolidated Revenue/Expenditure Report General Fund				FY2011 ADOPTEED Revenues vs. PROJECTED Revenues to Year End Pursuant to SOCA Ch. 13, Section 4001 (due no later than 30 days after month-end); SOCA, Ch. 4, §4109(b)(7) (due no later than 30 days after month-end); and P.L. 30-196, Ch. XIII, §5 (due no later than 30 days after month-end)		
YTD ADOPTED Revenues Allocated vs. YTD ACTUAL Collections Twelve Months Ending September 30, 2011 Pursuant to SOCA Ch. 4 §4109(a)(5) (due 28 days after month-end)				FY2011 ADOPTEED Revenues vs. PROJECTED Revenues to Year End Pursuant to SOCA Ch. 13, Section 4001 (due no later than 30 days after month-end); SOCA, Ch. 4, §4109(b)(7) (due no later than 30 days after month-end); and P.L. 30-196, Ch. XIII, §5 (due no later than 30 days after month-end)		
	FY2011 Adopted Revenues for the Cumulative Period <sup>1</sup>	FY2011 Actual Revenues for the Cumulative Period	Positive (Unfavorable)	FY2011 Adopted Revenues (Full Year Projection) <sup>2</sup>	FY2011 Revenue Tracking	Favorable (Unfavorable)
<b>Income taxes:</b>						
Individual	\$ 107,455,121	\$ 67,004,738	\$ (40,450,383)	\$ 107,455,121	\$ 67,004,738	\$ (40,450,383)
Cooperation	95,238,868	106,609,588	11,371,120	95,238,868	106,609,588	11,371,120
Withholding	188,714,052	184,255,337	(4,458,715)	188,714,052	184,255,337	(4,458,715)
Withholding - COLA	0	125,020	125,020	0	125,020	125,020
Interest & penalties	0	5,814,953	5,814,953	0	5,814,953	5,814,953
<b>Income Taxes</b>	<b>391,408,041</b>	<b>363,709,636</b>	<b>(27,698,405)</b>	<b>391,408,041</b>	<b>363,709,636</b>	<b>(27,698,405)</b>
<b>Business privilege taxes:</b>						
Greater Receipts Taxes	202,375,945	198,218,876	(4,157,069)	202,375,945	198,218,876	(4,157,069)
Other Taxes	0	31,275	31,275	0	31,275	31,275
Admission tax	3,362,792	2,984,054	(378,738)	3,362,792	2,984,054	(378,738)
Use tax	205,738,737	201,234,283	(4,504,454)	205,738,737	201,234,283	(4,504,454)
<b>Business Privilege Taxes</b>	<b>411,477,474</b>	<b>402,438,188</b>	<b>(9,039,286)</b>	<b>411,477,474</b>	<b>402,438,188</b>	<b>(9,039,286)</b>
<b>Licenses, Fees &amp; Permits</b>	<b>6,587,431</b>	<b>4,509,573</b>	<b>(2,077,858)</b>	<b>6,587,431</b>	<b>4,509,573</b>	<b>(2,077,858)</b>
<b>Use of Money &amp; Property</b>	<b>2,517,513</b>	<b>451,587</b>	<b>(2,065,926)</b>	<b>2,517,513</b>	<b>451,587</b>	<b>(2,065,926)</b>
<b>Federal Sources:</b>						
Section 30 <sup>3</sup>	46,331,055	46,331,373	26,218	46,331,055	46,331,373	26,218
Immigration fees	1,416,991	1,567,660	150,669	1,416,991	1,567,660	150,669
Recovery from Individuals	0	0	0	0	0	0
Child Support AEDC Local Share	230,358	221,237	(9,121)	230,358	221,237	(9,121)
<b>Federal Sources</b>	<b>47,978,403</b>	<b>48,120,270</b>	<b>141,867</b>	<b>47,978,403</b>	<b>48,120,270</b>	<b>141,867</b>
<b>Department Charges:</b>						
Agriculture	0	301	301	0	301	301
Police & corrections	0	0	0	0	0	0
Public works	245,285	17,353	(227,932)	245,285	17,353	(227,932)
Public health	286,443	141,542	(144,901)	286,443	141,542	(144,901)
Commerce	393,087	348,086	(45,001)	393,087	348,086	(45,001)
Other charges	1,728,294	1,677,894	(50,400)	1,728,294	1,677,894	(50,400)
<b>Department Charges</b>	<b>2,259,952</b>	<b>1,586,186</b>	<b>(673,766)</b>	<b>2,259,952</b>	<b>1,586,186</b>	<b>(673,766)</b>
<b>TOTAL GENERAL FUND REVENUES</b>	<b>\$ 657,902,127</b>	<b>\$ 626,161,106</b>	<b>\$ (31,741,021)</b>	<b>\$ 657,902,127</b>	<b>\$ 626,161,106</b>	<b>\$ (31,741,021)</b>
<b>Excess:</b>			<b>-5,7496</b>			<b>-5,7496</b>

1. Revenue on bond as recorded monthly. Ending the year revenue are reported on a monthly basis and as stated in the BBMR. Pursuant to SOCA Ch. 4 §4109(a)(5) (due 28 days after month-end).  
 2. Section 30 is reported for 12 months.  
 3. Based on Adopted Revenue allocated per P.L. 30-196, Chapter 1, Section 4001.  
 4. Based on Adopted Revenue P.L. 30-196, Chapter 1, Section 2.

Note 1: Data contained herein are subject to change, or addition or modification as projected and obtained that corroborates the current presentation of the underlying revenue source data.





*Eddie Baza Calvo*  
Governor  
*Ray S. Tenorio*  
Lieutenant Governor

**Department of Administration**  
(DIPATTAMENTON ATEMENSTRASION)  
**DIRECTOR'S OFFICE**  
(UFISINAN DIREKTOT)  
Post Office Box 884 Hagatña, Guam 96932  
Tel: (671) 475-1101/1250 Fax: (671) 477-8788

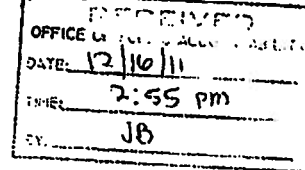


*Benito A. Manglano*  
Director  
*George A. Santos*  
Deputy Director

**MEMORANDUM**

December 15, 2011

**To:** Public Auditor, Office of Public Accountability  
**From:** Director, Department of Administration  
**Subject:** Response to OPA Report: Government of Guam  
Income Tax Refund Efficient Payment Trust Fund



This is in response to your Audit Report on the Government of Guam's Income Tax Refund Efficient Payment Trust Fund. Since the initial establishment of the Income Tax Refund Efficient Payment Trust Fund in 2002, the government has not been in full compliance of the law because of the cash challenges resulting from the General Fund deficit it continues to carry forward year after year.

In January, when the new administration took office, the Government of Guam was challenged with not only a cash management problem, but a budgetary shortfall for departments and agencies. The deficit increased by \$71 million to \$336 million as of September 30, 2010. There were negative cash balances with millions owed to restricted accounts, court ordered payments without fund sources or appropriations and, at the time, an anticipated budgetary shortfall for fiscal year 2011 of over \$40 million. The financial condition is the primary reason that this government has been unable to make prompt payments not only for deposits into the Income Tax Refund Efficient Payment Trust Fund for tax refunds, but for vendor payables, and other obligations. As of September 30, 2011, the Department of Administration was mandated to set aside or reserve over \$100 million to pay for the 2011 tax refunds. However, due to the cumulative deficit of over \$300 million, the increase in the deficit for fiscal year 2011, and the inherited negative cash balances at the beginning of the year, the funds actually set aside were used to pay prior years' tax refunds instead of the mandated set aside requirement for the 2011 tax refund year due and payable in 2012.

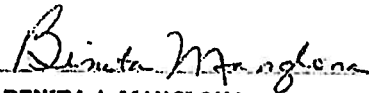
This was one of the primary reasons the administration requested for the \$344 million bond to pay off all tax refunds for tax year 2010 and prior as well as for 2011 tax refund obligations which will be due in 2012. Instead, the Legislature approved only \$235 million in Series A bond borrowing to pay for tax refunds up to 2010 only. We will need Series B to pay for the 2011 tax refunds since we were not able to set aside the funds as mandated

**Management Response**

because of the revenue shortfall and using current set aside for prior years' tax refunds. Since October 1, 2011, we have continued to pay for prior years' tax refunds when the law mandated DOA to set aside for the 2012 tax refunds. We will only be able to catch up if the government secures funds through the issuance of Series B which requires further legislative authorization. As a result, current set aside of funds for tax refunds will then become available when the 2012 tax returns are filed in 2013.

DOA concurs that other procedural requirements of the Trust Fund Act were not followed due to unanticipated economic revenue trends and court ordered mandates affecting the finances and operations of the Government of Guam. Cash collected on a daily basis is deposited directly to the general fund. Frequently before the Treasurer could even transfer the funds needed to go to the Tax Refund Efficient Payment Trust Fund, the cash collected is used directly to fund operations, meet required allotments to the Legislature, Judiciary, University of Guam, Guam Community College, and other required nondiscretionary disbursements. As a result, at the end of the day, the funds are depleted and the required set aside is not accomplished. If full compliance of this mandate is met without consideration of the cash flow, it will mean payless paydays and non-remittance to required nondiscretionary disbursements creating a situation as you explicitly illustrated of the government operations coming to a halt. Thus, set asides to the Trust Fund were not done according to the stipulated formula, but on a sporadic basis while transfer out from Trust Fund account to General Fund account were done on a regular basis to pay for DOA/DRT scheduled tax refund payments and for General Fund operations.

DOA also acknowledges and going forward intends to adhere to OPA's recommendation to comply with the procedural requirements of the Trust Fund Act where formulated set aside be directly deposited to the Trust Fund account.



**BENITA A. MANGLONA**



**Government of Guam  
Income Tax Refund Efficient Payment Trust Fund  
Report No. 11-10, December 2011**

**ACKNOWLEDGEMENTS**

**Key contributions to this report were made by:**  
 Rodalyn G. Marquez CIA, CGFM, CPA, CGAP, Audit Supervisor  
 Llewelyn Terlaje, @GAP, Auditor-in-Charge  
 Jocelyn Untalan, Staff Auditor  
 Doris Flores Brooks, CPA, CGFM, Public Auditor

**MISSION STATEMENT**

**To improve the public trust,  
 we audit, assess, analyze, and make recommendations  
 for accountability, transparency,  
 effectiveness, efficiency, and economy of the government of Guam  
 independently, impartially, and with integrity.**

**VISION**

**Guam is the model for good governance in the Pacific.**

**CORE VALUES**

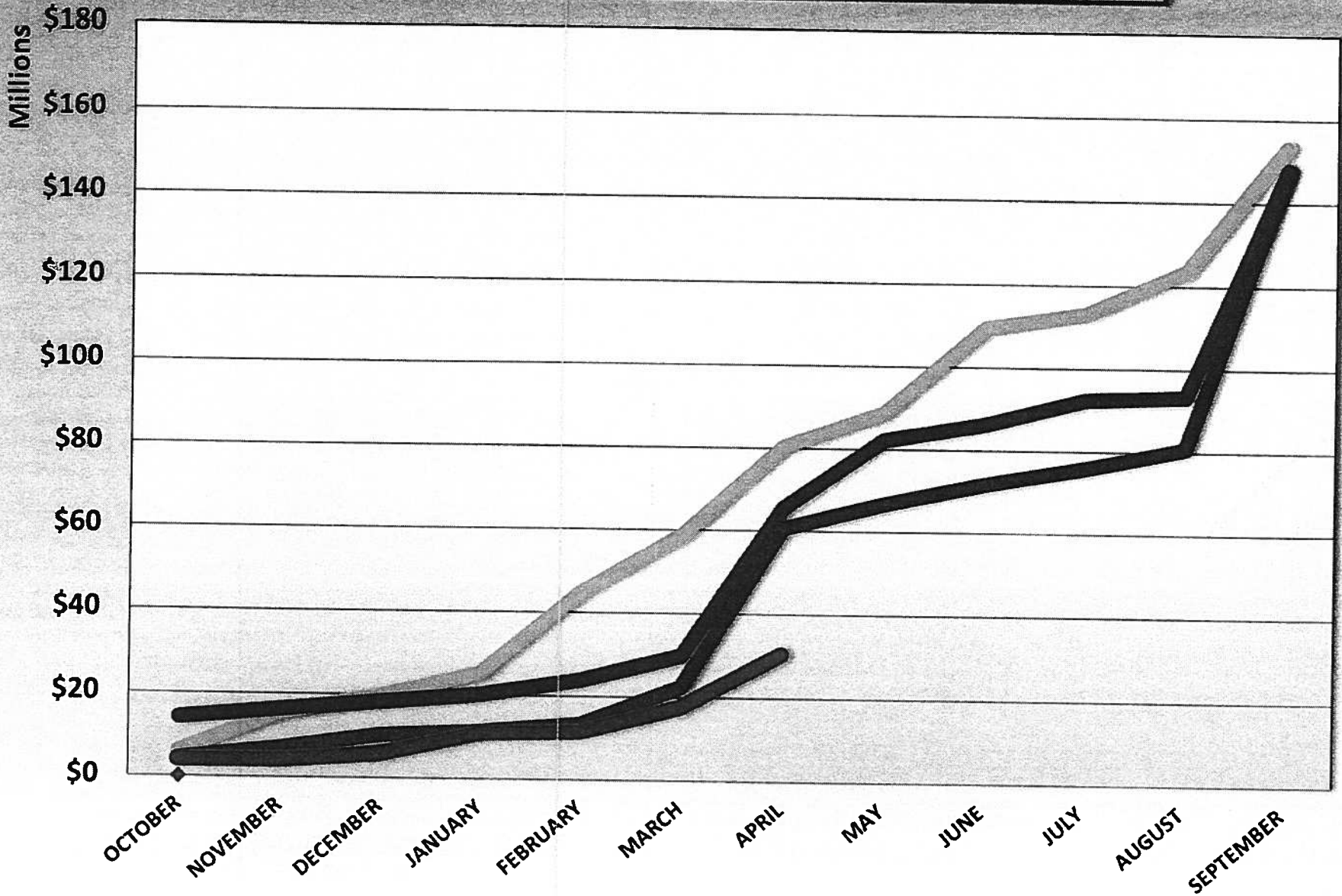
<b>Integrity</b>	<b>Independence</b>	<b>Impartiality</b>
	<b>Accountability</b>	<b>Transparency</b>

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- **Call our office at 475-0390**
- **Fax our office at 472-7951**
- **Or visit us at Suite 401, DNA Building in Hagåtña.**

**All information will be held in strict confidence.**

# Monthly Cumulative Tax Refund By Fiscal Year

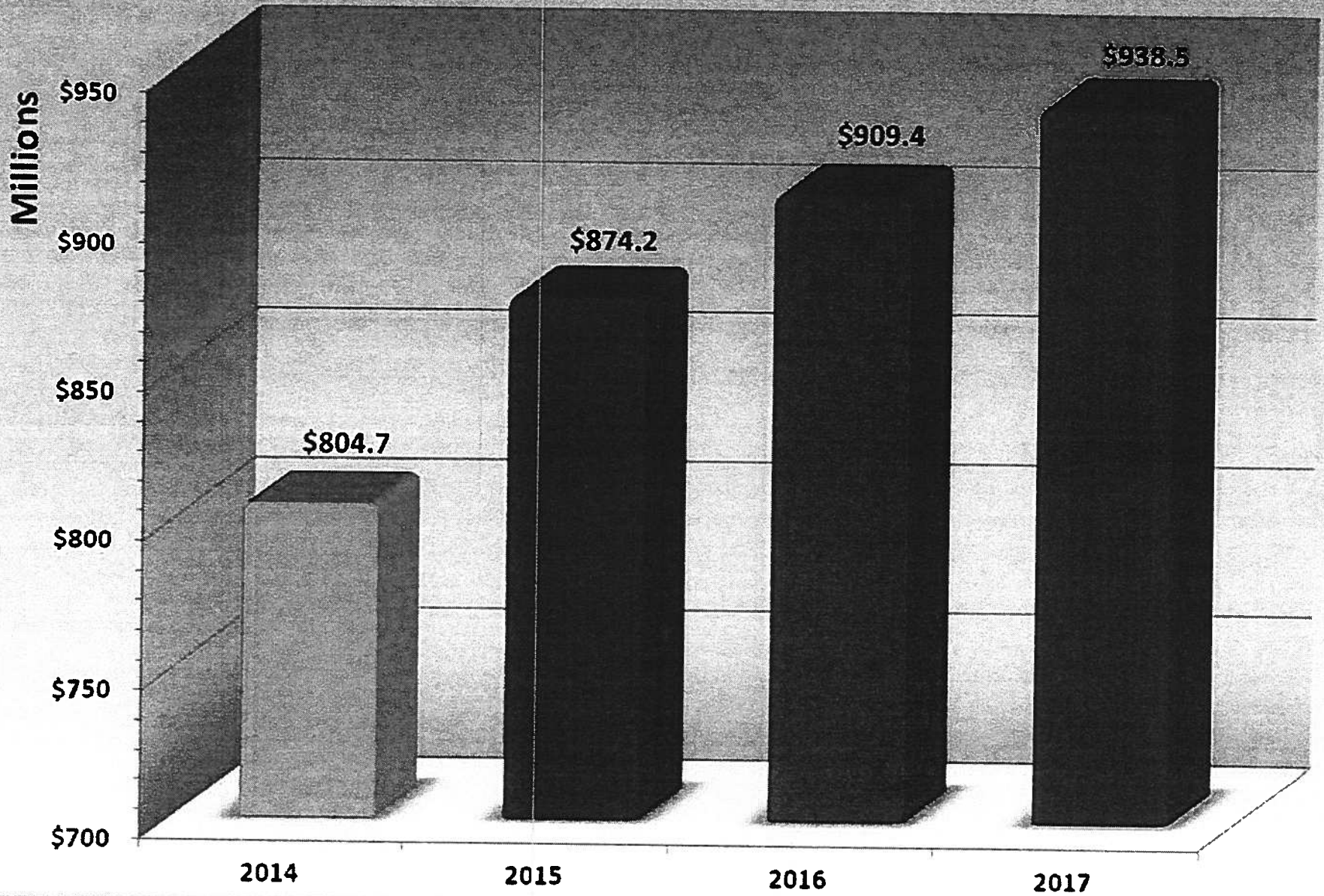


**EXHIBIT 4**

— 2014 — 2015 — 2016 — 2017

**EXHIBIT 5**

# Fiscal Year Budget 2014-2017



Senator Thomas C. Ada,  
Vice Chairperson

Speaker Benjamin J.F. Cruz,  
Member

Vice Speaker Therese M. Terlaje,  
Member

Senator Frank B. Aguon, Jr.,  
Member

Senator Telena C. Nelson,  
Member



**COMMITTEE ON RULES**

**SENATOR RÉGINE BISCOE LEE, CHAIR**

SIKRITARIAN LIHESLATURAN GUAHAN  
I MINA'TRENTAI KUÁTRO NA LIHESLATURAN GUÁHAN  
LEGISLATIVE SECRETARY • 34<sup>TH</sup> GUAM LEGISLATURE

Senator Dennis G. Rodriguez, Jr.,  
Member

Senator Joe S. San Agustin,  
Member

Senator Michael F.Q. San Nicolas,  
Member

Senator James V. Espaldon,  
Member

Senator Mary Camacho Torres,  
Member

**COMMITTEE REPORT CHECKLIST**

Part 1 / 1

<b>RESOLUTION NO. 310-34 (COR)</b>	
Relative to respectfully petitioning the United States Congress, pursuant to 48 USC §1423k, to enact legislation amending the Organic Act of Guam to include a provision of Guam Public Law 26-74 for the Government of Guam to deposit a required percentage of tax collections into the Guam Income Tax Refund Efficient Payment Trust Fund for the payment of income tax refunds, and that any such amendment be referenced as the "Vicente C. Pangelinan Amendment".	
<b>Referred to:</b> Senator Michael F.Q. San Nicolas, <i>Sponsor</i>	
<b>(A) PUBLIC HEARING</b>	<b>(1) HEARING NOTICES</b> SR §§ 6.04(a)(1) and 6.04(a)(2), Open Government Law (5 GCA, Ch. 8)
	<input checked="" type="checkbox"/> <b>(a)</b> Five (5) working days prior (ALL Senators & ALL Media)
	<input checked="" type="checkbox"/> <b>(b)</b> Forty-eight (48) hours prior (ALL Senators & ALL Media)
	<b>(2) Date and Time of Hearing:</b> <i>Wed., March 7, 2018 @ 10:30 a.m.</i>
	<b>(3) Location:</b>  <b>The Public Hearing Room, Guam Congress Building</b>
	<b>Date and Time of Notice:</b> <i>Tues., Feb. 27, 2018 @ 3:45pm.</i>  <b>Date and Time of Notice:</b> <i>Mon., March 5, 2018 @ 4:35pm. + (Newspaper ad) 3.9.18</i>  or <b>(4) HEARING WAIVED by Speaker in case of emergency</b> SR § 6.04(a)(1) <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A  If YES: <b>Attach memo indicating WAIVER</b>



GUAM CONGRESS BUILDING • 163 CHALAN SANTO PAPA • HAGÁTÑA, GUAM 96910  
Telephone: (671) 472-3455 • Email address: [corguamlegislature@gmail.com](mailto:corguamlegislature@gmail.com)

**Committee Report Checklist on  
Resolution No. 310-34 (COR)  
Part 1 / 1**

<b>(B) COMMITTEE REPORT</b>	<b>(1) Committee Report filed with COR?</b> <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO  <i>If YES:</i> <b>Date &amp; Time:</b> <b>Thurs., March 8, 2018</b> <b>@ 1:09 p.m.</b>	<b>Notes:</b>	<i>If NO:</i> <b>UNABLE TO PLACE ON SESSION AGENDA</b> SR § 6.04(d)(1)
	<b>(1)(a) Secondary CMTE Report filed with COR?</b> <input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> N/A  <i>If YES:</i> <b>Date &amp; Time:</b>		
<b>(2) COMMITTEE REPORT COMPONENTS</b>			
<b>(a) Front Page Transmittal to Speaker</b>		<input checked="" type="checkbox"/>	
<b>(a)(1) COR Chair Signature Line</b>		<input checked="" type="checkbox"/>	
<b>(b) Title Page</b>		<input checked="" type="checkbox"/>	
<b>(c) Committee Chair Memo to All Committee Members</b>		<input checked="" type="checkbox"/>	
<b>(d) COR Referral Memorandum</b>		<input checked="" type="checkbox"/>	
<b>(e) Notice of Public Hearing &amp; Other Correspondence</b>		<input checked="" type="checkbox"/>	
<b>(f) Public Hearing Agenda</b>		<input checked="" type="checkbox"/>	
<b>(g) Public Hearing Sign-in Sheet</b>		<input checked="" type="checkbox"/>	
<b>(h) Written Testimonies &amp; Additional Documents</b>		<input type="checkbox"/>	N/A
<b>(i) Committee Vote Sheet(s)</b>		<input checked="" type="checkbox"/>	
<b>(j) Committee Report Digest(s)</b>		<input checked="" type="checkbox"/>	
<b>(k) Resolution History</b>		<input checked="" type="checkbox"/>	
<b>(k)(1) Copy of Resolution as introduced + Exhibits 1, 2, 3</b>		<input checked="" type="checkbox"/>	
<b>(k)(2) Copy of Bill as amended/substituted by Committee (if applicable)</b>		<input type="checkbox"/>	N/A
<b>(n) Related News Reports (optional)</b>		<input type="checkbox"/>	N/A
<b>(o) Miscellaneous (optional)</b>		<input type="checkbox"/>	N/A
<b>(p) Committee Report Checklist(s)</b>		<input checked="" type="checkbox"/>	
		Originals	<input checked="" type="checkbox"/>
		Single-Sided	<input checked="" type="checkbox"/>
		Letter Size	<input checked="" type="checkbox"/>
		No Staples/ Paper Clips	<input checked="" type="checkbox"/>
<b>(C) COR Action</b>	<input checked="" type="checkbox"/> CMTE Report duly filed; Available for Placement on Session Agenda <input type="checkbox"/> CMTE Report non-conforming for acceptance; Return to Committee	<b>COR CHAIR</b> (Signature, Date & Time)  <i>Felix [Signature]</i> <b>3.8.18 @ 2:20pm.</b>	