

EDDIE BAZA CALVO  
Governor



RAY TENORIO  
Lieutenant Governor

*Office of the Governor of Guam*

January 20, 2011

Honorable Judith T. Won Pat, Ed.D.  
Speaker  
*I Mina'trentai Unu Na Liheslaturan Guåhan*  
155 Hesler Street  
Hagåtña, Guam 96910

2011 JAN 21 PM 5:00  
31-11-079  
Office of the Governor  
Judith T. Won Pat, Ed.D.  
Date: 1/21/11  
Time: 2:37 PM  
Received by: [Signature]  
[Signature]

Dear Speaker Won Pat:

Transmitted herewith is Substitute Bill No. 492-30 (COR) "AN ACT TO DISTRIBUTE ADDITIONAL COLA AWARD PAYMENTS FOR CERTIFICATES OF CLAIM ISSUED, AND TO AUTHORIZE THE SALE OF GENERAL OBLIGATION PROMISSORY NOTES FOR PAYMENTS TO COLA AWARDEES, IN REFERENCE TO SUPERIOR COURT CASE NO. SP0206-93", which I signed into law on January 20, 2011 as **Public Law 30-239**.

*Senseramente,*

[Signature]  
EDDIE BAZA CALVO

Attachment: copy of Bill

**I MINA'TRENTA NA LIHESLATURAN GUÅHAN**  
**2010 (SECOND) Regular Session**

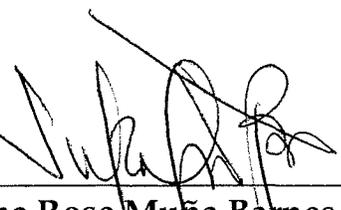
**CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN**

This is to certify that **Substitute Bill No. 492-30 (COR), "AN ACT TO DISTRIBUTE ADDITIONAL COLA AWARD PAYMENTS FOR CERTIFICATES OF CLAIM ISSUED, AND TO AUTHORIZE THE SALE OF GENERAL OBLIGATION PROMISSORY NOTES FOR PAYMENTS TO COLA AWARDEES, IN REFERENCE TO SUPERIOR COURT CASE NO. SP0206-93,"** was on the 22<sup>nd</sup> day of December, 2010, duly and regularly passed.



\_\_\_\_\_  
**Judith T. Won Pat, Ed. D.**  
**Speaker**

Attested:



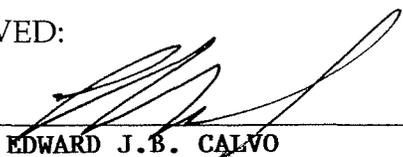
\_\_\_\_\_  
**Tina Rose Muña Barnes**  
**Legislative Secretary**

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This Act was received by *I Maga'lahaen Guåhan* this \_\_\_\_\_ day of \_\_\_\_\_, 2010, at \_\_\_\_\_ o'clock \_\_\_\_\_.M.

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

APPROVED:



\_\_\_\_\_  
**EDWARD J.B. CALVO**  
*I Maga'lahaen Guåhan*

Date: **JAN 20 2011**

Public Law No. 30-239

*I MINA'TRENTA NA LIHESLATURAN GUÅHAN*  
**2010 (SECOND) Regular Session**

**Bill No. 492-30 (COR)**

As substituted by the Committee on Appropriations,  
Taxation, Banking, Insurance, Retirement, and Land,  
and amended on the Floor.

Introduced by:

v. c. pangelinan  
Judith T. Won Pat, Ed.D.  
T. C. Ada  
V. Anthony Ada  
F. B. Aguon, Jr.  
F. F. Blas, Jr.  
E. J.B. Calvo  
B. J.F. Cruz  
J. V. Espaldon  
Judith P. Guthertz, DPA  
T. R. Muña Barnes  
Adolpho B. Palacios, Sr.  
R. J. Respicio  
Telo Taitague  
Ray Tenorio

**AN ACT TO DISTRIBUTE ADDITIONAL COLA  
AWARD PAYMENTS FOR CERTIFICATES OF CLAIM  
ISSUED, AND TO AUTHORIZE THE SALE OF  
GENERAL OBLIGATION PROMISSORY NOTES FOR  
PAYMENTS TO COLA AWARDEES, IN REFERENCE  
TO SUPERIOR COURT CASE NO. SP0206-93.**

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

2           **Section 1. Legislative Findings and Intent.** In Public Law 30-196, the  
3 General Appropriations Act of 2011, *I Liheslaturan Guåhan* prioritized the  
4 appropriation of surplus revenues toward prior obligations incurred as a result of

1 court orders and deficit spending. The fulfillment and completion of the  
2 government's payment of the obligation to retirees pursuant to *Rios vs. Camacho*,  
3 SP0206-93 continues to elude claimants due to lack of a structured funding source.

4 *I Liheslaturan Guåhan* wishes to complete the payment of the Cost of  
5 Living Allowance (COLA) awards to bring finality to this injustice to the  
6 *manåmko*' and their heirs. The urgency of paying down this outstanding liability  
7 stems from concerns related to the financial need of recipients and the legal  
8 obligation that will continue to accumulate and increase the government's liability  
9 and the potential for further litigation if the situation remains unresolved.

10 *I Liheslaturan Guåhan* finds that there are cash resources which remain  
11 available, and in some cases unclaimed, due to awardees, beneficiaries and heirs  
12 who are not able to complete the process to legally verify their right to the award.  
13 A review of these awards projects that it is unlikely that these awards will be  
14 disbursed in the near term.

15 *I Liheslaturan Guåhan* further finds that it is prudent to expend funds that  
16 remain in a bank account, due to unclaimed awards, to awardees whose claims are  
17 in order and ready for payment. Rather than allow previously appropriated funds  
18 for COLA claimants to sit idle, *I Liheslatura* intends to use a portion of these funds  
19 to pay for existing claimants, which have been verified by the Government of  
20 Guam Retirement Fund. *I Liheslaturan Guåhan* recognizes that the use of these  
21 funds in *no way* extinguishes the unclaimed awards of these claimants.

22 *I Liheslaturan Guåhan* further finds that the payment authorization and  
23 guidelines authorized in this Act herein *shall* assist the government of Guam in  
24 partnership with the Government of Guam Retirement Fund (GGRF), on behalf of  
25 its members, in meeting the court ordered obligations in *Rios vs. Camacho*,  
26 SP0206-93 and further, provide relief to outstanding financial liabilities while  
27 eliminating the potential of further litigation against the government of Guam.

1            *I Liheslatura* intends that the GGRF *shall* use the funds appropriated herein  
2 *solely* for paying down part of the COLA liability to retirees and for this purpose  
3 alone.

4            **Section 2. Authorization to Use Unclaimed and Unprocessed COLA**  
5 **Awards.** The Government of Guam Retirement Fund is hereby authorized to use  
6 Three Million Dollars (**\$3,000,000**) from unreleased award payments to retirees  
7 and beneficiaries where *no* awardees, beneficiaries or heirs have come forward to  
8 claim the awards and where awardees, beneficiaries or heirs are unable to complete  
9 processing of claims to pay claimant awards ready for distribution set forth in Title  
10 5, Guam Code Annotated, Chapter 6, Article 4, §6404(d)(1).

11            **Section 3. COLA Disbursement Provisions.**

12            The disbursement provision for the authorization in Section 2 is Principal or  
13 Interest from principal owed starting with the claimant with the lowest initial  
14 award from the class settlement, followed by the next lowest initial award and  
15 repeating this disbursement methodology until all the funds appropriated and  
16 authorized are exhausted.

17            **Section 4.** A new Subsection (e) is hereby *added* to §6404 of Article 4,  
18 Chapter 6 of Title 5, Guam Code Annotated, to read:

19            “(e) Sale of Certificates of Claim in Whole or Part as General  
20 Obligation Promissory Notes.

21            (1) Authorization to Borrow. *I Maga’låhen Guåhan* is  
22 authorized to issue General Obligation Promissory Notes (the  
23 “Notes”) *not* to exceed the total amount of all outstanding and  
24 unredeemed Certificates of Claim issued to “COLA” Awardees in  
25 reference to Superior Court Case No. SP0206-93 and as authorized in  
26 Title 5 GCA §6404(d). The Notes *shall* be general obligations of the  
27 government of Guam secured by the full faith and credit of the

1 government of Guam. *I Maga'låhen Guåhan shall* within sixty (60)  
2 days after the enactment of this Act issue a Request for Proposal for  
3 the sale of the general obligation promissory notes authorized herein.

4 (2) Terms and Conditions. The terms and conditions of the  
5 Notes *shall* be as determined by *I Maga'låhen Guåhan*; provided, that  
6 the notes:

7 (A) *shall* not be secured by a pledge of Section 30  
8 revenues;

9 (B) *shall* be redeemed in full, including accrued  
10 interest within twenty (20) years or thereafter automatically  
11 convert to Certificates of Claim subject to the terms and  
12 conditions defined in Title 5 GCA §6404(d);

13 (C) *shall* bear interest at such fixed or variable rate or  
14 rates as may be negotiated by *I Maga'låhen Guåhan* in the best  
15 interests of the government, such interest rate *shall not* exceed  
16 eight percent (8%), and *shall* be computed on a three hundred  
17 sixty-five (365) day calendar year upon the actual amount  
18 issued by the government of Guam.

19 (3) Sale of Promissory Notes.

20 (A) Sale of the Notes *shall* be in denominations *no less*  
21 *than* Five Thousand Dollars (\$5,000.00);

22 (B) Investor purchase quantity *shall not* be limited;

23 (C) Investor access to purchase of the Notes *shall* be in  
24 the following order of priority:

25 (i) the Government of Guam Retirement Fund;

26 (ii) residents of Guam;

1 (iii) banks or other financial institutions licensed  
2 to conduct business on Guam;

3 (iv) other entities licensed to conduct business  
4 on Guam; and

5 (v) all other interested institutions as determined  
6 by *I Maga'låhen Guåhan*.

7 (4) Use of Proceeds From the Sale of the Notes. The  
8 proceeds from the sale of the Notes *shall* only be used and are hereby  
9 appropriated to redeem and pay outstanding Certificates of Claims  
10 issued to COLA awardees in Superior Court Case No. SP0206-93.

11 (5) Approval by the Guam Economic Development  
12 Authority. Notes authorized in this Section *shall not* be sold until the  
13 Board of Directors of the Guam Economic Development Authority  
14 approves the terms and conditions of the Note sale.

15 (6) Approval of Voters Not Required. The Notes *shall not*  
16 be subject to the approval of voters of Guam.

17 (7) Continuing Annual Appropriation of Principal and  
18 Interest. Effective October 1, 2011, and each October 1 thereafter,  
19 there is hereby appropriated sums from the General Fund required for  
20 all payments of principal and interest based on a maturity schedule to  
21 repay any general obligation promissory notes authorized in  
22 §6404(e)(1). This annual appropriation *shall* be a continuing  
23 appropriation and *shall not* lapse at the end of the fiscal year. In  
24 addition to any funds specifically appropriated by this Act, all moneys  
25 received from any other source as contributions or supplements for  
26 repayment of the notes established in this Act, and any interest or

1 income earned, *shall* be paid into a Fund established for repayment  
2 and *shall* be a continuing appropriation.”

3 **Section 5. Retirement Fund Purchase Authorization.** Notwithstanding  
4 any other provision of law, the Government of Guam Retirement Fund may  
5 purchase for investment the government of Guam General Obligation Promissory  
6 Notes authorized herein and indemnifies all Board members from any liability  
7 arising from the purchase of such promissory notes.

8 **Section 6. Effective Date.** This Act *shall* be effective upon enactment.

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

6

# I MINA' TRENTA NA LIHESLATURAN GUÅHAN

2010 (SECOND) Regular Session

Date: 12/22/10

## VOTING SHEET

SBill No. 492-30(COR)

Resolution No. \_\_\_\_\_

Question: \_\_\_\_\_

<u>NAME</u>	<u>YEAS</u>	<u>NAYS</u>	<u>NOT VOTING/ ABSTAINED</u>	<u>OUT DURING ROLL CALL</u>	<u>ABSENT</u>
ADA, Thomas C.     ///		*			
ADA, V. Anthony	✓				
AGUON, Frank B., Jr.					EA
BLAS, Frank F., Jr.	✓				
CALVO, Edward J.B.	✓				
CRUZ, Benjamin J. F.     ///		*			
ESPALDON, James V.     ///		*			
GUTHERTZ, Judith Paulette	✓				
MUNA-BARNES, Tina Rose	✓				
PALACIOS, Adolpho Borja, Sr.	✓				
PANGELINAN, vicente (ben) cabrera	✓				
RESPICIO, Rory J.	✓				
TAITAGUE, Telo	✓				
TENORIO, Ray	✓				
WON PAT, Judith T.	✓				

TOTAL

11    3    \_\_\_\_\_    \_\_\_\_\_    1

CERTIFIED TRUE AND CORRECT:

  
 Clerk of the Legislature

\* 3 Passes = No vote  
 EA = Excused Absence



The People

Chairman  
Committee on Appropriations,  
Taxation, Banking, Insurance,  
Retirement, and Land

Member  
Committee on Education

Member  
Committee on  
Municipal Affairs,  
Aviation, Housing, and  
Recreation

Member  
Committee on Labor, the  
Public Structure,  
Public Libraries, and  
Technology

Mina' Trenta Na Liheslaturan Guåhan

Senator vicente (ben) c. pangelinan (D)

DEC 15 2010

**The Honorable Judith T. Won Pat, Ed.D.**  
Speaker  
I Mina' Trenta na Liheslaturan Guåhan  
155 Hesler Place  
Hagåtña, Guam 96910

**VIA: The Honorable Rory J. Respicio**  
Chairperson, Committee on Rules

RE: Committee Report on Bill No. 492-30 (COR, As Substituted

2010 DEC 20 AM 11:56

*Handwritten initials*

Dear Speaker Won Pat:

Transmitted herewith is the Committee Report on Substitute Bill No. 492-30 (COR): An act to distribute additional COLA award payments for certificates of claim issued and to authorize the sale of General Obligation Promissory Notes for payments to "COLA" awardees in reference to Superior Court Case No. SP0206-93. which was referred to the Committee on Appropriations, Taxation, Banking, Insurance, Retirement, and Land.

Committee votes are as follows:

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

*Si Yu'us Ma'ase,*

vicente c. pangelinan  
Senator

COMMITTEE  
REPORT  
ON

SUBSTITUTE BILL NO. 492-30 (COR)  
“AN ACT TO DISTRIBUTE ADDITIONAL  
COLA AWARD PAYMENTS FOR  
CERTIFICATES OF CLAIM ISSUED AND TO  
AUTHORIZE THE SALE OF GENERAL  
OBLIGATION PROMISSORY NOTES FOR  
PAYMENTS TO “COLA” AWARDEES IN  
REFERENCE TO SUPERIOR COURT CASE  
NO. SP0206-93.”



The People

Mina'Trenta Na Liheslaturan Guåhan

Senator vicente (ben) c. pangelinan (D)

DEC 15 2010

**MEMORANDUM**

Chairman  
Committee on Appropriations,  
Taxation, Banking, Insurance,  
Retirement, and Land

**To: All Members**  
Committee on Appropriations, Taxation, Banking, Insurance, Retirement,  
and Land

Member  
Committee on Education

**From: Senator vicente "ben" c. pangelinan**  
Committee Chairperson

**Subject: Committee Report on Bill No. 492-30 (COR), As Substituted**

Member  
Committee on  
Municipal Affairs,  
Aviation, Housing, and  
Recreation

Transmitted herewith for your consideration is the Committee Report on Substitute Bill No 492-30 (COR): An act to distribute additional COLA award payments for certificates of claim issued and to authorize the sale of General Obligation Promissory Notes for payments to "COLA" awardees in reference to Superior Court Case No. SP0206-93.

Member  
Committee on Labor, the  
Public Structure,  
Public Libraries, and  
Technology

This report includes the following:

- Committee Voting Sheet
- Committee Report Narrative
- Copy of Bill No. 492-30 (COR)
- Copy of Bill No. 492-30 (COR), As Substituted
- Public Hearing Sign-in Sheet
- Copies of Written Testimony & Supporting Documents
- Copy of COR Referral of the Appointment
- Notices of Public Hearing
- Copy of the Public Hearing Agenda

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

*Si Yu'us Ma'ase,*

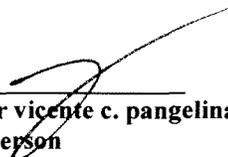
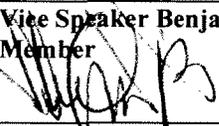
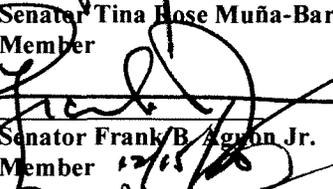
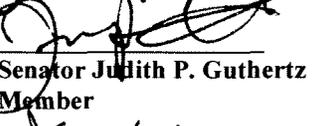
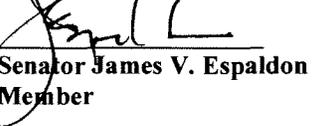
vicente c. pangelinan  
Senator

I MINA' TRENTA NA LIHESLATURAN GUÁHAN

Committee Voting Sheet

Committee on Appropriations, Taxation, Banking, Insurance, Retirement,  
and Land

Substitute  
 Bill No. 492-30 (COR): An act to distribute additional COLA award payments for certificates of claim issued and to authorize the sale of General Obligation Promissory Notes for payments to "COLA" awardees in reference to Superior Court Case No. SP0206-93

Committee Members	To Pass	Not To Pass	Report Out	Abstain	Inactive Files
 Senator Vicente C. Pangelinan Chairperson	✓				
Speaker Judith T. Won Pat, Ed.D Vice Chairperson					
Vice Speaker Benjamin J.F Cruz Member					
 Senator Tina Rose Muña-Barnes Member	✓				
 Senator Frank B. Aguirre Jr. Member					
 Senator Judith P. Guthertz Member	✓				
 Senator James V. Espaldon Member			✓		
Senator Telo T. Taitague Member					
Senator Frank Blas, Jr. Member					



## Committee Report

Bill No. 492-30 (COR): “An act to distribute additional COLA award payments for certificates of claim issued and to authorize the sale of General Obligation Promissory Notes for payments to “COLA” Awardees in reference to Superior Court Case No. SP0206-93.”

### I. OVERVIEW

The Committee on Appropriations, Taxation, Banking, Insurance, Retirement, and Land convened a public hearing December 3, 2010, at *I Liheslatura's* Public Hearing Room.

#### Public Notice Requirements

Notices for the public hearing were disseminate via hand-delivery and electronic mail to all senators and all main media broadcasting outlets on November 26 (5 day notice), and again on December 1 (48 hour notice).

#### (a) Committee Members and Senators present:

Senator vicente “ben” pangelinan, Chairman  
Senator Tina Muna-Barnes, Member  
Senator Tom Ada, Member  
Senator Tony Ada

#### (b) Appearing before the committee:

Jose Chargualaf  
Ben Garrido  
Ofing Jackson  
Maga'Luhion Pagat  
Gloria Nelson  
Jose San Agustin  
Bernadita Baza Terre  
Joseph V. Camacho  
John S. Lizama  
Bobing Wolford

Chairman  
Committee on Appropriations,  
Taxation, Banking, Insurance,  
Retirement, and Land

Member  
Committee on Education

Member  
Committee on  
Municipal Affairs,  
Aviation, Housing, and  
Recreation

Member  
Committee on Labor, the  
Public Structure,  
Public Libraries, and  
Technology

**(c) Written Testimony Submitted:**

Government of Guam Retirement Fund

**II. COMMITTEE PROCEEDINGS**

**(a) Bill Sponsor Summary**

(b)

Chairman Senator ben pangelinan: Thank you for being here today; let's go ahead and begin with our agenda for today's public hearing. There are several bills on our agenda. We'll begin with Bill 492; an Act to distribute additional COLA award payments for certificates of claims listed and issued, and authorized the sale of general obligation promissory notes for the payments to COLA awardees in reference to Superior Court Case Number SP 02 06-30.

We have, signed-up, with us this morning Ms. Gloria Nelson... please join us at the table. Speaker Joe T. San Agustin is here from Retirement We also have Mr. Joe Chargualaf (has signed-up) and Paula Blas, also from Retirement.

We'll start with this panel, and then we'll call up the next panel after this. Before we begin, I'd like to recognize my colleagues who are here with me this morning to help us with these issues. To my right is Senator, Acting Speaker, Tina Muna Barnes. To my left is Tony Ada and Tom Ada. We're going to be good this morning, because they are here to listen to the public testimonies.

Good morning, Ladies and Gentlemen. The Committee on Appropriations, Taxation, Banking, Insurance, Retirement, and Land is convened this morning to hear the agenda that's before us. We have a lengthy agenda, and we'll just go through the order of the agenda that was published. We will start with Bill 492.

Bill 492 is a bill to distribute additional COLA award payments for certificates of claims issued and to authorize the sale of general obligation promissory notes for payment to COLA awardees. Very briefly, what the bill does is to allow the distribution of existing COLA awards that are in an escrow account. We have worked with the Retirement Fund to identify these funds. There is a little over four million dollars in the existing escrow account. Of the four million, we probably have somewhere between seven hundred to a million dollars in which COLA awardees have begun the process to get their payment and have made contact with the Retirement Fund. As you know, the estate has to be legally settled or the beneficiary has to be legally settled in order to distribute these payments. Of the four million dollars, approximately three million represents claims that have not had official contact or have not begun the process of settling their claims and therefore, is sitting in the account. What this bill will do is it will reserve a million dollars of the remaining balance for those who have already begun the process, so that when they have completed the process, the money will be there to pay out the awards. The remaining three million dollars will be distributed and pay the retirees as we have in the past (starting from the bottom up, in terms of their remaining balance).

In addition, the bill will also allow the governor—as you know, every COLA awardee was issued certificates of claim for the interest and the small principle amount that is still owed - to package these certificates and say, “I want to be able to issue GovGuam notes, enter into a loan, take the money and redeem your certificates.” The government would pay the value of the certificate from the proceeds and then pay back the buyers of the notes. It allows the individual investors, the Retirement Fund, as well as banks and institutions to buy these notes. We’re doing this so that the COLA retiree does not have to deal with selling the certificate on an individual basis, discounting their certificates and getting less money than the face value, if you’re dealing individually. But if the government issues the notes and assists in packaging them by the issuance and backing it with these promissory notes, then we can make whole these COLA recipients. Those are the two major elements of the bill, and we’ll begin with receiving testimony this morning from Mrs. Lola Nelson.

### **1. Gloria Nelson – President, Dinanña’ Para Direchon Guåhan Retirees and Survivors**

Gloria Nelson: Buenas, Good Morning to all of you, and Congratulations, I won. For the record, my name is Gloria Nelson, representing Dinanña’ Para Direchon Guåhan Retirees and Survivors. Listening to CHamoru voices because I believe I know some of those voices crying for the injustice that is going on this island: brutality and inhuman treatment against the CHamorus, the people of Guam on their own homeland. We hear—originally, when all these problems started, because of the military, committees were formed and so on... because there was no cooperation between and among. I thought, Senators, and think about this... when you watch television, worldwide, what truly moves things? And I congratulate (so-called) Governor Pagat and all those people who have been really struggling and continuously trying to impress upon all of us the most important thing to save ourselves and our island. How about senators working together with the governor? Start all over, because if you would recall, your committee—the committee committed this island to certain things that are not agreeable to people – not agreeable at all. It didn’t get to us until much, much later, and all the time, we’re saying everything is a done deal. If you senators who come out with a plan along with the legislature and work together, even if you have to set aside half a day, working day, where you, as leaders, plan what needs to be covered from Yigo to Umatac, and all of us will come out—congregate—you make the presentations of what are most important.

What issues are most important to this island? It can be a few organizations getting together, crying like I don’t know what. It’s really painful. You don’t hear it from any of the leaders where they’ll say, “As a leader, I expect you to be there. The time has come. December 8—when that church bell started ringing, I was five-years-old. The leadership came out immediately and said, “Pack up and leave, or you’ll die.” We’re not going to pack up and leave this island—at least *I’m* not going to, no matter what. See if something can be done, and we can congregate together from Umatac to Yigo, set aside half a day or Saturday, holiday, so that there’s more than just a handful, running around—or just a handful of even senators. I know some senators never showed up for—look at this, now. This is a very important issue, and there are many other bills to be heard. Another idea is the world is now with us. It used to be so far to know anything. The computer, television, you name it... let the world know what is happening to this island as U.S. citizens—as a people also created by the almighty creator. It takes you,

leaders, to put us together as one. It cannot be just Governor Pagat and the few that are calling in to the radio, crying. They were really crying this morning; some of you heard it.

Chairman pangelinan: Mrs. Nelson, can we...?

Gloria Nelson: Yes, I'll get to it.

Chairman pangleinan: It's just that we have a really long agenda.

Gloria Nelson: I know, and we have to go to that funeral of a lady who was outstanding on this island... passed away because of that COLA. She called me up at three in the morning, the day before. I said to Anna, "Anna, go to bed."

I had a bad dream she was going to Anaheim. She was preparing herself; she wants her COLA to help her financially. For the record, again, my name is Gloria Nelson. Senators, thank you for the opportunity to testify on Bill 492-30. Senator pangelinan, Si Yu'os Ma'ase' for introducing the bill to move us again. We're all planning peacefully and individually it looks to me. I am wholeheartedly in support of Bill 492-30, hopefully, approved—whatever's coming up again—without delay. Briefly, and I'm saying "briefly" because of the funeral. Many positive testimonies reference to COLA, written and oral, have been recorded and documented from previous presentations. I know you have about 20 inches thick. Here we are again... God's creation.

To the legislature and the Executive Office, I believe all of us and you, senators, understand the needs of the COLA recipients yesterday and now today. Thousands have passed beyond. Those things will come up later, statistically. Many of our retirees are depending on you senators to bring this issue to its final destination: compensation *now*, for *all*. In my opinion, the government officials—all the elders, especially the sick and the dying—respect, dignity, caring, and kindness. Somebody is going to tell you that we have not been receiving that although some actions have been taken. We are being treated like (*cannot transcribe; unclear*). They're only demanding what legally belongs to them. For what? For their survival. No more procrastination. No more postponement. It's been a nightmare, discomfort, aches, and pains. Precedence for the elders should be on the government's priority list in budgetary matters. It didn't come out on the paper. Everything is so important in there, except the elders. Senators, see that the debt is paid.

Yes, it's possible for all elected leaders to work together and bring this issue to a closure. Historically, this issue will not be forgotten. Forgiven it will in time, because that's who our people are—they're very forgiving. I trust that you senators will do the right thing, and I know you're trying and doing the right thing, but it has to be—let's make it more right. Pay all the pending debts, and let us leave in peace. Thank you, Si Yu'os Ma'ase'.

Chairman pangelinan: Thank you, too, Mrs. Nelson. Speaker San Agustin?

## **2. Joe T. San Agustin – Chairperson, Government of Guam Retirement Fund**

Joe T. San Agustin: Good morning, Mr. Speaker. My name is Joe T. San Agustin; I'm a COLA awardee and the chairman of the Government of Guam Board of Retirement Trustees.

I'm here this morning with Paula Blas, the Executive Director of the Fund and Vince Camacho representing our local legal firm, Carlsmith. I'm here to testify on Bill 492 on behalf of the Board of Trustees—not as a COLA awardee recipient, because there's a basic conflict there. I'm here to represent the board's position on Bill 492-30, which is limited to Section 4 and 5 of the bill.

Our comments are only on the general concept of the proposed investment in promissory notes, because the specific terms and conditions of the note contemplated for purchase by the Fund have yet to be determined. (I'm summarizing the testimony.) In the past, the Fund has consistently taken the position that when considering any potential investment—any debt obligation of the Government of Guam where the obligations are called pension bonds, revenue bonds, general obligation bonds, promissory note or any other evidence of indebtedness, the Board has a fiduciary duty to the members and beneficiaries. This duty overrides any general public purpose for which the Government of Guam seeks debt financing. The Board's primary consideration is the Retirement Fund fiscal integrity. The Fund must remain stable and viable to meet the obligation to the more than 15,000 members and beneficiary reserve. The Board understands that there may be important public purposes for which the government seeks funding such as complying with environmental requirements relating to the Ordot Dump or satisfying judgment owed to COLA awardees; however, the Board must remain steadfast. Any specific fiduciary duties to its members and beneficiaries take priority over the general purposes and priorities of the Government of Guam.

Today, more than half of the Retirement Fund's portfolio is rooted in obligations of the government of Guam. Specifically total assets of the Fund are roughly two billion of which \$1.1 billion is the government of Guam's unfunded liability to the Fund. Right now we stand at 47% unfunded which means that that fund is actually owed to the unfunded portions owed to the Fund to be fully funded. We think you'll agree that this substantial exposure for the government of Guam has been and continues to be of grave concern especially considering that the government of Guam has not and currently does not pay the required actual contribution rate as determined under generally accepted actuarial standards, principles, and practiced standards consistent with the applicable, actual standards of the American Academy of Actuaries. Thus the Board must take into serious consideration any additional exposure to the obligation of the government of Guam. Some of the factors the Board and its advisor must consider include: how the investment will affect the Fund's diversification effort. Whether this investment in the note will hinder or assist the Fund in achieving its actual required rate of return of 7%; whether the investment in the note will violate the inclusive benefit rule; and whether the investment in the note will constitute a prohibited transaction risking the Fund's tax exempt status. Any investment in this promissory note which is tied to the same funding source will adversely impact the overall risk of the Retirement Fund by increasing its concentration and exposure to the government of Guam. More importantly, the lack of a secondary market could significantly impact the Fund's liquidity needs.

Since 2005, the Fund has been actually using all its contributions, its dividends to pay the needs benefit payment; it has not been able to invest for future retirees—the contributions—in using to meet the benefit payments—that's another problem that we have. Any investment—because that would increase the unfunded liability also—in this promissory note which are tied

to the same funding source, as I've said, will adversely impact the overall risk profile of the Retirement Fund. Although the statute authorized the Fund to invest in notes such as those proposed in the bill, the Board has not yet assessed whether the interest rate, capped at 8%, and maturities will affect adequate risk and liquidity premiums to meet the Fund's overall investment objectives. We're talking about 15,000 members, Ladies and Gentlemen. The Fund will have to liquidate assets to purchase the note, assets that currently represent a diversity of credit risks and are totally liquid in a protracted downturn as we saw in 2007, 2008. In order to pay benefits, as I indicated earlier, there will be loss for sale on the remaining liquid assets further reducing both liquidity and diversification. In that 2007, 2008 period, funds with large concentrations of illiquid securities and extremely depressed prices for the liquid securities have significant cash flow issues. To the extent of trying to obtain back-up lines of credit, in order to assure that they could pay current beneficiaries.

Investment in the notes would displace potentially higher returning investment given the Fund's funding level any loss of higher earning potential could impair the Fund's financial position for the longest term. The Board also must comply with exclusive benefit rule which is violated if a transaction is considered a prohibited transaction. The primary purpose of the exclusive benefit rule is to ensure that there are arm's length dealing between the creator of the plan being the Governor of Guam and any substantial contributor to the plan. The proposed bill may constitute a prohibited transaction if the government of Guam is the creator of the plan and a substantial contributor to the plan and more importantly is the issue of the note and the fund's purchase price to exceed the fair market value of the note at the time of purchase. The fund does not receive a fair return that commensurate with the prevailing rates of likely investment. The lack of a secondary market for the note does provide sufficient liquidity to permit distribution in accordance with the plan terms and the note in effect on unsecured loans to the government of Guam is not secured by any collateral or specific revenue source.

It is quite possible that the proposed purchase of the note will be deemed a prohibited transaction and a breach of the exclusive benefit rule, which in effect may lead to the disqualification of the Fund's tax exempt status. Finally, although Bill 492-30 purports to indemnify the Board for any liability arising from the purchase of the note, the Board has been advised that the enforceability of such indemnification is contingent upon whether the government of Guam has the financial capability to properly indemnify the Board. For practical purposes if the government of Guam cannot repay principle or interest due under the note then it is not likely to have the funding to indemnify the Board should the Board be liable for an independent investment in the note. In other words, the government of Guam—in case of default—the government cannot pay; it does not indemnify the Board of Trustees from our fiduciary responsibility.

In summary, because of the purchase of securities is likely to constitute a prohibited transaction and a breach of the exclusive benefit rule, exposing the defined benefit plan to disqualification of its tax exempt status, the Retirement Fund is unlikely to consider purchasing the note for the Retirement Fund diversified investment portfolio. Let me repeat, the Board of Trustees notes that the GEDA has not yet approved the terms and conditions of the note. We don't know what the note's terms and conditions are. In fact, the bill only says the GEDA will issue it, but without any public hearing or any kind of approval by the legislature, it's just issued,

and that's it. The Board cannot determine whether the notes will be a prudent investment under all the terms and conditions until all the terms have been finalized the Board's review and analysis. However, under the current investment guidelines in the defined benefit plan statute and the retirement investment policy statement, the purchase of the note probably will constitute an imprudent investment because of concentration of risk, inadequate securities, illiquidity, an insufficient anticipated rate of return, relative to the risk inherent in the issue.

Because the purchase of securities from the creator of the Fund which is the government of Guam is likely to constitute a prohibited transaction, under internal revenue code 503D and a violation of the exclusive benefit rule of IRS 401a paragraph 2 exposing the defined benefit plan to disqualification of its tax exempt status. The Retirement Fund is unlikely to consider purchasing the note for the Retirement Fund diversified investment portfolio.

With me, Mr. Speaker, and Ladies and Gentlemen, are Paula Blas and Vince Camacho. We also have a tax attorney, Vince Camacho—I'm used to Vince being around all the time. Attached also into our presentation is the email from our investment council... its intake, as you know, Mr. Speaker, statute prohibited us to make any investment unless with the advice of the investment council. This bill, itself, my understanding is going to be a private sale and does not go through due diligence of any kind of due process... it doesn't even have to be offered or competition or offered to any bidders. It doesn't identify who's going to be the trustee.

#### **Panel Comments and Questions**

Chairman pangelinan: As you are aware, all of these issues are resolved at the time that the sale is to be made and not at the time that the legislation is introduced. Those issues are not in the bills that are considered for the bond issues or for any other—we're not doing anything that you haven't done at this legislature.

Joe T. San Agustin: You and I are both familiar with the bond issuing, and the terms and conditions have to be spelled out. In previous years, the Legislature always retained the right to approve the terms and conditions—this is unusual thing where you delegate to the GEDA and let them have it.

Chairman pangelinan: We've set the parameters, and of course, the terms are negotiated between the parties. The one question I have, Mr. Speaker, and I am very much appreciative of—

Joe T. San Agustin: As a COLA awardee, so far... we have roughly, a total of 4,895 retirees—COLA awardees (since 2005, 2006). That has now—the number of deceased of that time of awards was only 529—living at that time was 4,300. As of July 31<sup>st</sup>, 2459 of those people have all since died; 2436 are still remaining with roughly about 50.2% have already passed away, and the remaining 49.8%. I am with real sympathy, because they're slowly dying. Another COLA awardee just passed away, and there are two more in the last three weeks.

Gloria Nelson: Five all together.

Joe T. San Agustin: They're dying... with due respect, so far... you have funded about—the General Fund has been able to pay off more than half of it. And now the remaining which is the high end; the lowest end with priority being paying the people with the lowest end. Now, what's remaining is the high portion of it which is. I have sympathy with that. I am talking from both sides of the lips here. You've got to understand that I have a fiduciary responsibility to the Fund; I took an oath, and no amount of indemnification is going to relieve me of any of that, because it's quite clear that if the backing of the loan, itself, cannot come close to being met—if it's default, it does not exonerate us at all. I've been advised by legal counsel, by the investment advisor that this has got to go through a due diligent process and a prudent management rule meaning that it'll have to go through the process all the way through.

We have to protect the interest of the over 15,000 members for the sake of satisfying 2500 people. *That* we have to weigh. I'm one of the 2500 people, and of course, that might be a little one-sided, but at the same time, you and I have sat on both sides of the aisle. You represent the voters of Guam, the taxpayers of Guam too. This Fund is the liability of the tax payers of Guam—something like 49% is still owed to the fund, because it's unfunded. That's still at the beckoning call of the government of Guam. Being a creator of a fund is one of the issues I have a problem with... borrowing at the same time just doesn't seem right to me—personally. That's up to you.

Chairman pangelinan: Mr. Speaker, when the Retirement Fund decided to buy the mortgage bonds that the government of Guam issued were these the same considerations that existed at the time? Have we not changed anything?

Joe T. San Agustin: I remember that from the Housing Administration from way back. That was borrowed at a high interest rate, itself, and is backed by the properties—the mortgage properties. When you buy a mortgage bond, you're backed by the security of the collateral of the individual taxpayers' properties.

Chairman pangelinan: It's full faith and credit like every other bond issued. Like you always say, "I don't think the government's going to go away any time soon."

Joe T. San Agustin: That might be so... you can do whatever you want with taxpayers' money, but we're talking about a trust that belongs to the members of the fund—this is not government of Guam money.

Chairman pangelinan: I understand that. How much money did the fund lose in the last three years?

Joe T. San Agustin: It's still in liquidation.

Chairman pangelinan: No—just the investment. What's the return? I thought I heard that you lost \$60 million in the stock market.

Joe T. San Agustin: That's market value.

Chairman pangelinan: Of course. I don't know that \$15 million dollars will bankrupt the fund when you lose \$60 million in one year on the investment.

Joe T. San Agustin: You lose money if you sell your assets even if the market value has gone down. If you haven't sold it—why would we sell a portfolio? The market value may go down, but you're still paying dividends—we're still earning investments. If I want to sell it, yes.

Chairman pangelinan: How would you lose money—if you bought these notes, and we keep paying you?

Joe T. San Agustin: How are we going to—why not have it continue—sell the general obligation, sell it to the general public like anything else.

Chairman pangelinan: Well, that's one of the options.

Joe T. San Agustin: Well why make it a private sale?

Chairman pangelinan: No, it doesn't have to be a private sale.

Joe T. San Agustin: Well, the bill proposes a private sale.

Chairman pangelinan: No, it allows the governor to package the notes and issue a—

Joe T. San Agustin: In priority sequence.

Chairman pangelinan: Right. We're giving you first crack at it.

Joe T. San Agustin: Well, thank you very much. We'll consider it, okay? Thank you very much for the opportunity. If that's such a good deal, I'm sure other people will grab it. I'll tell you what, Mr. Speaker, if you buy, we'll buy. You and I will buy, personally.

Chairman pangelinan: Can you just make it clear, here, Paula, in your chart... where it says—the last column, six million? And it's pending due to Ben Estates. That's "beneficiaries" and not me. I'm already having enough trouble telling people I don't get anything out of the COLA. When they see that, they're going to say, "ah-hah!"

Mr. Speaker, I want to say that I certainly appreciate your diligence and your position on the Fund and the time you devote to it, of course, to protect the interest of the fund on behalf of the retirees. I fully understand that, I accept the testimony of the Retirement Fund and its caution and diligence in reviewing the proposal, stating its position very clearly and what the limitations are of the Fund, itself, and your responsibilities as board members of the Fund. I want to say we hope for something more positive, it is your duty and your responsibility. I want to say that you're fulfilling that to a high degree which is what we want also.

Joe T. San Agustin: I think you expect us to do that.

Chairman pangelinan: I do expect it.

Joe T. San Agustin: The members of the 15,000 and the taxpayers.

Chairman pangelinan: Maybe we'll put a bill in for humanitarian purposes. I want to commend you and the Fund for its review of this statute, taking the time to do so. You could have just dismissed it, but your efforts to provide us some guidance in possibly making it work. Other institutions may want to take advantage of it and may not be limited the way you are limited as the Fund.

Joe T. San Agustin: Why do you not want Section 30 to secure this? Every note we issue from GovGuam has a contingent liability of the Section 30.

Chairman pangelinan: Because Section 30 is just part of the General Fund.

Joe T. San Agustin: Because you specifically excluded it.

Chairman pangelinan: Because of the limitations on Section 30 right now; it's almost pledged out. It would not—

Joe T. San Agustin: It's still contingent liability, regardless. All revenue bonds have a contingent liability, regardless.

Chairman pangelinan: It's a full faith and credit of the government that backs it up. Thank you very much, Mr. Speaker. Any questions from the panel? Si Yu'os Ma'ase' ta'lo. Mr. Chargualaf? Mr. Ben Garrido, Ofing Jackson... Bobing Wolford also signed up.

### **3. Mr. Joe Chargualaf**

Mr. Chargualaf: Good morning, Senators, and thank you for introducing Bill 492-30. Congratulations to the winners. I think it's time to work, and this is one indication that I feel that you, Senators, as a whole, whether you're Democrat or Republican that you all have a responsibility not only to what the court has legally declared as a government liability. I feel that we cannot afford to delay this bill, and I support Section 1 and 2. As much as the government cash situation will allow I would urge that this bill be passed immediately.

On Section 3, I have reservations, because whether or not this is something that is fair, I question the methodology. I feel that this discriminates in as far as paying out the obligation under the COLA. We cannot put any type of methodology as to who deserves less or who deserves more. You can see that the retirees' number has tremendously dropped—whether you're on the lowest or the highest end of the COLA award. I feel that there is something that needs to be addressed at this point. That is my concern.

On Section 4, in as much as I understand the COLA notes or the certificates, I have a nightmare of that going to some institution, and Senators, I went to three banking institutions, and they'll pledge nothing. I feel that if something has to be done with the promissory note, it has to come first from the government of Guam, because reading that COLA certificate is very disturbing when it says that the government is not obligated to pay the COLA. I find that very

absurd, and I don't know what the intent of that was. I feel that the testimony given by the Speaker, from the Retirement Fund, is of some concern. If we're going to be realistic, then the government must first come and do its part in obligating money to pay these promissory notes, because I even want to carry that note. In fact, I had a bad thought of wanting to tear it in front of you senators. To me, it's worthless, and carrying that piece of paper to three banking institutions actually embarrassed me a lot, because I am not begging for money; I just wanted to see what I can do with that COLA certificate. Much less, I won't even ask any private individual or any other financial institution to try and redeem that. What I understand about certificates is that if you go to K-Mart, and you buy a 50 dollar certificate, you pay that in whole, and you give that certificate to someone else to redeem that with 50 dollars' worth of merchandise that the individual is given to use that certificate for. In this particular case, I don't find that to be of any real significance so I feel that something has to be done with the promissory note, and it has to begin with the government of Guam making a commitment.

We cannot just be going around trying to find who is willing enough or brave enough to pay us whatever is the value. Much more, we don't even get the full value, because you're bargaining that. Why are we put in the position to bargain our COLA? I find that very insulting, Senator. When you pass this bill, I hope that the governor will not hesitate to sign this, because we cannot afford to just be coming here and presenting our support. The intent of the bill is good, but how this COLA is coming out is something of a nightmare. We go back home just thinking whether or not it's worth our time coming here, Senators. I won't belabor, but we don't want to see any more effort by the legislature to try and rectify this. I think you need—the bill says to “structure the payment” I will support that. We need structured funding for this. With that, thank you, Senator.

Chairman pangelinan: Si Yu'os Ma'ase', Mr. Chargualaf.

#### **4. Vicente “Fa’et” Ulloa Garrido – Retiree**

Vicente “Fa’et” Garrido: I support this, but I also want there to be a guarantee from this bill that shows that the retirees and survivors will gain. We see each other again here today. If we're not meeting up at the court, then we're meeting at the legislature. Senator ben pangelinan, thank you very much for making this bill possible. Hopefully, those senators who are *not* here—they're probably off somewhere having breakfast and drinking coffee. If it was some other bill for people not native to Guam, your panel would be complete, and you'll be seeking other chairs for the crowds of people. There are only four of you here; where are the others?

This isn't a bill for marijuana... this isn't a bill for native fishing rights. This is a bill for COLA and for the elders who are already dying. When this hearing ends, we're going to the funeral of Tan Anna in Tamuning to pay our respects. This is too much for us already. I like the intention and the support, but I don't understand why when there are federal cases—consent decrees or court orders—for the federal judges like Tydingco-Gatewood, the Department of Mental Health or the consent decree for the landfill. The governor and senators stumble over and suddenly find the money. Just yesterday, this administration handed out 2 million dollars, and we, here, are fighting for funds to be issued through these certificates of claim. Are they stumbling over this? All the retirees are dying... the survivors and everyone else. No one's there; no one's falling over this! When it was for the dump, for the Department of Corrections, or for

Mental Health, funds are suddenly available, because we're afraid of the federal government. There should be a law that if there is a court order from a local court and issued by the judge that the current or incoming administrations be paid out immediately. Let's not wait for 2-5 years or until everyone has died. There's no value in the local court. What use is the Superior Court when up to now, we're still here today? We are pathetic people.

We might as well name this public hearing, "The Last Rite of i Ritirao." We hear that fewer than 2000 retirees and survivors are still alive and fewer than 1000 survivors among those are still waiting for the War Reparations, pretty soon there will be no one left. There's no use anymore; we're pitiful.

We are very grateful to you, Senator, that you are the one who's standing up for us the most—and you others, Senator Muna Barnes, Tom Ada, and Senator Ada. If you weren't here, ben, we'd be dragging our rags on this issue on. And because our island has been colonized, we continue to drag our rags on. But we're still a happy people, no matter what's going on in our island. Even if we've been bombed, we'd still move forward. Please excuse me, but this issue has already reached its limits. Let's pay the retirees and bring this to an end—let's come to a close. We are not going to sit around and do nothing so that we can continue to meet like this. I'm already old. I'm not young anymore; my oldest child is already 40-some years old. My goodness, if we're only going to meet up and talk about this and nothing's going to be done, it's useless. When the governor talks about how important it is for the government to show respect to the manamko' for the services they've provided to the government, what kind of useless talk is that if we're still here at this point today? What am I going to do with that? Do something for us. Senator, I know where you stand. That's all I have to say. I hope we don't have to come down here anymore; that's why I call this public hearing for the retirees, "The Last Rite for the Ritirao."

##### **5. Josephine "Ofing" Jackson – citizen**

Josephine "Ofing" Jackson: Good morning to you all up there on the panel. Today is a beautiful day. Senator Tina Muna Barnes, Senator ben pangelinan, Senator Tony Ada, and Senator Tom Ada. And to the retirees out here, I am Josephine "Ofing" Jackson. I am not retired yet, but I support this COLA issue. It is correct that they're not begging, they're asking for their money that they need to pay for their bills. They're not beggars; these retirees are not begging. They want their money, because they worked for it, they've sweat for it. They need their medication; they need to pay their bills. The utilities and everything else is going up. Maga'lâhen Pâgat is also in support of this bill. We hope, and we pray that this bill be passed. Let it be done—let's finish this issue with giving the elders... let's show our respect to them. I've already heard that many of them have already passed away, and plenty of them are asking for this money to pay for their bills and to pay for their medication. This is very hurtful. Why is it, in the words of "Fa'et," that when it comes to giving money to the outsiders that we always suddenly have money to pay them, but when it comes to our own people that we don't have the money? We are also protesting with our petition for the military. We want to thank you for expressing your thoughts and feelings about the land that that the military has expressed interest in. Before this comes to a close, let's please revisit Bill 190. We need to address the fishing rights issue. Christmas is coming up, and we need to address this issue.

Chairman pangelinan: Merry Christmas. Mr. Wolford, it is now your turn.

#### **6. Bobing Harland Wolford – citizen**

Bobing Wolford: Good day to all four of you, Senator ben, Senator Tina Barnes. Good morning to you all. I support this bill. You, ben, you're always helping the senior citizens—all the way to the court. Please approve this, Senators, because we're always looking for your help. Look at Anna San Nicolas (my cousin's wife)... she's left this world, and she never got to enjoy the money she's earned. Please give these people their COLA awards, because the government has taken this away from them and held off on this for 30 to 60 years. They need this money to make their lives a little better. Hospital bills and diabetes medication are expensive. The prices for these medications are expensive. I'd love to share the money and V.A. benefits with everyone, but I can't, because it's only enough for me. Let's please bring this game to a close. Let's give the senior citizens their money. If there is money, Cousin ben, and Senators Ada and Muna Barnes, please send this forward to give their money to them. Thank you very much, and Merry Christmas to you all.

Chairman pangelinan: Let's invite the others to the table. We have Bennett Terry and Joseph Camacho. Mrs. Terry?

#### **7. Bennett Terre – citizen**

Bennett Terre: Good morning, Senator ben pangelinan, Senator Tom Ada, Senator Tony Ada, and Senator Tina Barnes. Thank you for giving us this opportunity to—again—request for COLA payment. I need clarification on this bill; I don't understand this section. The part that says sale of certificates of claim in whole or part as general obligation promissory notes... okay? It says, "authorization to borrow." Can you explain that? The government—the governor, right?

Chairman pangelinan: What this does, Mrs. Terre, is each of the COLA recipients have a certificate. In that certificate is the amount that is owed to you. What we're doing here is authorizing the governor, now, to go out and borrow money to pay those certificates. Then the government will make the payments to whomever we borrow from. Right now, sometimes the COLA recipients as Mr. Chargualaf mentioned, they try to sell it to a private party or to a bank, but the bank doesn't respond to that offer, because it's not backed by the full faith and credit. This would allow the governor to redeem those certificates, have the government take them back and in exchange will pay cash based upon the money that's borrowed. That's what this section does to the COLA certificate holder.

Bennett Terre: When is this going to happen—twenty years from now?

Chairman pangelinan: No, we're allowing this to happen now.

Bennett Terre: *Now?* Upon signing of this bill?

Chairman pangelinan: Upon the signing of this, the governor is authorized now to go out and obligate the Government of Guam to making payments on the money it borrows to redeem those certificates and pay off the COLA recipients. Just like we did with the bonds—the bonds

were borrowed, the COLA recipients got their award in cash, and now we're paying the bonds back.

Bennett Terre: So it's going to obligate the governor of Guam?

Chairman pangelinan: The Government of Guam.

Bennett Terre: The Government of Guam who is the governor of Guam, right?

Chairman pangelinan: Yes.

Bennett Terre: By law, if signs this, he is obligating?

Chairman pangelinan: He is authorized to go out and borrow the money.

Bennett Terre: But how long is it going to take him to go out and borrow the money? That's up in the air, right?

Chairman pangelinan: Right.

Bennett Terre: Right. Again we go right back to the dilemma of waiting and waiting and waiting. Right? What is the merit of the bill if, again, the governor is just going to take his own sweet time trying to sell the bond to some business or private firms or financial institution?

Chairman pangelinan: Well, we'll be happy to put in a timeline then.

Bennett Terre: You will... *immediately*. Like the bond in New York. Right?

Chairman pangelinan: Correct. Yes.

Bennett Terre: Okay, Everybody, you heard the senator.

Chairman pangelinan: We'll give him 30 days, 60 days.

Bennett Terre: Immediately upon signing of the bill be obligated to go and sell it or whatever he needs to do. Put a time limitation. No more waiting, please. We're dying. I don't know if I'm going to live today. We don't know—only God, our dear Lord knows. So, please... there are so many retirees dying. It's pathetic. We have a cool retiree every meeting... she attended the meeting. There's no need for this, please. I feel sorry for her, because she waited for this money to go off-island for medical help. How many more are going to die? Please, Senators, we voted you to service us. We need your help. Please work for us... for the people of Guam. Thank you.

Chairman pangelinan: Si Yu'os Ma'ase', Mrs. Terry. Mr. Camacho?

## **8. Joseph Victor Camacho – citizen**

Joseph Victor Camacho: Good morning. For the record, I am Joseph Victor Camacho. Those who know me best, I am Vitoriano—Victor Chodde'. I am not a retiree, nor am I seeking COLA payments. I am here on behalf of my brother who is a retiree and is supposed to receive a COLA award. When he called me, I asked him if he received his payment to help him pay for his medication. This brother of mine is hurting... he is 64-years-old. My brother is hurting right now. He didn't want me to come here, because he is ashamed. But I told him that he shouldn't be ashamed—I'm a person of this island, I am CHamoru. We voted these senators in to serve us. It is not us. This brother of mine may die tomorrow! My uncles have already died and have never received their COLA payments. This is hurtful that you're not all here today. I voted for eight democrats to sit up there with you. Where are the others? Where are the million Republicans? Are you senators not serious? Are you senators not sincere? We, the native CHamorus, this is our island. I respect you for this. I registered to vote for you who are seated up there. I salute you, Senator ben, for all the work that you've done for our elders. But I am also hurting for the person who spoke before me. How much longer must they wait? If my brother dies, do you know what I'm going to do with his certificate? I'm going to place it next to his coffin for him to take it. Is that proper? No. I am a Vietnam veteran, and I've suffered for a long time. I came to Guam, and I am teacher. I am writing and translating CHamoru books. I like our stories. I cannot accept Bill 492-30. Not because I'm not retired from the government.

I am a retiree from the bottom ranks of the Department of Defense, and I have retired from the private sector. I am suffering, Senators. But what is the point? Once the new senators come in in January, is it true that this bill will be successful? Will they truly pay attention to this issue? Or are the manamko' going to have to return here. Look at them; many of them are ill. I am 61-years-old, and I am ashamed. It might not show. I am hurting for my brother, because both my parents have died. And I have come here to represent them. I am not asking for money—I am asking for the respect. Where is the respect? Where is their opportunity—for those who experienced World War II? What's happening with the COLA payments is similar to the War Reparations. Are you not ashamed?

Chairman pangelinan: I just want to make this clear. The COLA payments have already been paid. There is nothing left but the interest payments that have not been released since the court decision was made. When the certificates were issued as a result of the new law... I just want to make it very clear and to distinguish that the COLA payments were already paid out. That was about \$123 million dollars. That's already been paid. At one time, when there were senators who introduced the law because the money was not being paid out and was at a standstill, then the decision was made to issue certificates to the COLA awardees. Since that law was passed for the certificates and the \$123 million dollars was paid, all that is left is the interest. I just wanted to make it very clear and to distinguish the two.

Joseph Victor Camacho: Yes, you're right, Senator ben pangelinan. But, the certificates are still here.

Chairman pangelinan: Yes, the certificates for interest. But we still owe our retirees.

Joseph Victor Camacho: Yes, the debt is still owed to the manamko' are here again today.

Chairman pangelinan: Yes... we are still indebted to the retirees.

Joseph Victor Camacho: This is why I salute you, Senator. Thank you again, Senator Tom Ada, Senator Tony Ada, Senator Barnes, and Senator Guthertz. You're going to be here till 2012. Please don't wait again till the next election comes around.

Chairman pangelinan: Even if the election has ended, I'm still working on this. And if I really wanted to, I could wait till 2012.

Joseph Victor Camacho: This is a very hurtful situation for my brother. He cannot walk, he's in a wheelchair, and he has heart problems. My oldest brother is going through a lot. He's the oldest of my siblings, and he's experienced a lot—even from the war. But what if he dies tomorrow? I'm going to place the certificate in his coffin? Thank you.

Chairman pangelinan: Thank you, too. Uncle John, are you going to testify?

#### **9. John S. Lizama– citizen**

John Lizama: Never mind, because even if this bill is passed by all of you, it'll come to the Governor's table, and he'll say, "What? This is for Uncle John." This is so embarrassing that there are 15 senators, and only four of you are here. They've already been voted back in and have said, "Thank you for your vote." As it was said earlier, the federal government has already broken us here on our island. They've already taken all the good land away, because they've said, "Guam is a U.S. Territory—not CHamoru. There are no CHamorus in their minds." The Organic Act allowed them to take this away from us. They never asked us if we liked this arrangement. No one ever said, "Uncle John, I'm sorry for what they did to you and your island. I don't care what the Japanese did to you and your family, but I'm the boss. I forgive Japan. I don't have to ask you, Uncle John, whether you like it or not. I'm the man, and you're the manman." That's what the federal government did to all of us—even if they're all way over. We've already told them not to take Pãgat. They've used their power to condemn the land, because Guam is a U.S. Territory. They condemn those lands—from the Race Track all the way to Marbo Cave. Nothing! They don't consider us in their eyes as human beings. They consider us as nothing but trash.

When they came, the never said, "Sir, excuse me, but can you give us this?" No! They took it with their gun power, their ship power, their atomic power, and their airplanes. They ask, "Uncle John, what kind of power do you have?" It was the same as the Spaniards who came and gunned down our people. This has been going on since the Spanish occupation—they've all treated the CHamorus like animals. They've killed the people of Umatac who gave the Spaniards water. The CHamorus have died for giving the Spaniards food and water. And then you're going to turn around and shoot at us after we've already fed you? This is what the federal government has done to us. "I'll kick your butt, Uncle John. I'll tie you no matter what you've done and even if you shed blood and tears. Every day, 24-7, 365 days a year... they've never asked, "Can we take this from you?" They took it because of their power. "Our power is supreme over you." The U.S. has a blanket power. No matter what laws are passed, their power is a blanket law over us.

And what about the war reparations? Don't give them money; just give them a lollipop to suck on so they can lose their teeth. Please excuse my outburst towards you, but please think about this, because it's from my heart. Just as one of the ladies said, there's no guarantee for her to be able to give her children her money—they had to go to court.

Chairman Pangelinan: Is there anyone else who'd like to testify on this bill? That concludes the hearing on Bill 492.

### **III. COMMITTEE FINDINGS AND RECOMMENDATIONS:**

The Committee on Appropriations, Taxation, Banking, Insurance, Retirement, and Land, hereby reports Bill No. 472-39 (COR), as Substituted by the Committee with the recommendation TO REPORT OUT ONLY.

I MINA' TRENTA NA LIHESLATURAN GUÅHAN  
2010 (SECOND) REGULAR SESSION

COPY

Bill No. 492-20 (COR)

Introduced by:

v.c. pangelinan

AN ACT TO DISTRIBUTE ADDITIONAL COLA AWARD  
PAYMENTS FOR CERTIFICATES OF CLAIM ISSUED  
AND TO AUTHORIZE THE SALE OF GENERAL  
OBLIGATION PROMISSORY NOTES FOR PAYMENTS  
TO "COLA" AWARDEES IN REFERENCE TO  
SUPERIOR COURT CASE NO. SP0206-93.

2010 NOV 22 PM 12:13

BE IT ENACTED BY THE PEOPLE OF GUAM:

1       **Section 1. Legislative Findings and Intent.**       In Public Law 30-196,  
2 the General Appropriations Act of 2011, *I' Liheslaturan Guahan* prioritized the  
3 appropriation of surplus revenues toward prior obligations incurred as a result of  
4 court orders and deficit spending. The fulfillment and completion of the  
5 government's payment of the obligation to retirees pursuant to *Rios vs. Camacho*,  
6 SP0206-93 continues to elude claimants due to lack of a structured funding source.

7       *I' Liheslaturan Guahan* wishes to complete the payment of the Cost of  
8 Living Allowance (COLA) awards to bring finality to this injustice to the  
9 *Man'amko* and their heirs. The urgency of paying down this outstanding liability  
10 stems from concerns related to the financial need of recipients and the legal  
11 obligation that will continue to accumulate and increase the government's liability  
12 and the potential for further litigation if the situation remains unresolved.

13       *I' Liheslaturan Guahan* finds that there are cash resources which remain  
14 available and in some cases unclaimed due to awardees, beneficiaries and heirs  
15 who are not able to complete the process to legally verify their right to the award.

1 A review of these awards projects that it is unlikely that these awards will be  
2 disbursed in the near term.

3 *I' Liheslaturan Guahan* further finds it is prudent to expend funds that  
4 remain in a bank account due to unclaimed awards to awardees whose claims are  
5 in order and ready for payment. Rather than allow previously appropriated funds  
6 for COLA claimants to sit idle, *I' Liheslaturan* intends to use a portion of these  
7 funds to pay for existing claimants which have been verified by the retirement  
8 fund. The *I' Liheslaturan Guahan* recognizes that use of these funds in no way  
9 extinguishes the unclaimed awards of these claimants.

10 *I' Liheslaturan Guahan* further finds that the payment authorization and  
11 guidelines authorized in this Act herein shall assist the government of Guam in  
12 partnership with the Government of Guam Retirement Fund (GGRF) on behalf of  
13 its members in meeting the court ordered obligations in *Rios vs. Camacho*,  
14 SP0206-93 and further, provide relief to outstanding financial liabilities while  
15 eliminating the potential of further litigation against the government of Guam.

16 *I' Liheslatura* intends that the GGRF shall use the funds appropriated herein  
17 solely for paying down part of the COLA liability to retirees and for this purpose  
18 alone.

19 **Section 2. Authorization to Use Unclaimed and Unprocessed COLA**  
20 **awards.** The Government of Guam Retirement Fund is hereby authorized to use  
21 Three Million Dollars (**\$3,000,000**) from unreleased award payments to retirees  
22 and beneficiaries where no awardees, beneficiaries or heirs have come forward to  
23 claim the awards and where awardees, beneficiaries or heirs are unable to complete  
24 processing of claims to pay claimant awards ready for distribution set forth in Title  
25 5 Guam Code Annotated, Chapter 6, Article 4, §6404(d)(1).

26 **Section 3. COLA Disbursement Provisions.**

1           The disbursement provision for the authorization in Section 2 is Principal or  
2 Interest from principal owed starting with the claimant with the lowest initial  
3 award from the class settlement, followed by the next lowest initial award and  
4 repeating this disbursement methodology until all the funds appropriated and  
5 authorized are exhausted.

6           **Section 4.** New Subsection (e) is added to §6404, Chapter 6, 5 GCA, to  
7 read:

8           “(e) Sale of Certificates of Claim in whole or part as General Obligation  
9 **Promissory Notes.**

10           (1) **Authorization to Borrow.** *I Maga’lahen Guahan* is authorized to  
11 issue General Obligation Promissory Notes (the “Notes”) not to exceed the total  
12 amount of all outstanding and unredeemed Certificates of Claim issued to “COLA”  
13 Awardees in reference to Superior Court Case No. SP0206-93 and as authorized in  
14 5GCA §6404(d). The Notes shall be general obligations of the government of  
15 Guam secured by the full faith and credit of the government of Guam.

16           (2) **Terms and Conditions.** The terms and conditions of the Notes shall  
17 be as determined by *I Maga’lahen Guahan*; provided that the notes:

18                   (i) shall not be secured by a pledge of Section 30 revenues;

19                   (ii) shall be redeemed in full, including accrued interest within  
20 twenty (20) years or thereafter automatically convert to Certificates of Claim  
21 subject to the terms and conditions defined in 5GCA §6404(d);

22                   (iii) shall bear interest at such fixed or variable rate or rates as may  
23 be negotiated by *I Maga’lahen Guahan* in the best interests of the  
24 government, such interest rate shall not exceed eight percent (8%) and shall  
25 be computed on a three-hundred sixty-five (365) day calendar year upon the  
26 actual amount issued by the government of Guam.

27           (3) **Sale of Promissory Notes.**

1 (i) Sale of the Notes shall be in denominations no less than Five  
2 Thousand Dollars (\$5,000.00);

3 (ii) Investor purchase quantity shall not be limited;

4 (iii) Investor access to purchase of the Notes shall be in the  
5 following order of priority:

6 (1) The Government of Guam Retirement Fund;

7 (2) Residents of Guam;

8 (3) Banks or other Financial Institutions licensed to conduct  
9 business on Guam;

10 (4) Other Entities licensed to conduct business on Guam;

11 (5) All other interested institutions as determined by *I*  
12 *Maga'lahaen Guahan.*"

13 (4) **Use of Proceeds from the sale of the Notes.** The proceeds from the  
14 sale of the Notes shall only be used and are hereby appropriated to redeem and pay  
15 outstanding Certificates of Claims issued to COLA awardees in Superior Court  
16 Case No. SP0206-93.

17 (5) **Approval by the Guam Economic Development Authority.** Notes  
18 authorized in this section shall not be sold until the Board of Directors of the Guam  
19 Economic Development Authority approves the terms and conditions of the Note  
20 sale.

21 (6) **Approval of Voters Not Required.** The Notes shall not be subject to  
22 the approval of voters of Guam.

23 (7) **Continuing Annual Appropriation of Principal and Interest.**  
24 Effective October 1, 2011 and each October 1 thereafter, there is hereby  
25 appropriated sums from the General Fund required for all payments of principal  
26 and interest based on a maturity schedule to repay any general obligation  
27 promissory notes authorized in Section 6404(e)(1). This annual appropriation shall

1 be a continuing appropriation and shall not lapse at the end of the fiscal year. In  
2 addition to any funds specifically appropriated by this Act, all moneys received  
3 from any other source as contributions or supplements for repayment of the notes  
4 established in this Act and any interest or income earned shall be paid into a Fund  
5 established for repayment and shall be a continuing appropriation.

6 **Section 5. Retirement Fund Purchase Authorization.** Notwithstanding  
7 any other provision of law, the Government of Guam Retirement Fund may  
8 purchase for investment the government of Guam General Obligation Promissory  
9 Notes authorized herein and indemnifies all Board members from any liability  
10 arising from the purchase of such promissory notes.

11 **Section 6. Effective Date.** This Act shall be effective upon enactment.

12 **Section 7. Severability.** If any provision of this Law or its application to  
13 any person or circumstances is found to be invalid or contrary to law, such  
14 invalidity shall not affect other provisions or applications of this Law which can be  
15 given effect without the invalid provisions or application, and to this end the  
16 provisions of this Law are severable.

17  
18

**I MINA' TRENTA NA LIHESLATURAN GUÅHAN**  
**2010 (SECOND) REGULAR SESSION**

**Bill No. 492-30**

As substituted by the Committee on  
Appropriations, Taxation, Banking,  
Insurance, Retirement, and Land

**Introduced by:**

**v.c. pangelinan**

**AN ACT TO DISTRIBUTE ADDITIONAL COLA AWARD  
PAYMENTS FOR CERTIFICATES OF CLAIM ISSUED  
AND TO AUTHORIZE THE SALE OF GENERAL  
OBLIGATION PROMISSORY NOTES FOR PAYMENTS  
TO "COLA" AWARDEES IN REFERENCE TO  
SUPERIOR COURT CASE NO. SP0206-93.**

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

1       **Section 1. Legislative Findings and Intent.**       In Public Law 30-196,  
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3 appropriation of surplus revenues toward prior obligations incurred as a result of  
4 court orders and deficit spending. The fulfillment and completion of the  
5 government's payment of the obligation to retirees pursuant to *Rios vs. Camacho*,  
6 SP0206-93 continues to elude claimants due to lack of a structured funding source.  
7       *I Liheslaturan Guåhan* wishes to complete the payment of the Cost of  
8 Living Allowance (COLA) awards to bring finality to this injustice to the  
9 *manåmko*' and their heirs. The urgency of paying down this outstanding liability  
10 stems from concerns related to the financial need of recipients and the legal

1 obligation that will continue to accumulate and increase the government's liability  
2 and the potential for further litigation if the situation remains unresolved.

3 *I Liheslaturan Guåhan* finds that there are cash resources which remain  
4 available and in some cases unclaimed due to awardees, beneficiaries and heirs  
5 who are not able to complete the process to legally verify their right to the award.  
6 A review of these awards projects that it is unlikely that these awards will be  
7 disbursed in the near term.

8 *I Liheslaturan Guåhan* further finds it is prudent to expend funds that remain  
9 in a bank account due to unclaimed awards to awardees whose claims are in order  
10 and ready for payment. Rather than allow previously appropriated funds for  
11 COLA claimants to sit idle, *I Liheslatura* intends to use a portion of these funds to  
12 pay for existing claimants, which have been verified by the retirement fund. *I*  
13 *Liheslaturan Guåhan* recognizes that use of these funds in no way extinguishes the  
14 unclaimed awards of these claimants.

15 *I Liheslaturan Guåhan* further finds that the payment authorization and  
16 guidelines authorized in this Act herein shall assist the government of Guam in  
17 partnership with the Government of Guam Retirement Fund (GGRF) on behalf of  
18 its members in meeting the court ordered obligations in *Rios vs. Camacho*,  
19 SP0206-93 and further, provide relief to outstanding financial liabilities while  
20 eliminating the potential of further litigation against the government of Guam.

21 *I Liheslatura* intends that the GGRF shall use the funds appropriated herein  
22 solely for paying down part of the COLA liability to retirees and for this purpose  
23 alone.

24 **Section 2. Authorization to Use Unclaimed and Unprocessed COLA**  
25 **awards.** The Government of Guam Retirement Fund is hereby authorized to use  
26 Three Million Dollars (**\$3,000,000**) from unreleased award payments to retirees  
27 and beneficiaries where no awardees, beneficiaries or heirs have come forward to

1 claim the awards and where awardees, beneficiaries or heirs are unable to complete  
2 processing of claims to pay claimant awards ready for distribution set forth in Title  
3 5 Guam Code Annotated, Chapter 6, Article 4, §6404(d)(1).

4 **Section 3. COLA Disbursement Provisions.**

5 The disbursement provision for the authorization in Section 2 is Principal or  
6 Interest from principal owed starting with the claimant with the lowest initial  
7 award from the class settlement, followed by the next lowest initial award and  
8 repeating this disbursement methodology until all the funds appropriated and  
9 authorized are exhausted.

10 **Section 4.** New Subsection (e) is added to §6404, Chapter 6, 5 GCA, to  
11 read:

12 **“(e) Sale of Certificates of Claim in whole or part as General Obligation**  
13 **Promissory Notes.**

14 (1) **Authorization to Borrow.** *I Maga’låhen Guåhan* is authorized  
15 to issue General Obligation Promissory Notes (the “Notes”) not to exceed the total  
16 amount of all outstanding and unredeemed Certificates of Claim issued to “COLA”  
17 Awardees in reference to Superior Court Case No. SP0206-93 and as authorized in  
18 5GCA §6404(d). The Notes shall be general obligations of the government of  
19 Guam secured by the full faith and credit of the government of Guam. *I*  
20 *Maga’låhen Guåhan* shall within sixty (60) days after enactment of this Act issue a  
21 Request for Proposal for the sale of the general obligation promissory notes  
22 authorized herein.

23  
24 (2) **Terms and Conditions.** The terms and conditions of the Notes shall  
25 be as determined by *I Maga’låhen Guåhan*; provided that the notes:

26 (i) shall not be secured by a pledge of Section 30 revenues;

1 (ii) shall be redeemed in full, including accrued interest within twenty  
2 (20) years or thereafter automatically convert to Certificates of Claim  
3 subject to the terms and conditions defined in 5GCA §6404(d);

4 (iii) shall bear interest at such fixed or variable rate or rates as may be  
5 negotiated by *I Maga'låhen Guåhan* in the best interests of the government,  
6 such interest rate shall not exceed eight percent (8%) and shall be computed  
7 on a three-hundred sixty-five (365) day calendar year upon the actual  
8 amount issued by the government of Guam.

9 **(3) Sale of Promissory Notes.**

10 (i) Sale of the Notes shall be in denominations no less than Five  
11 Thousand Dollars (\$5,000.00);

12 (ii) Investor purchase quantity shall not be limited;

13 (iii) Investor access to purchase of the Notes shall be in the  
14 following order of priority:

15 (1) The Government of Guam Retirement Fund;

16 (2) Residents of Guam;

17 (3) Banks or other Financial Institutions licensed to conduct  
18 business on Guam;

19 (4) Other Entities licensed to conduct business on Guam;

20 (5) All other interested institutions as determined by *I*  
21 *Maga'låhen Guåhan.*”

22 **(4) Use of Proceeds from the sale of the Notes.** The proceeds from the  
23 sale of the Notes shall only be used and are hereby appropriated to redeem and pay  
24 outstanding Certificates of Claims issued to COLA awardees in Superior Court  
25 Case No. SP0206-93.

26 **(5) Approval by the Guam Economic Development Authority.** Notes  
27 authorized in this section shall not be sold until the Board of Directors of the Guam

1 Economic Development Authority approves the terms and conditions of the Note  
2 sale.

3 (6) **Approval of Voters Not Required.** The Notes shall not be subject to  
4 the approval of voters of Guam.

5 (7) **Continuing Annual Appropriation of Principal and Interest.**  
6 Effective October 1, 2011 and each October 1 thereafter, there is hereby  
7 appropriated sums from the General Fund required for all payments of principal  
8 and interest based on a maturity schedule to repay any general obligation  
9 promissory notes authorized in Section 6404(e)(1). This annual appropriation shall  
10 be a continuing appropriation and shall not lapse at the end of the fiscal year. In  
11 addition to any funds specifically appropriated by this Act, all moneys received  
12 from any other source as contributions or supplements for repayment of the notes  
13 established in this Act and any interest or income earned shall be paid into a Fund  
14 established for repayment and shall be a continuing appropriation.

15 **Section 5. Retirement Fund Purchase Authorization.** Notwithstanding  
16 any other provision of law, the Government of Guam Retirement Fund may  
17 purchase for investment the government of Guam General Obligation Promissory  
18 Notes authorized herein and indemnifies all Board members from any liability  
19 arising from the purchase of such promissory notes.

20 **Section 6. Effective Date.** This Act shall be effective upon enactment.

21 **Section 7. Severability.** If any provision of this Law or its application to  
22 any person or circumstances is found to be invalid or contrary to law, such  
23 invalidity shall not affect other provisions or applications of this Law which can be  
24 given effect without the invalid provisions or application, and to this end the  
25 provisions of this Law are severable.



**Mina' Trenta Na Liheslaturan Guahan**  
**THIRTIETH GUAM LEGISLATURE**

**Senator vicente "ben" c. pangelinan**

**COMMITTEE ON APPROPRIATIONS, TAXATION, BANKING, INSURANCE, RETIREMENT AND LAND**  
**PUBLIC HEARING**  
**Friday, December 3, 2010**  
**Bill No. 492-30 (COR)**  
**SIGN UP SHEET**

NAME	ADDRESS	PHONE	EMAIL	WRITTEN	ORAL	SUPPORT	
						Yes	No
↓ Jose Changualet	457 Soa Nicde Rd.	828-1277			✓	Yes	
↓ Ben Garrido, Faet.	Dulog	622-5900			✓	Yes	
↓ Ofing Jackson	mangilao	637-5894			✓	Yes	
↓ Maga' Lahia Pagat	"	"				(yes 1000 I do support)	

324 W. Soledad Ave. Hagatna, Guam 96910  
 Ph. 473-4236 Fax. 473-4238  
 Email: senbenp@guam.net



**Mina' Trenta Na Liheslaturan Guahan**  
**THIRTIETH GUAM LEGISLATURE**

**Senator vicente "ben" c. pangelinan**

**COMMITTEE ON APPROPRIATIONS, TAXATION, BANKING, INSURANCE, RETIREMENT AND LAND**  
**PUBLIC HEARING**  
**Friday, December 3, 2010**  
**Bill No. 492-30 (COR)**  
**SIGN UP SHEET**

	NAME	ADDRESS	PHONE	EMAIL	WRITTEN	ORAL	SUPPORT	
							Yes	No
✓	Maria Nelson	igajo	653-2258		—	—		
✓	Joe L. Sa Agut				✓	✓		
✓	Bernadita Bora Torres							
✓	Joseph V. Camacho							

Ando John

324 W. Soledad Ave. Hagatna, Guam 96910  
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 Email: senbenp@guam.net



**Mina' Trenta Na Liheslaturan Guahan**  
**THIRTIETH GUAM LEGISLATURE**

**Senator vicente "ben" c. pangelinan**

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**COMMITTEE ON APPROPRIATIONS, TAXATION, BANKING, INSURANCE, RETIREMENT AND LAND**  
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**SIGN UP SHEET**

NAME	ADDRESS	PHONE	EMAIL	WRITTEN	ORAL	SUPPORT	
						Yes	No
Robing Wolford							

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**Felix P. Camacho**  
*Governor*

**Michael W. Cruz, M.D.**  
*Lieutenant Governor*

**Paula M. Blas**  
*Director*



**Joe T. San Agustin**  
*Chairman*  
**Wilfred P. Leon Guerrero**  
*Vice-Chairman*  
**Antolina S. Leon Guerrero**  
*Secretary*  
**Gerard A. Cruz**  
*Treasurer*  
**Wilfred G. Aflague**  
*Trustee*  
**George A. Santos**  
*Trustee*  
**Katherine T.E. Taitano**  
*Trustee*

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**GOVERNMENT OF GUAM RETIREMENT FUND**  
**BOARD OF TRUSTEES**  
**POSITION STATEMENT ON BILL 492-30**  
December 3, 2010

I. INTRODUCTION

The Board of Trustees of the Government of Guam Retirement Fund hereby submits its position statement concerning Bill 492-30. This position statement pertains only to Section 4 of Bill 492-30, which identifies the Retirement Fund as the top priority purchaser of certain “General Obligation Promissory Notes” (“Notes”) as described therein, and to Section 5 of Bill 492-30 that purports to indemnify the Board of Trustees from any liability arising from the purchase of the Notes.

For purposes of this position statement, the Board of Trustees do not express a position on the remaining Sections of Bill 492-30 that are not specifically addressed herein.

II. BILL 492-30

The Notes described in Bill 492-30 will be obligations of the Government of Guam, secured by the full faith and credit of the government of Guam. Proceeds from the sale of the Notes are to be used to satisfy the government’s judgment to COLA Awardees in the class action lawsuit entitled *Rios et al. vs. Camacho*, Superior Court Case No. SP0206-93. The amount of the Notes are not to exceed the total amount (approximately \$20 million) of all outstanding and unredeemed Certificates of Claim issued to COLA Awardees.

This position statement is submitted based on the general concepts of Bill 492-30, and not on specific Notes, because the terms and conditions of the Note sale (e.g., credit rating, interest rates, maturities, and yields to maturity) have not yet been approved by the Guam Economic Development Authority (“GEDA”).

III. POSITION STATEMENT

A. The Retirement Fund’s Prior Position Concerning Investment in Government of Guam Obligations.

From time to time, the Board of Trustees has submitted its position on whether it will invest in government of Guam obligations. Whether the obligations are called pension bonds,

Another consideration is that the Retirement Fund's actuarial-required rate of return currently is seven percent (7.0%). Once the terms and conditions of the Notes are approved by GEDA, the Board of Trustees will assess whether the interest rates on the Notes contain adequate risk and liquidity premiums in light of the Retirement Fund's overall investment objectives.

## 2. Purchase of the Notes and the Exclusive Benefit Rule.

In addition to fiduciary standards applicable to the Board of Trustees under the Defined Benefit Plan, there are fiduciary duties associated to the Board's adherence to the exclusive benefit rule of Internal Revenue Code (IRC) § 401(a)(2).<sup>1</sup> Prior to the effective date of ERISA, the Internal Revenue Service (IRS) interpreted the exclusive benefit rule of IRC § 401(a)(2), to which all qualified plans including qualified governmental plans are subject, as requiring the exercise of prudence in the investment of plan assets. See Revenue Ruling 69-494, 1969-2 C.B. 88, and Revenue Ruling 73-380, 1973-2 C.B. 124 (stating that an investment is consistent with the exclusive benefit rule if, among other things, the "safeguards and diversity that a prudent investor would adhere to (are) present"). Therefore, the Board would need to evaluate the proposed Note purchase as it would any other investment, and seek the advice of investment advisors, if necessary to determine whether there are adequate safeguards and diversity associated with the purchase of the Notes, considering not just investment factors, but other factors such as ethics in government, conflict of interest, self-dealing proscriptions, and civil sanctions and criminal penalties, if any. While it is not clear whether the exclusive benefit rule necessarily would be violated by Bill 492-30, Congress has indicated that the exclusive benefit rule is violated if the transaction constitutes a prohibited transaction, as discussed below. See H.R. REP. NO. 492-301, 94th Cong., 2d Sess. 1976.

### C. Purchase of the Notes May Be a Prohibited Transaction, Leading to Disqualification of the Tax-Exempt Status of the Defined Benefit Plan.

While not subject to the IRC excise taxes on prohibited transactions (see IRC § 4975(g)(2)), governmental plans (such as the Defined Benefit Plan) are subject to the prohibited transaction rules of IRC § 503. A plan engaging in a prohibited transaction thereunder will be denied its tax-exempt status. See IRC § 503(a)(1)(B). The prohibitions of IRC § 503 are designed to maintain arm's length dealings between the plan and the creator of, or a substantial contributor to, the plan or a person related in specified ways to the creator or contributor. The proposed purchase of the Notes may constitute a prohibited transaction in two respects.

First, the term "prohibited transaction" means any transaction in which a plan makes any substantial purchase of securities or any other property for more than adequate

---

<sup>1</sup> The Internal Revenue Code and its regulations are applicable to Guam through mirror code provisions in the Organic Act. However, the fiduciary responsibility requirements, including the prohibited transaction provisions of the Employee Retirement Income Security Act (ERISA) and IRC § 4975, are not applicable to governmental plans. ERISA §§ 401(a) and 4(b); IRC § 4975(g)(2).

self-dealing proscriptions, and civil sanctions and criminal penalties, if any. Although Bill 492-30 purports to indemnify the Board of Trustees for any liability arising from the purchase of the Notes, the Board has been advised about the enforceability of such indemnification and will consider the financial capability of the indemnitor in the context of the government's overall liability to the Retirement Fund for the purposes for which the Retirement Fund was created. For example, if the government of Guam defaults on the Notes, it is likely that the government of Guam would necessarily also "default" on its obligations to indemnify the Retirement Fund for its losses due to the government's default on the Notes.

#### V. SUMMARY OF THE BOARD OF TRUSTEES' POSITION ON BILL 492-30

The Board of Trustees notes that GEDA has not yet approved the terms and conditions of the Notes. The Board cannot determine whether the Notes would be a prudent investment until all of the terms and conditions have been finalized for the Board's review and analysis. However, under the current investment guidelines in the Defined Benefit Plan statute and the Retirement Fund's Investment Policy Statement, the purchase of the Notes probably would constitute an imprudent investment because of concentration of risk, inadequate security, illiquidity, and an insufficient anticipated rate of return relative to the risks inherent in the issue. Because the purchase of securities from the creator of the Fund is likely to constitute a prohibited transaction under IRC § 503(b) and a violation of the exclusive benefit rule of IRC § 401(a)(2), exposing the Defined Benefit Plan to disqualification of its tax-exempt status, the Retirement Fund is unlikely to consider purchasing the Notes for the Retirement Fund's diversified investment portfolio.

**Subject:** Re: Bill 492-30 COLA Claim Certificates**From:** "Dennison, Terry" <Terry.Dennison@mercer.com>**Date:** Thu, December 2, 2010 6:32 pm**To:** pmbblas@ite.net**Priority:** Normal**Options:** [View Full Header](#) | [View Printable Version](#) | [Download this as a file](#) | [Add to Address Book](#)

Paula,

I am in Lisbon for the European Investment Forum and have limited time today. Looking strictly at the investment issues, the principal concern is diversification.

The largest asset of any pension plan is the ability of the plan sponsor to make promised future contributions. This is particularly true for a very underfunded plan. It is important to remember that while participants contribute to the plan, the plan sponsor must have the financial resources to first employ the participant in order for the participant to be able to contribute.

In light of that and GGRF's funding level, from an economic perspective about half the 'assets' of the fund are already 'invested' in GovGuam's ability to make future contributions.

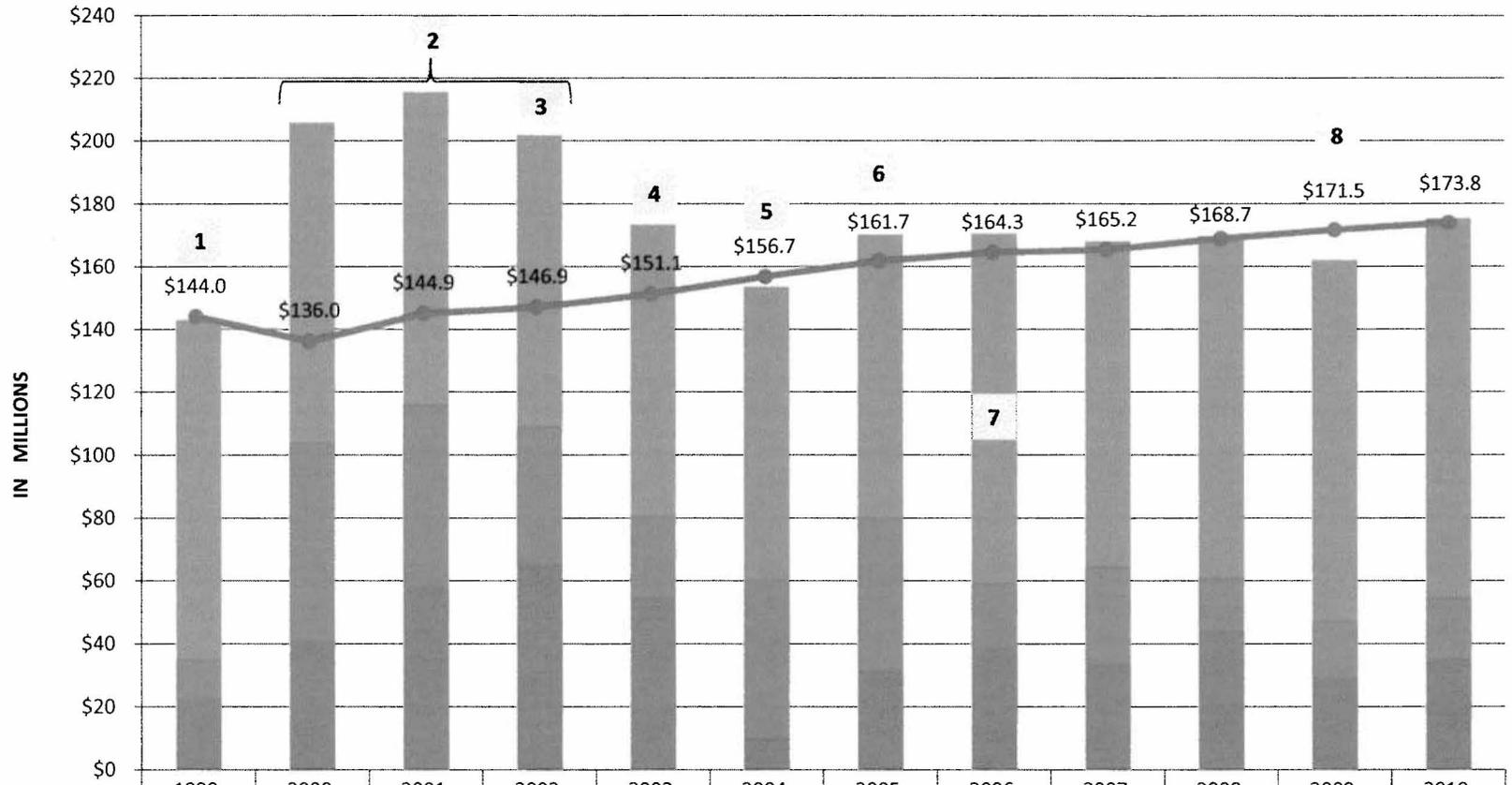
Even if GGRF was fully funded, investment in the sponsor's securities is undesirable. The golden rules of investing are to diversify and to maintain liquidity. For a fund with a negative external cash flow, investing a significant portion of the assets in an illiquid, unmarketable private placement (that is what these notes are) is not appropriate.

In order to purchase these notes, the fund would be liquidating assets which represent a diversity of credit risks and are totally liquid. In a protracted downturn, as we saw in 2007-8, in order to pay benefits, there would be large forced sales of the remaining liquid assets, further reducing both liquidity and diversification.

As we saw in that 2007-8 period, funds with large concentrations of illiquid securities and extremely depressed prices for their liquid securities had significant cash flow issues, to the extent of trying to obtain backup lines of credit in order to assure they could pay current beneficiaries.

We are also concerned that the notes would displace potentially higher returning investments. Given the GGRF's funding level, the loss of that higher earning potential could impair the fund's financial position for the long term.

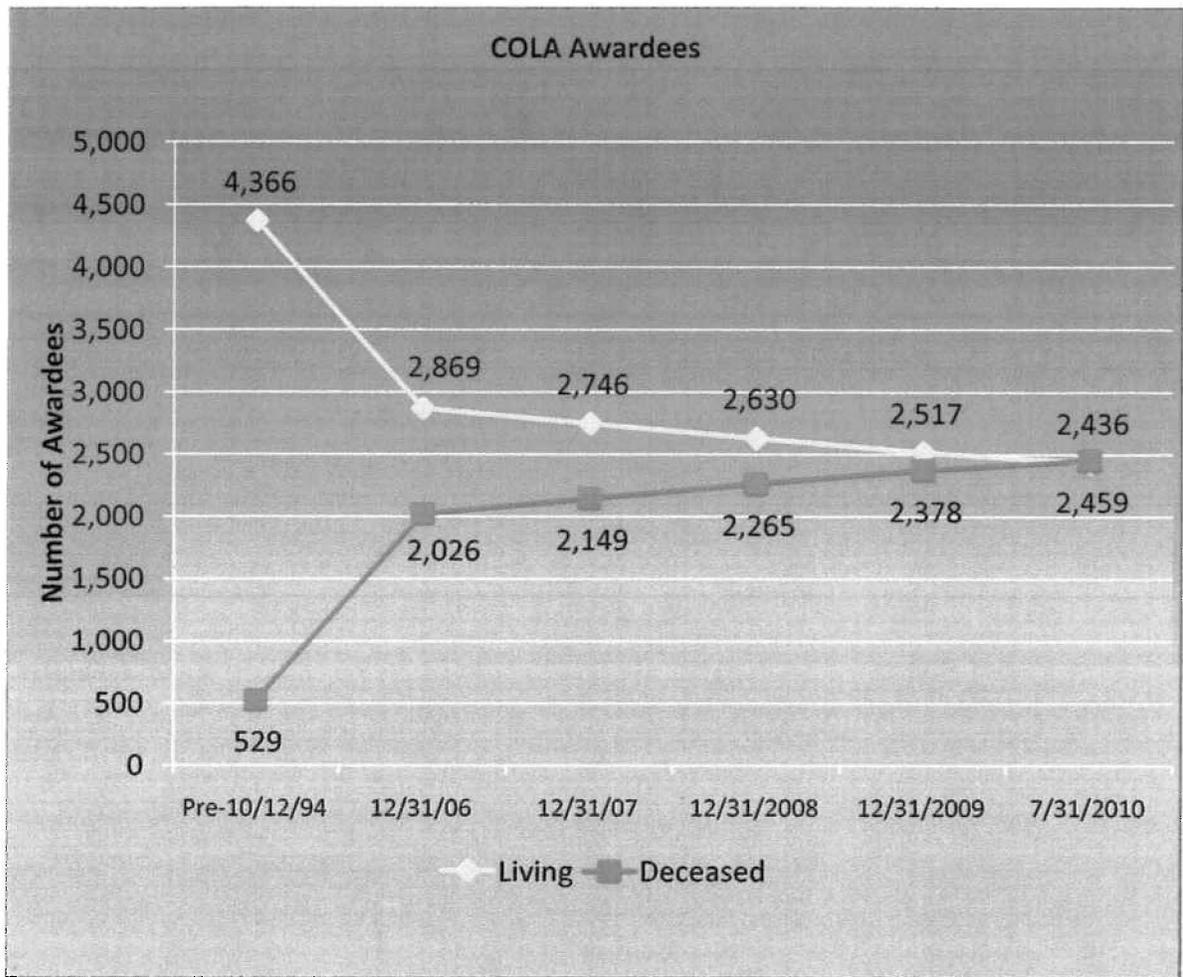
**Government of Guam Retirement Fund  
Summary of Drawdowns  
Fiscal years 1999 to 2010**



	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
■ Contributions	\$108.2	\$102.0	\$99.8	\$93.1	\$93.0	\$93.4	\$90.4	\$111.5	\$103.8	\$108.9	\$115.1	\$121.1
■ Principal Drawdowns	\$12.7	\$63.2	\$58.1	\$44.0	\$26.1	\$50.4	\$48.5	\$20.4	\$30.9	\$16.7	\$18.0	\$19.2
■ Interest / Dividends	\$22.2	\$40.7	\$57.7	\$64.7	\$54.4	\$9.8	\$31.3	\$38.6	\$33.4	\$44.0	\$29.0	\$35.1

● Benefit Payments 171.5 168.1 169.4 162.1 175.4

1. 1999: Benefit payments include supplemental benefits and insurance for General Fund, Guam Polwer Authority, Guam Waterworks Authority, and Guam Memorial Hospital.
2. 2000-2002: Contributions included \$125m in Supplemental/COLA receivables, and \$43m in ERIP receivables.
3. 2002: Contribution rate = 19.8%
4. 2003: Contribution rate = 26% on October 1, 2002, 18.6% as of March 1, 2003
5. 2004: Contribution rate: 18.6%
6. 2005: Contribution rate = 20.81%
7. 2006: Contributions include \$11.9m from GTA for unfunded liability
8. 2009: \$8m of the \$21m bond proceeds were used to meet benefit payments.

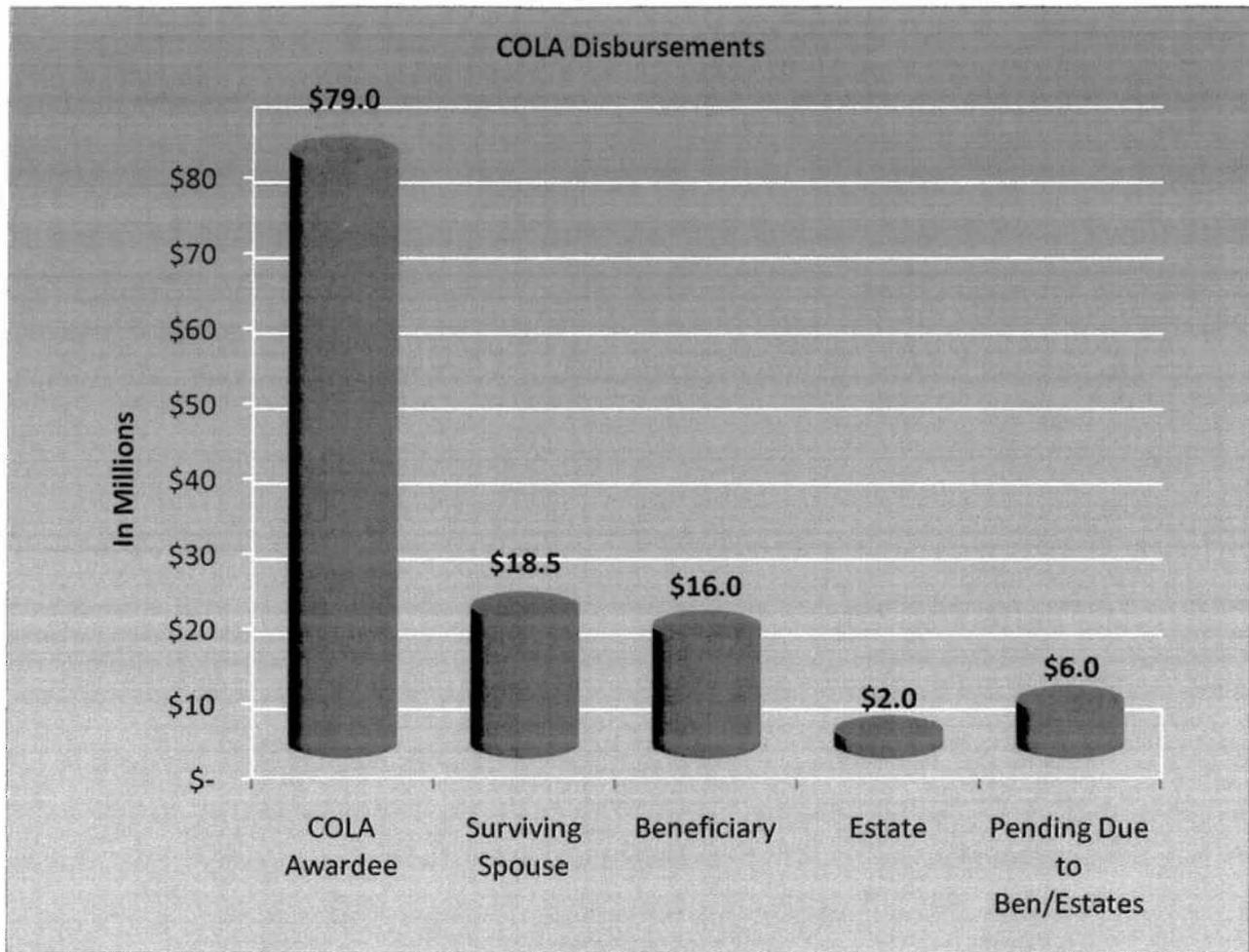


### Count

Date	Living	Deceased	Total
Pre-10/12	4,366	529	4,895
12/31/06	2,869	2,026	4,895
12/31/07	2,746	2,149	4,895
12/31/08	2,630	2,265	4,895
12/31/09	2,517	2,378	4,895
07/31/10	2,436	2,459	4,895

### Percent of Total

Date	Living	Deceased	Total
Pre-10/12	89.2%	10.8%	100%
12/31/06	58.6%	41.4%	100%
12/31/07	56.1%	43.9%	100%
12/31/08	53.7%	46.3%	100%
12/31/09	51.4%	48.6%	100%
07/31/10	49.8%	50.2%	100%



	Payment in Millions	Percent of Total
COLA Awardee	\$ 79.00	65%
Surviving Spouse	18.50	15%
Beneficiary	16.00	13%
Estate	2.00	2%
Pending Due to Ben/Estate	6.00	5%
<b>Total Appropriations</b>	<b>\$ 121.50</b>	<b>100%</b>

Description	Count	Percent of Total
No Payments	383	8%
Partial Payment	134	3%
Full Payment	4,124	84%
Zero Due	254	5%
<b>Total Appropriations</b>	<b>4,895</b>	<b>100%</b>

**Bureau of Budget & Management Research**  
**Fiscal Note of Bill No. 492 -30**

An Act to distribute additional COLA award payments for Certificates of Claim issued and to authorize the sale of General Obligation Proissory Notes for payments to "COLA" awardees in reference to Superior Court Case No. SP0206-93.

Department/Agency Appropriation Information	
Dept./Agency Affected: DOA	Dept./Agency Head: Lourdes M. Perez, Director
Department's General Fund (GF) appropriation(s) to date:	41,332,473
Department's Other Fund (Specify) appropriation(s) to date:	8,145,575
<b>Total Department/Agency Appropriation(s) to date:</b>	<b>\$49,478,048</b>

Fund Source Information of Proposed Appropriation			
	General Fund:	(Specify Special Fund):	Total:
FY 2010 Unreserved Fund Balance		\$0	\$0
FY 2011 Adopted Revenues	\$535,231,228	\$0	\$535,231,228
FY 2011 Appra. (P.L. 30-196)	(\$538,812,874)	\$0	(\$538,812,874)
Sub-total:	(\$3,581,646)	\$0	(\$3,581,646)
Less appropriation in Bill	\$0	\$0	\$0
<b>Total:</b>	<b>(\$3,581,646)</b>	<b>\$0</b>	<b>(\$3,581,646)</b>

Estimated Fiscal Impact of Bill						
	One Full Fiscal Year	For Remainder of FY 2011 (if applicable)	FY 2012	FY 2013	FY 2014	FY 2015
General Fund	\$0	\$0	\$0	\$0	\$0	\$0
(Specify Special Fund)	\$0	\$0	\$0	\$0	\$0	\$0
<b>Total 1/</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

- Does the bill contain "revenue generating" provisions? / / Yes /X/ No  
 If Yes, see attachment
- Is amount appropriated adequate to fund the intent of the appropriation: /X/ N/A / / Yes / / No  
 If no, what is the additional amount required? \$ \_\_\_\_\_ /X/ N/A
- Does the Bill establish a new program/agency? / / Yes /X/ No  
 If yes, will the program duplicate existing programs/agencies? /X/ N/A / / Yes / / No  
 Is there a federal mandate to establish the program/agency? / / Yes /X/ No
- Will the enactment of this Bill require new physical facilities? / / Yes /X/ No
- Was Fiscal Note coordinated with the affected dept/agency? If no, indicate reason: /X/ Yes / / No  
 / / Requested agency comments not received by due date / X / Other: Title 5 GCA, Chap 6, Article 4, Sec. 6404

Analyst: AP/SL Date: 12-7-10 Director: [Signature] Date: DEC 07 2010  
 Bertha M. Duenas, Director

Footnotes: The proposal has the potential for additional funding impact, however in its present form, that impact cannot be determined at this time.



**COMMITTEE ON RULES**

*I Mina' Trenta na Liheslaturan Guåhan* • 30th Guam Legislature

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November 23, 2010

**MEMORANDUM**

**To: Pat Santos**  
*Clerk of the Legislature*

**Attorney Therese M. Terlaje**  
*Legislative Legal Counsel*

**From: Senator Rory J. Respicio**  
*Chairperson, Committee on Rules*

**Subject: Referral of Bills No. 492-30 (COR) through 494-30 (COR)**

2010 NOV 24 AM 9:10  
MUA

As Chairperson of the Committee on Rules, I am forwarding my referral of Bills No. 491-30 (COR) through 494-30 (COR).

Please ensure that the subject bills are referred, in my name, to the respective committees, as shown on the attachment. I also request that the same be forwarded to all Senators of *I Mina' Trenta Na Liheslaturan Guåhan*.

Should you have any questions, please contact Stephanie Mendiola or Elaine V. Tajalle at 472-7679.

*Si Yu'os Ma'åse'!*

(1) Attachment

*I Mina'Trenta Na Liheslaturan Guåhan*

**Bill Log Sheet**

Page 1 of 2

Bill No.	Sponsor(s)	Title	Date Introduced	Date Referred	120 Day Deadline	Committee Referred	Public Hearing Date	Date Committee Report Filed	Status (Date) Passed? Failed? Vetoed? Overridden? Public Law?
B492-30 (COR)	v. c. pangelinan	AN ACT TO DISTRIBUTE ADDITIONAL COLA AWARD PAYMENTS FOR CERTIFICATES OF CLAIM ISSUED AND TO AUTHORIZE THE SALE OF GENERAL OBLIGATION PROMISSORY NOTES FOR PAYMENTS TO "COLA" AWARDEES IN REFERENCE TO SUPERIOR COURT CASE NO. SP0206-93.	11/22/10 12:13 p.m.	11/23/10		Committee on Appropriations, Taxation, Banking, Insurance, Retirement, and Land			
B493-30 (COR)	T.R. Muña-Barnes	AN ACT TO ZONE THE PREVIOUSLY UNZONED LOT NO. 165-R4 IN THE MUNICIPALITY OF PITI TO LIGHT INDUSTRIAL (M-1) ZONE.	11/22/10 2:58 p.m.	11/23/10		Committee on Appropriations, Taxation, Banking, Insurance, Retirement, and Land			

B494-30 (COR)	T.R. Muña- Barnes	AN ACT TO ZONE APRA HARBOR RESERVATION LOT F-12-1 AND LOT F-12- R1, IN THE MUNICIPALITY OF PITI, TO LIGHT INDUSTRIAL ("M-1") ZONE.	11/22/10 2:58 p.m.	11/23/10		Committee on Appropriations, Taxation, Banking, Insurance, Retirement, and Land			
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Mina' Trenta Na Liheslaturan Guåhan

Senator vicente (ben) c. pangelinan (D)

November 26, 2010

Memorandum

To: All Senators

From: Senator ben pangelinan

Re: Public Hearing Notice – FIRST NOTICE

Chairman  
Committee on Appropriations,  
Taxation, Banking, Insurance,  
Retirement, and Land

Member  
Committee on Education

Member  
Committee on  
Municipal Affairs,  
Aviation, Housing, and  
Recreation

Member  
Committee on Labor, the  
Public Structure,  
Public Libraries, and  
Technology

The Committee on Appropriations, Taxation, Banking, Insurance and Land will conduct a public hearing beginning at **8:30am, Friday, December 3, 2010** at the Guam Legislature's Public Hearing Room. The following bills are the agenda;

**Bill No. 421-30 (COR): An Act to create a Festival of Pacific Arts Revolving Fund**

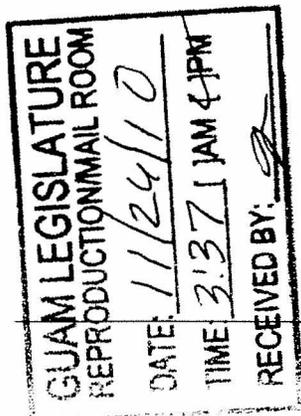
**Bill No. 429-s0 COR): An act to amend §26404 of Chapter 26 Title 11 Guam Code Annotated to eliminate the tax exemption on liquid fuels transshipped through Guam, and to create an environmental risk mitigation fund.**

**Bill No. 430-30 (COR: An Act to appropriate the sum of One Hundred Forty-One Thousand Dollars from the General Fund for FY 2011 to the Guam Election Commission to pay for prior year's obligation.**

**Bill No. 440-30 (COR): An Act to authorize the sale of a portion of Lot No. 87-4-2-R1, not to exceed 114± Square meters, under the inventory of Chamorro Land Trust**

**Bill No. 449-30 (COR): An Act to Relative to re-zoning Lot No. 10117-R6, located in the Municipality in Dededo, From Commercial ("C") to Light Industrial (M1) for purposes of establishing business related to construction and warehouse activities.**

**Bill No. 458-30 (COR): An Act to rezone Lot Nos. 3261-R4, 3261-2, 3261-1-R3, 3261-1-2 and 3261-1-1 R1 all in the Municipality of Chalan Pago from Residential "R-1" to Light Industrial "M1" zone.**



324 W. Soledad Ave. Suite 100, Hagåtña, Guam 96910

Tel: (671) 473-(4BEN) 4236 - Fax: (671) 473-4238 - Email: senbenp@guam.net

Memo to: All Senators  
November 26, 2010  
Page 2

**Bill No. 462-30 (COR): An act to add a new Section 9 and 10 to Chapter VIII of Public Law 30-196 Relative to providing to the Mayors Council of Guam continuing appropriation and an authorization for payments of prior year obligations.**

**Bill No. 471-30 (COR): An act to rezone Lot No. 5, Block No. 3 Tract 172 Agricultural Subdivision of Lot No. 10065 Mogfog, Dededo to Commercial Zone "C" for the purpose of constructing a multi-purpose community center for public usage.**

**Bill No. 472-30 (COR): An act to authorize the Governor of Guam to convey Lot 5412-2 in the municipality of Mangilao to the Guam Power Authority to provide necessary land for the development of a consolidated central office.**

**Bill No. 484-30 (COR): An act to appropriate funds for the repairs to the Agat Gym.**

**Bill No. 491-30 (COR): An act to amend §26201 and §26202(e) of Chapter 6 Title 11 of The Guam Code Annotated, Relative to the Business Privilege Tax on Contractors**

**Bill No. 492-30 (COR): An Act to distribute additional COLA Award payments for certifications of claim issued and to authorize the sale of General Obligation Promissory Notes for payments to "COLA" Awardees in reference to Superior Court Case No. SP0206-93.**

**Bill No. 493-30 (COR): An Act to zone the previously unzoned Lot No. 165-R4 in the Municipality of Piti to Light Industrial (M-1) Zone.**

**Bill No. 494-30 (COR): An Act to zone Apra Harbor Reservation Lot F-12-1 and Lot F-12-R1, in the Municipality of Piti, to Light Industrial ("M-1") Zone.**

cc: Tom Unsiong, Sergeant-at-Arms  
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date Fri, Nov 26, 2010 at 4:00 PM  
subject Public Hearing - FIRST NOTICE  
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Please see attached

--  
Lisa Cipollone  
Chief of Staff  
Office of Senator ben c. pangelinan  
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date Fri, Nov 26, 2010 at 4:30 PM

subject Public Hearing Notice - FIRST NOTICE

mailed-by guamlegislature.org

Senator ben pangelinan will hold a public hearing on Friday, December 3 beginning at 8:30am. Below is the agenda.

**INEKUNGOK PUPBLEKO  
(PUBLIC HEARING)**

**Betnes, gi diha 3 gi Disembre 2010  
(Friday, December 3, 2010)**

**Kuátton Inekungok Pubbleko gi I Liheslaturan Guáhan  
(Guam Legislature Public Hearing Room)**

**Gi alas 8:30 gi ega'an  
(8:30 AM)**

**TAREHA  
(AGENDA)**

**I Priniponi Siha:**

Bill No. 421-30 (COR): An Act to create a Festival of Pacific Arts Revolving Fund

Bill No. 429-30 (COR): An act to amend §26404 of Chapter 26 Title 11 Guam Code Annotated to eliminate the tax exemption on liquid fuels transshipped through Guam, and to create an environmental risk mitigation fund.

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Bill No. 494-30 (COR): An Act to zone Apra Harbor Reservation Lot F-12-1 and Lot F-12-R1, in the Municipality of Piti, to Light Industrial ("M-1") Zone.

--  
Lisa Cipollone  
Chief of Staff  
Office of Senator ben c. pangelinan  
(671) 473-4236  
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wealthy neighbor tried any provocations."

The sudden spike in tension in the world's fastest growing economic region is putting mounting pressure on China to be prickly ally. South Korean media reports said Monday's artillery attack was personally ordered by elusive North Korean leader Jong-il.

(North Korea) will wage second and even third rounds of attacks without any hesitation, warmongers in South Korea recklessly provoked again," the North's KCNA news agency, using typically evasive language, quoted a statement from the military as saying.

The U.S. cannot evade the blame for the recent shelling," it added. "If the U.S. truly desires

The United States and South Korea are to hold joint military exercises next week, with the aircraft carrier USS George Washington participating, although KCNA made no mention of that.

"Over telephone talks with Secretary (of State) Hillary Clinton, we agreed that through the drill, we will be able to ...send a clear message to the North in relation to the recent situation," a South Korean Foreign Ministry spokesman said.

North Korean leader Kim Jong-un, visited the Yellow Sea coastal artillery base from where shells were fired at a South Korean island near the disputed maritime boundary just hours before the attack, newspapers in Seoul said.

South Korea's military was

The government declined to comment.



**Mina' Trenta Na Lihelaturan Guahan  
THIRTIETH GUAM LEGISLATURE**

**Senator vicente "ben" pangelinan  
Office of the People**

**INEKUNGOK PUPBLEKO (PUBLIC HEARING)**

**Betnes, gi diha 3 gi Disembre 2010  
(Friday, December 3, 2010)**

**Kuátton Inekungok Pubbleko gi I Lihelaturan Guáhan  
(Guam Legislature Public Hearing Room)**

**Gi alas 8:30 gi ega'an (8:30 AM)**

**TAREHA (AGENDA)**

**I Priniponi Siha:**

**Bill No. 421-30 (COR):** An Act to create a Festival of Pacific Arts Revolving Fund

**Bill No. 429 (Ada):** An act to amend §26404 of Chapter 26 Title 11 Guam Code Annotated to eliminate the tax exemption on liquid fuels transshipped through Guam, and to create an environmental risk mitigation fund.

**Bill No. 430-30 (COR):** An Act to appropriate the sum of One Hundred Forty-One Thousand Dollars from the General Fund for FY 2011 to the Guam Election Commission to pay for prior year's obligation.

**Bill No. 440-30 (COR):** An Act to authorize the sale of a portion of Lot No. 87-4-2-R1, not to exceed 114+ Square meters, under the inventory of Chamorro Land Trust

**Bill No. 449-30 (COR):** An Act to Relative to re-zoning Lot No. 10117-R6, located in the Municipality in Dededo, From Commercial ("C") to Light Industrial (M1) for purposes of establishing business related to construction and warehouse activities.

**Bill No. 458-30 (COR):** An Act to rezone Lot Nos. 3261-R4, 3261-2, 3261-1-R3, 3261-1-2 and 3261-1-1 R1 all in the Municipality of Chalan Pago from Residential "R-1" to Light Industrial "M1" zone.

**Bill No. 462-30 (COR):** An act to add a new Section 9 and 10 to Chapter VIII of Public Law 30-196. Relative to providing to the Mayors Council of Guam continuing appropriation and an authorization for payments of prior year obligations.

**Bill No. 471-30 (COR):** An act to rezone Lot No. 5, Block No. 3 Tract 172 Agricultural Subdivision of Lot No. 10065 Mogfog, Dededo to Commercial Zone "C" for the purpose of constructing a multi-purpose community center for public usage.

**Bill No. 472-30 (COR):** An act to authorize the Governor of Guam to convey Lot 5412-2 in the municipality of Mangilao to the Guam Power Authority to provide necessary land for the development of a consolidated central office.

**Bill No. 484-30 (COR):** An act to appropriate funds for the repairs to the Agat Gym.

**Bill No. 491-30 (COR):** An act to amend §26201 and §26202(a) of Chapter 6 Title 11 of The Guam Code Annotated, Relative to the Business Privilege Tax on Contractors

**Bill No. 492-30 (COR):** An Act to distribute additional COLA Award payments for certifications of claim issued and to authorize the sale of General Obligation Promissory Notes for payments to "COLA" Awardees in reference to Superior Court Case No. SP0206-93.

**Bill No. 493-30 (COR):** An Act to zone the previously unzoned Lot No. 165-R4 in the Municipality of Piti to Light Industrial (M-1) Zone.

**Bill No. 494-30 (COR):** An Act to zone Apra Harbor Reservation Lot F-12-1 and Lot F-12-R1, in the Municipality of Piti, to Light Industrial ("M-1") Zone.

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*Joaquin C. Flores, P.E.  
General Manager*

**NOTICE FOR BID**

by the GUAM POWER AUTHORITY Bond Funds.

<b>E:</b>	<b>TIME:</b>	<b>DESCRIPTION:</b>
110	2:00 P.M.	GPA Upgrade Fire Protection and Smoke Alarm Systems at Dededo Diesel Power Plant (\$150.00 non-refundable payment)
110	2:00 P.M.	GPA Upgrade Fire Protection and Smoke Alarm Systems at Yigo CT Power Plant (\$150.00 non-refundable payment)

All Procurement Office, 1<sup>st</sup> Floor, GPA Central Office, 1911 Route 16, Harmon, must be made at our GPA Customer Services Department prior to issuance of register with GPA's Procurement Division to be able to participate in the bid. Call 671-3055 to register. Registration is required to ensure that all "Amendments" are submitted to all bidders throughout the bid process.



Mina'Trenta Na Liheslaturan Guahan

Senator vicente (ben) c. pangelinan (D)

December 1, 2010

Memorandum

To: All Senators  
From: Senator ben pangelinan  
Re: Public Hearing Notice – SECOND NOTICE

Chairman  
Committee on Appropriations,  
Taxation, Banking, Insurance,  
Retirement, and Land

Member  
Committee on Education

Member  
Committee on  
Municipal Affairs,  
Aviation, Housing, and  
Recreation

Member  
Committee on Labor, the  
Public Structure,  
Public Libraries, and  
Technology

The Committee on Appropriations, Taxation, Banking, Insurance and Land will conduct a public hearing beginning at **8:30 am, December 3, 2010** at the Guam Legislature's Public Hearing Room. The following bills are on the agenda:

**Bill No. 492-30 (COR): An Act to distribute additional COLA Award payments for certifications of claim issued and to authorize the sale of General Obligation Promissory Notes for payments to "COLA" Awardees in reference to Superior Court Case No. SP0206-93.**

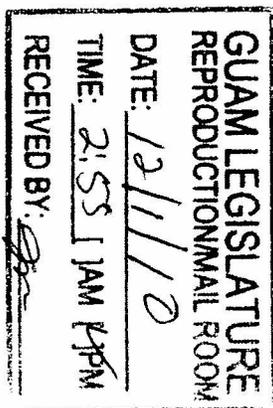
**Bill No. 421-30 (COR): An Act to create a Festival of Pacific Arts Revolving Fund**

**Bill No. 429-30 (COR): An act to amend §26404 of Chapter 26 Title 11 Guam Code Annotated to eliminate the tax exemption on liquid fuels transshipped through Guam, and to create an environmental risk mitigation fund.**

**Bill No. 430-30 (COR): An Act to appropriate the sum of One Hundred Forty-One Thousand Dollars from the General Fund for FY 2011 to the Guam Election Commission to pay for prior year's obligation.**

**Bill No. 440-30 (COR): An Act to authorize the sale of a portion of Lot No. 87-4-2-R1, not to exceed 114± Square meters, under the inventory of Chamorro Land Trust**

**Bill No. 449-30 (COR): An Act to Relative to re-zoning Lot No. 10117-R6, located in the Municipality in Dededo, From Commercial ("C") to Light Industrial (M1) for purposes of establishing business related to construction and warehouse activities.**



Memo to Senators  
December 1, 2010  
Page 2

**Bill No. 458-30 (COR): An Act to rezone Lot Nos. 3261-R4, 3261-2, 3261-1-R3, 3261-1-2 and 3261-1-1 R1 all in the Municipality of Chalan Pago from Residential "R-1" to Light Industrial "M1" zone.**

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**Bill No. 484-30 (COR): An act to appropriate funds for the repairs to the Agat Gym.**

**Bill No. 491-30 (COR): An act to amend §26201 and §26202(e) of Chapter 6 Title 11 of The Guam Code Annotated, Relative to the Business Privilege Tax on Contractors**

**Bill No. 493-30 (COR): An Act to zone the previously unzoned Lot No. 165-R4 in the Municipality of Piti to Light Industrial (M-1) Zone.**

**Bill No. 494-30 (COR): An Act to zone Apra Harbor Reservation Lot F-12-1 and Lot F-12-R1, in the Municipality of Piti, to Light Industrial ("M-1") Zone.**

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About these links

Please see attached memo regarding public hearing by Senator pangelinan for Friday, December 3, 2010 beginning at 8.30am at the Guam Legislature Public Hearing Room.

Lisa Cipollone  
Chief of Staff  
Office of Senator ben c. pangelinan  
(671) 473-4236  
cipo@guamlegislature.org

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subject Second Public Hearing Notice

mailed-by guamlegislature.org

Senator ben pangelinan will conduct a public hearing on Friday, December 3, 2010. The following bills are on the agenda:

**INEKUNGOK PUPBLEKO  
(PUBLIC HEARING)**

**Betnes, gi diha 3 gi Disembre 2010  
(Friday, December 3, 2010)**

**Kuátton Inekungok Pubbleko gi I Liheslaturan Guáhan  
(Guam Legislature Public Hearing Room)**

**Gi alas 8:30 gi ega'an  
(8:30 AM)**

**TAREHA  
(AGENDA)**

**I Priniponi Siha:**

Bill No. 492-30 (COR): An Act to distribute additional COLA Award payments for certifications of claim issued and to authorize the sale of General Obligation Promissory Notes for payments to "COLA" Awardees in reference to Superior Court Case No. SP0206-93.

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Bill No. 491-30 (COR): An act to amend §26201 and §26202(e) of Chapter 6 Title 11 of The Guam Code Annotated, Relative to the Business Privilege Tax on Contractors

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Bill No. 494-30 (COR): An Act to zone Apra Harbor Reservation Lot F-12-1 and Lot F-12-R1, in the Municipality of Piti, to Light Industrial ("M-1") Zone.

---  
Lisa Cipollone  
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**THIRTIETH GUAM LEGISLATURE**  
 Senator vicente "Ben" C. pangalitan  
 Office of the People

**BERNARD PAPAPIO**  
 (PUBLIC HEARING)

*Bohor, p' dha 3 p' Disiembre 2010*  
 (Friday, December 3, 2010)

*Kaduna kankangay, Papeles p' 11/Disiembre Guahan*  
 (Guam Legislature Public Hearing Room)

*Or alas 8:30 of egup'an*  
 (8:30 AM)

**ZAREHA**  
 (AGENDA)

**/Pihokot Sine**

**Bill No. 492-30 (CONR):** An Act to distribute additional OCL A Award payments for certifications of claim issued and to authorize the sale of General Obligation Treasury Notes for payments to OCLLA Awardees in reference to Superior Court Case No. SP0205-93.

**Bill No. 421-30 (CONR):** An Act to create a Festival of Pacific Arts Recycling Fund.

**Bill No. 429-80 (CONR):** An act to amend §26104 of Chapter 26 Title 11 Guam Code Annotated to eliminate the tax exemption on land used transported through Guam, and to create an environmental risk mitigation fund.

**Bill No. 430-30 (CONR):** An Act to appropriate the sum of One Hundred Forty-One Thousand Dollars from the General Fund for FY 2011 to the Guam Election Commission to pay for prior year's obligation.

**Bill No. 440-30 (CONR):** An Act to authorize the sale of a portion of Lot No. 87-4-2-#1, and to enclose 14½ Square meters, under the Inventory of Chancery Land Trust.

**Bill No. 449-30 (CONR):** An Act to Repeale to re-zoning Lot No. 10117-#2, located in the Municipality in Dededo, from Commercial ("C") to Light Industrial (MI) for purposes of establishing business related to construction and warehouse activities.

**Bill No. 459-30 (CONR):** An Act to rezone Lot Nos. 3261H4, 3261-2, 3261-H3, 3261-12 and 3261-H1 #1 all in the Municipality of Oroteo Pago from Residential "R-1" to Light Industrial "MI" zone.

**Bill No. 462-30 (CONR):** An act to add a new Section 9 and 10 to Chapter VIII of Public Law 30-195 Relative to providing to the Mayor Council of Guam continuing appropriation and an authorization for payments of prior year obligations.

**Bill No. 471-30 (CONR):** An act to rezone Lot No. 5, Block No. 3 Tract 172 Agricultural Subdivision of Lot No. 10365 Magyog, located to Commercial Zone "C" for the purpose of constructing a multi-purpose community center for public usage.

**Bill No. 472-30 (CONR):** An act to authorize the Governor of Guam to convey Lot 54122 in the Municipality of Mangilag to the Guam Power Authority to provide necessary land for the development of a consolidated central office.

**Bill No. 484-30 (CONR):** An act to appropriate funds for the request to the Agri Gym.

**Bill No. 491-30 (CONR):** An act to amend §26201 and §26202(e) of Chapter 6 Title 11 of the Guam Code Annotated, Relative to the Business Privilege Tax on Contractors.

**Bill No. 493-30 (CONR):** An Act to zone the previously unzoned Lot No. 165-#4 in the Municipality of Piti to Light Industrial (MI-1) Zone.

**Bill No. 494-30 (CONR):** An Act to zone Agua Harbor Reservation Lot F-24 and Lot F-24-#1 in the Municipality of Piti to Light Industrial (MI-1) Zone.

*Yanngan un niaslan apasela' na sentado pal' abed' abang' i' Nagan Senator Ben Pangalitan p' 473-4236/7. Hine' si senador p' guam, gason' halon' p' i' negos' p' <http://www.senador.com>. Eto' na nasa' napsa' na i' herida' gubernamto.*

If you require any special accommodations, please contact the Office of Senator Ben Pangalitan at 473-4236, email at [sen@senadorguam.net](mailto:sen@senadorguam.net) or [www.senadorguam.net](http://www.senadorguam.net).

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Mina' Trenta Na Lihelaturan Guahan  
THIRTIETH GUAM LEGISLATURE

Senator vicente "ben" pangelinan  
Office of the People

INEKUNGOK PUPLEKO (PUBLIC HEARING)

Bemes, gi dila 3 gi Disembre 2010

Friday, December 3, 2010

Kudton Inekungok Pupleko gi l Lihelaturan Guahan  
(Guam Legislature Public Hearing Room)

Gi alas 8:30 gi ege'an (8:30 AM)

TAREHA (AGENDA)

I Pritiponi Siha:

**Bill No. 492-30 (COR):** An Act to distribute additional COLA Award payments for certifications of claim issued and to authorize the sale of General Obligation Promissory Notes for payments to "COLA" Awardees in reference to Superior Court No. SP0206-93.

**Bill No. 421-30 (COR):** An Act to create a Festival of Pacific Arts Revolving Fund

**Bill No. 429 (Ada):** An act to amend §26404 of Chapter 26 Title 11 Guam Code Annotated to eliminate the tax exemption on liquid fuels transhipped through Guam, and to create an environmental risk mitigation fund.

**Bill No. 430-30 (COR):** An Act to appropriate the sum of One Hundred Forty-One Thousand Dollars from the General Fund for FY 2011 to the Guam Election Commission to pay for prior year's obligation.

**Bill No. 440-30 (COR):** An Act to authorize the sale of a portion of Lot No. 87-4-2-R1, not to exceed 114+ Square meters, under the inventory of Chamorro Land Trust

**Bill No. 449-30 (COR):** An Act to Relate to re-zoning Lot No. 10117-R6, located in the Municipality in Dededo, From Commercial (C) to Light Industrial (M1) for purposes of establishing business related to construction and warehouse activities.

**Bill No. 458-30 (COR):** An Act to rezone Lot Nos. 3261-R4, 3261-1, 3261-1-R3, 3261-1-2 and 3261-1-1 R1 all in the Municipality of Chalan Pago from Residential "R-1" to Light Industrial "M1" zone.

**Bill No. 462-30 (COR):** An act to add a new Section 9 and 10 to Chapter VIII of Public Law 30-196 Relative to providing to the Mayors Council of Guam continuing appropriation and an authorization for payments of prior year obligations.

**Bill No. 471-30 (COR):** An act to rezone Lot No. 5, Block No. 3 Tract 172 Agricultural Subdivision of Lot No. 10065 Mogfog, Dededo to Commercial Zone "C" for the purpose of constructing a multi-purpose community center for public usage.

**Bill No. 472-30 (COR):** An act to authorize the Governor of Guam to convey Lot 5412-2 in the municipality of Mangilao to the Guam Power Authority to provide necessary land for the development of a consolidated central office.

**Bill No. 484-30 (COR):** An act to appropriate funds for the repels to the Agat Gym.

**Bill No. 491-30 (COR):** An act to amend §26201 and §26202(e) of Chapter 6 Title 11 of The Guam Code Annotated, Relative to the Business Privilege Tax on Contractors

**Bill No. 493-30 (COR):** An Act to zone the previously unzoned Lot No. 165-R4 in the Municipality of Piti to Light Industrial (M-1) Zone.

**Bill No. 494-30 (COR):** An Act to zone Aora Harbor Reservation Lot F-12-1 and Lot F-12-R1, in the Municipality of Piti, to Light Industrial ("M-1") Zone.

Yanggen un nisisita espesialt na sebbisio put fabot agang l llihan Senador ben pangelinan gi 473-423877, i-mel si senbemp@guam.net, patsino halom gi l uepsasi gi www.senbemp.com. Este na nutislu inapsasi nu i fendon gubetrarnento.

M



**Mina' Trenta Na Liheslaturan Guahan**  
**THIRTIETH GUAM LEGISLATURE**

**Senator vicente "ben" c. pangelinan**  
**Office of the People**

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**INEKUNGOK PUPBLEKO**  
**(PUBLIC HEARING)**

**Betnes, gi diha 3 gi Disembre 2010**  
**(Friday, December 3, 2010)**

**Kuátton Inekungok Pupbleko gi I Liheslaturan Guáhan**  
**(Guam Legislature Public Hearing Room)**

**Gi alas 8:30 gi ega'an**  
**(8:30 AM)**

**TAREHA**  
**(AGENDA)**

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**Bill No. 494-30 (COR): An Act to zone Apra Harbor Reservation Lot F-12-1 and Lot F-12-R1, in the Municipality of Piti, to Light Industrial (“M-1”) Zone.**

*Yanggen un nisisita espiât na setbisio put fabot âgang i Ifisinan Senadot ben pangelinan gi 473-4236/7, i-mel si [senbenp@guam.net](mailto:senbenp@guam.net) , patsino hâlom gi i uepsait gi [www.senbenp.com](http://www.senbenp.com). Este na nutisiu inapâsi nu i fendon gubetnamento.*

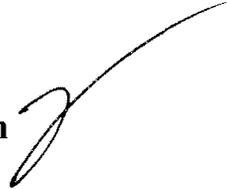
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I MINA' TRENTA NA LIHESLATURAN GUÅHAN  
2010 (SECOND) REGULAR SESSION

Bill No. 492-20 (COR.)

Introduced by:

v.c. pangelinan



AN ACT TO DISTRIBUTE ADDITIONAL COLA AWARD  
PAYMENTS FOR CERTIFICATES OF CLAIM ISSUED  
AND TO AUTHORIZE THE SALE OF GENERAL  
OBLIGATION PROMISSORY NOTES FOR PAYMENTS  
TO "COLA" AWARDEES IN REFERENCE TO  
SUPERIOR COURT CASE NO. SP0206-93.

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BE IT ENACTED BY THE PEOPLE OF GUAM:

1       **Section 1. Legislative Findings and Intent.**       In Public Law 30-196,  
2 the General Appropriations Act of 2011, *I' Liheslaturan Guahan* prioritized the  
3 appropriation of surplus revenues toward prior obligations incurred as a result of  
4 court orders and deficit spending. The fulfillment and completion of the  
5 government's payment of the obligation to retirees pursuant to *Rios vs. Camacho*,  
6 SP0206-93 continues to elude claimants due to lack of a structured funding source.  
7       *I' Liheslaturan Guahan* wishes to complete the payment of the Cost of  
8 Living Allowance (COLA) awards to bring finality to this injustice to the  
9 *Man'amko* and their heirs. The urgency of paying down this outstanding liability  
10 stems from concerns related to the financial need of recipients and the legal  
11 obligation that will continue to accumulate and increase the government's liability  
12 and the potential for further litigation if the situation remains unresolved.  
13       *I' Liheslaturan Guahan* finds that there are cash resources which remain  
14 available and in some cases unclaimed due to awardees, beneficiaries and heirs  
15 who are not able to complete the process to legally verify their right to the award.

1 A review of these awards projects that it is unlikely that these awards will be  
2 disbursed in the near term.

3 *I' Liheslaturan Guahan* further finds it is prudent to expend funds that  
4 remain in a bank account due to unclaimed awards to awardees whose claims are  
5 in order and ready for payment. Rather than allow previously appropriated funds  
6 for COLA claimants to sit idle, *I' Liheslaturan* intends to use a portion of these  
7 funds to pay for existing claimants which have been verified by the retirement  
8 fund. The *I' Liheslaturan Guahan* recognizes that use of these funds in no way  
9 extinguishes the unclaimed awards of these claimants.

10 *I' Liheslaturan Guahan* further finds that the payment authorization and  
11 guidelines authorized in this Act herein shall assist the government of Guam in  
12 partnership with the Government of Guam Retirement Fund (GGRF) on behalf of  
13 its members in meeting the court ordered obligations in *Rios vs. Camacho*,  
14 SP0206-93 and further, provide relief to outstanding financial liabilities while  
15 eliminating the potential of further litigation against the government of Guam.

16 *I' Liheslatura* intends that the GGRF shall use the funds appropriated herein  
17 solely for paying down part of the COLA liability to retirees and for this purpose  
18 alone.

19 **Section 2. Authorization to Use Unclaimed and Unprocessed COLA**  
20 **awards.** The Government of Guam Retirement Fund is hereby authorized to use  
21 Three Million Dollars (**\$3,000,000**) from unreleased award payments to retirees  
22 and beneficiaries where no awardees, beneficiaries or heirs have come forward to  
23 claim the awards and where awardees, beneficiaries or heirs are unable to complete  
24 processing of claims to pay claimant awards ready for distribution set forth in Title  
25 5 Guam Code Annotated, Chapter 6, Article 4, §6404(d)(1).

26 **Section 3. COLA Disbursement Provisions.**

1           The disbursement provision for the authorization in Section 2 is Principal or  
2 Interest from principal owed starting with the claimant with the lowest initial  
3 award from the class settlement, followed by the next lowest initial award and  
4 repeating this disbursement methodology until all the funds appropriated and  
5 authorized are exhausted.

6           **Section 4.** New Subsection (e) is added to §6404, Chapter 6, 5 GCA, to  
7 read:

8           **“(e) Sale of Certificates of Claim in whole or part as General Obligation**  
9 **Promissory Notes.**

10           (1) **Authorization to Borrow.** *I Maga’lahen Guahan* is authorized to  
11 issue General Obligation Promissory Notes (the “Notes”) not to exceed the total  
12 amount of all outstanding and unredeemed Certificates of Claim issued to “COLA”  
13 Awardees in reference to Superior Court Case No. SP0206-93 and as authorized in  
14 5GCA §6404(d). The Notes shall be general obligations of the government of  
15 Guam secured by the full faith and credit of the government of Guam.

16           (2) **Terms and Conditions.** The terms and conditions of the Notes shall  
17 be as determined by *I Maga’lahen Guahan*; provided that the notes:

18                   (i) shall not be secured by a pledge of Section 30 revenues;

19                   (ii) shall be redeemed in full, including accrued interest within  
20 twenty (20) years or thereafter automatically convert to Certificates of Claim  
21 subject to the terms and conditions defined in 5GCA §6404(d);

22                   (iii) shall bear interest at such fixed or variable rate or rates as may  
23 be negotiated by *I Maga’lahen Guahan* in the best interests of the  
24 government, such interest rate shall not exceed eight percent (8%) and shall  
25 be computed on a three-hundred sixty-five (365) day calendar year upon the  
26 actual amount issued by the government of Guam.

27           (3) **Sale of Promissory Notes.**

1 (i) Sale of the Notes shall be in denominations no less than Five  
2 Thousand Dollars (\$5,000.00);

3 (ii) Investor purchase quantity shall not be limited;

4 (iii) Investor access to purchase of the Notes shall be in the  
5 following order of priority:

6 (1) The Government of Guam Retirement Fund;

7 (2) Residents of Guam;

8 (3) Banks or other Financial Institutions licensed to conduct  
9 business on Guam;

10 (4) Other Entities licensed to conduct business on Guam;

11 (5) All other interested institutions as determined by *I*  
12 *Maga'lahaen Guahan.*"

13 (4) **Use of Proceeds from the sale of the Notes.** The proceeds from the  
14 sale of the Notes shall only be used and are hereby appropriated to redeem and pay  
15 outstanding Certificates of Claims issued to COLA awardees in Superior Court  
16 Case No. SP0206-93.

17 (5) **Approval by the Guam Economic Development Authority.** Notes  
18 authorized in this section shall not be sold until the Board of Directors of the Guam  
19 Economic Development Authority approves the terms and conditions of the Note  
20 sale.

21 (6) **Approval of Voters Not Required.** The Notes shall not be subject to  
22 the approval of voters of Guam.

23 (7) **Continuing Annual Appropriation of Principal and Interest.**  
24 Effective October 1, 2011 and each October 1 thereafter, there is hereby  
25 appropriated sums from the General Fund required for all payments of principal  
26 and interest based on a maturity schedule to repay any general obligation  
27 promissory notes authorized in Section 6404(e)(1). This annual appropriation shall

1 be a continuing appropriation and shall not lapse at the end of the fiscal year. In  
2 addition to any funds specifically appropriated by this Act, all moneys received  
3 from any other source as contributions or supplements for repayment of the notes  
4 established in this Act and any interest or income earned shall be paid into a Fund  
5 established for repayment and shall be a continuing appropriation.

6 **Section 5. Retirement Fund Purchase Authorization.** Notwithstanding  
7 any other provision of law, the Government of Guam Retirement Fund may  
8 purchase for investment the government of Guam General Obligation Promissory  
9 Notes authorized herein and indemnifies all Board members from any liability  
10 arising from the purchase of such promissory notes.

11 **Section 6. Effective Date.** This Act shall be effective upon enactment.

12 **Section 7. Severability.** If any provision of this Law or its application to  
13 any person or circumstances is found to be invalid or contrary to law, such  
14 invalidity shall not affect other provisions or applications of this Law which can be  
15 given effect without the invalid provisions or application, and to this end the  
16 provisions of this Law are severable.

17  
18