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EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

Office of the Governor of Guam

August 15, 2012

Honorable Judith Won Pat
Speaker
I Mina' Trentai Unu na Liheslaturan Guåhan
155 Hesler Place
Hagåtña, Guam 96932

31-12-1752
Office of the Speaker
Judith T. Won Pat, Ed. D.
Date 8/15/12
Time 11:25 AM
Received by FALE

Dear Madam Speaker,

Transmitted herewith is Bill No. 437-31 (COR), entitled: “AN ACT TO AUTHORIZE LEASE FINANCING FOR THE REHABILITATION, CONSTRUCTION, EXPANSION AND RENOVATION OF PUBLIC SCHOOL FACILITIES,” which I signed into law on June 18, 2012 as **Public Law 31-229**.

Crises do not occur in convenient times and, the emaciated budget of the government of Guam notwithstanding, we simply cannot wait any longer to address the deterioration of the island’s school facilities. As an alternative to conventional funding of expenditures with General Fund direct appropriations, lease/leaseback financing arrangements provide a means by which the government can ensure that the facilities into which our most valuable treasures – our children – walk everyday are structurally safe, environmentally sound and provide a comfortable environment conducive to learning.

Public Law 31-229 also extends a tax credit benefit for contractors who would provide similar rehabilitation and capital improvements to our institutions of higher learning – the Guam Community College and the University of Guam, respectively. This is in line with my commitment to improving the quality of education, from the elementary level and beyond.

However, at the recommendation of the bond counsel, I request that the Legislature pass an amendment to include an additional provision that would confirm the obligations of GDOE, the Government of Guam and the Guam Economic Development Authority to its bondholders, as it has in previous legislation. In this regard, Section 3 of P.L. 31-229 should be amended to include a new subparagraph (d) which shall contain the following affirmation of liability to future bondholders under this law:

(d) The Lease Financing Agreements *shall* be valid and binding obligations of the Education Agency, the Government of Guam and GEDA, enforceable in accordance with their respective

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terms, and there shall be no power to terminate or declare null and void any such agreement for procurement violations or any other reason or reasons. *I Liheslaturan Guahan*, pursuant to Section 50103(k), Title 12 Guam Code Annotated, hereby approves the terms and conditions of GEDA project revenue bonds issued pursuant to Chapter 64 of Title 12 of the Guam Code Annotated for the purposes of this Section; *provided* that the terms and conditions of the Lease Financing Agreements *shall* be consistent with this Section.

Finally, as with any measure that would require the expenditure of funds as this certainly does, a payment source must be identified before the government can take on another obligation. During the discussion on the floor during the public hearing on Bill 437-31, you and Vice Speaker Cruz both stated unequivocally that the funds to pay this obligation must be taken out of GDOE's operating budget. I concur. Given that the beneficiary of such financing is the GDOE, the cost of paying the leaseback to the contractor should naturally be borne by GDOE and the law should also be amended to reflect this.

Senseramente,



EDDIE BAZA CALVO

Governor of Guam

I Maga'láhen Guåhan

I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN
2012 (SECOND) Regular Session

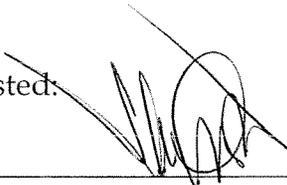
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that substitute Bill No. 437-31 (COR), "AN ACT TO AUTHORIZE LEASE FINANCING FOR THE REHABILITATION, CONSTRUCTION, EXPANSION AND RENOVATION OF PUBLIC SCHOOL FACILITIES", was on the 4th day of June, 2012, duly and regularly passed.



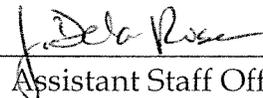
Judith T. Won Pat, Ed.D.
Speaker

Attested:



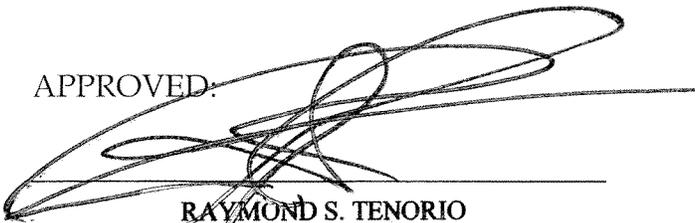
Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'lahaen Guåhan* this 7th day of June, 2012, at
1:10 o'clock P.M.



Assistant Staff Officer
Maga'laha's Office

APPROVED:



RAYMOND S. TENORIO
Acting Governor of Guam

Date: JUN 18 2012

Public Law No. 31-229

I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN
2012 (SECOND) Regular Session

Bill No. 437-31 (COR)

As substituted by the Committee on Health & Human Services, Economic Development, Senior Citizens, and Election Reform; further substituted by the Committee; amended in the Committee of the Whole; and further amended on the Floor.

Introduced by:

Judith P. Guthertz, DPA
Aline A. Yamashita, Ph.D.
R. J. Respicio
Sam Mabini, Ph.D.
Adolpho B. Palacios, Sr.
Chris M. Dueñas
T. C. Ada
V. Anthony Ada
F. F. Blas, Jr.
B. J.F. Cruz
T. R. Muña Barnes
V. C. Pangelinan
Dennis G. Rodriguez, Jr.
M. Silva Taijeron
Judith T. Won Pat, Ed.D.

**AN ACT TO AUTHORIZE LEASE FINANCING FOR
THE REHABILITATION, CONSTRUCTION,
EXPANSION AND RENOVATION OF PUBLIC SCHOOL
FACILITIES.**

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

2 **Section 1. Legislative Findings and Intent.** Presently, the deplorable
3 condition of Guam's public schools, combined with an ever-increasing number of
4 students, hinder the educational development of our youth The Department of
5 Education facilities are inadequate to properly service the needs of education, and

1 instead create a chilling effect in protecting, helping and developing our most
2 valuable treasure - our youth. Therefore, renovation, expansion, construction, and
3 rehabilitation have become a necessity.

4 The Department of Education estimates the cost of the renovation,
5 expansion, construction, and rehabilitation of Guam's public schools to be
6 approximately One Hundred Thirty-Nine Million Dollars (\$139,000,000).

7 *I Liheslaturan Guåhan* finds that the government of Guam is financially
8 strapped and obligated to provide essential services for all the people of Guam.
9 The government is unlikely to be able to afford payments from its current budget
10 for the costs of the necessary renovation, expansion, construction, and
11 rehabilitation of the schools, including collateral equipment, buses, and bus
12 shelters. It is, therefore, the intent of *I Liheslaturan Guåhan* to leverage and
13 utilize the government's ability to issue lease revenue bonds and/or certificates of
14 participation in lease obligations, and that the government of Guam provides the
15 financial information of the government of Guam so the Contractor can look
16 within the government of Guam's financial resources, to identify within its
17 proposal the best lease payment structure to provide financial support for the
18 renovation, expansion, construction, and rehabilitation work on the schools and
19 facilities. In addition to meeting the challenges of the limited funding,
20 arrangement with the contractor or developer must adhere to simple financial
21 principles: first, that the arrangement not run afoul of the government of Guam's
22 debt ceiling; second, that the arrangement does not raise taxes or fees, or create
23 new taxes or fees; and third, that the financial impact on the government of Guam
24 is minimal.

25 **Section 2. Definitions.** The following definitions *shall* be used for the
26 purposes of this Act.

1 (a) *Government of Guam shall* mean the government of Guam, its
2 agencies, divisions, and departments.

3 (b) *GEDA shall* mean the Guam Economic Development
4 Authority.

5 (c) *Awardee shall* mean one (1) party, as selected by GEDA, to
6 provide financing and to perform renovation, expansion, construction, and
7 rehabilitation. An Awardee may cooperate with its affiliates, or another
8 entity or entities, in any manner the Awardee deems appropriate to provide
9 for the financing, rehabilitation, construction, renovation, expansion,
10 maintenance, and insurance of school facilities to the extent envisioned by
11 this Act, and in the event of such cooperation, Awardee *shall* include such
12 affiliates or other entities.

13 (d) *School facilities or school(s) shall* mean those public school
14 facilities, including land, improvements, and equipment, selected by the
15 Department of Education for renovation, expansion, and rehabilitation
16 pursuant to this Act. School facilities *shall* also mean and include any land,
17 improvements, administrative offices, equipment, and facilities that serve
18 and benefit education.

19 (e) *Lease Financing Agreements shall* mean all agreements,
20 instruments, and other documents necessary or appropriate to implement
21 any financing pursuant to this Act, including any project revenue bonds
22 issued for the purpose of this Act.

23 (f) *Expansion shall* mean the act of increasing, adding, or
24 enlarging any government facility.

1 (g) *Facility shall* mean and include any school facility, and any
2 other real and/or personal property, land or building owned, leased, used or
3 controlled by the government of Guam.

4 (h) *Acceptance tests and procedures shall* mean the testing and
5 procedures that the parties to an agreement use to determine whether a
6 product or service meets the requirements of the agreement.

7 (i) *Education Agency shall* mean the Guam Community College or
8 the University of Guam.

9 **Section 3. Lease/Lease-back Financing.**

10 (a) To take advantage of tax-exempt financing under the Internal
11 Revenue Code, the government *shall* have the option and right to lease any
12 school and its facilities to the Awardee or GEDA and lease-back the school
13 from the Awardee or GEDA, as applicable, for the purpose of the
14 renovation, expansion, and rehabilitation of the school and its facilities.
15 The terms and conditions of the lease financing agreements *shall* be
16 negotiated between the parties, and *may* include maintenance of the schools
17 by the Awardee. The terms and conditions *shall* also include a reasonable
18 rate of return to the Awardee, taking into account, among others, the
19 prevailing cost of capital and risks being assumed by the Awardee and the
20 level of government undertakings such as tax credits or loans extended to
21 the Awardee. In order to take advantage of the Guam Organic Act
22 exemption from state income taxes for bonds issued by the government of
23 Guam or by its authority, GEDA has the option to, and is authorized to issue
24 limited obligation project revenue bonds to make a loan for the purpose of
25 financing the costs of the rehabilitation, construction, renovation, expansion

1 and all costs related thereto, including, but *not* limited to, capitalized
2 interest on such bonds for a period *not to exceed* two (2) years.

3 (b) The obligation of the government to make lease payments may
4 be secured by a pledge or reservation of all or any portion of the revenues
5 from taxes due under the Business Privilege Tax Law, excluding the
6 alcoholic beverage taxes, liquid fuel taxes, tobacco taxes, and all real
7 property taxes. Any pledge or reservation pursuant to this Section *shall* be
8 made on lease financing terms that *do not* cause the lease obligation of the
9 government to be public indebtedness within the meaning of Section 11 of
10 the Guam Organic Act, or to violate or breach any existing bond covenant.
11 The tax revenues pledged or reserved and thereafter received by the
12 government or by any trustee, depository or custodian *shall* be deposited in
13 a separate account and *shall* be immediately subject to such reservation or
14 the lien of such pledge without any physical delivery thereof or further act,
15 and such reservation or the lien of such pledge *shall* be valid and binding
16 against all parties having claims of any kind in tort, contract or otherwise
17 against the government of Guam or such trustee, depository or custodian,
18 irrespective of whether the parties have notice thereof. The instrument by
19 which such pledge or reservation is created need *not* be recorded. Any
20 amounts pledged, as provided in this Section, are hereby continuously
21 appropriated for the purpose of making lease payments, but any amounts
22 only reserved, as provided in this Section and not pledged, *shall* be subject
23 to annual appropriation for the purpose of making lease payments. Surplus
24 tax revenues *shall* be released to the government on a monthly basis.
25 GEDA shall *not* receive any fees and administrative overhead costs for the
26 issuance of the lease financing agreement, but may recoup any unbudgeted

1 expenses it incurs as a result of its participation in the development of the
2 Agreement and related documents.

3 (c) **Use of Tax-Exempt Bond and Other Financing Instruments**
4 **for Financing.** To minimize the financing cost to the Education Agency,
5 financing utilized by the Contractor to fund the rehabilitation, renovation
6 and construction of an education facility *shall* be through tax-exempt
7 obligations or other financial instruments; provided, that such financing is
8 available at an interest rate *no more than* eight and half percent (8.50%).
9 Alternatively, the Contractor may use an alternative method of financing,
10 including, but *not* limited to, a grant, short term debt, mortgage, loan,
11 federally guaranteed loan, or loan by an instrument of the United States of
12 America, if such financing will better serve the needs of the people of
13 Guam. The purpose for this requirement of this Section is to ensure the
14 education agency pays the lowest possible interest rate so that the cost to the
15 education agency of financing the rehabilitation, renovation and
16 construction of an education facility, amortized through the lease-back
17 payments from the education agency to the contractor, will be lower than
18 regular commercial rates.

19 **Section 4. Collateral Equipment.** The government is authorized to
20 include in its request the provision of collateral equipment, buses, and bus
21 shelters. The collateral equipment, buses and bus shelters *shall* then become the
22 property of the government. Thereafter, the maintenance, repair and replacement
23 of collateral equipment, buses and bus shelters *shall* be the responsibility of the
24 government.

25 **Section 5. Bid/Performance and Payment Bonds.** The Proposer *shall*
26 post a bid bond in an amount equal to fifteen percent (15%) of its proposal. Said

1 bond, or certified letter of credit from a *bona fide* surety agency *shall* be posted at
2 the time of submission of bid or proposal. The Awardee *shall* post a performance
3 and payment bond for the construction portion in the amount of the full
4 construction cost of the project. All bonds *shall* be executed by a surety company
5 holding a certificate of authority from the Secretary of the Treasury (Dept.
6 Circular 570). GEDA *shall* include this requirement in the RFP.

7 **Section 6. School Bus Procurement and Ancillary Facility Repair and**
8 **Renovation.** In lieu of cash payment from the government of Guam, the
9 government is authorized to issue tax credits, with the exception of income tax and
10 alternative financing, for the multi-year procurement or long term lease of up to
11 fifty (50) new school buses and thirteen (13) special education buses from the
12 same manufacturer, complete with the diagnostic tools and equipment, and
13 preventative maintenance services for the first year that the buses are placed into
14 service. Procurement of buses *shall* be accomplished in accordance with §5237,
15 Chapter 5, 5 GCA, and 2 GAR, Division 4, §3121, and that preventative
16 maintenance services after the first year *shall* be bid on a competitive basis, of
17 which the DPW Maintenance Division *shall* be allowed to submit a bid. Said
18 procurement *shall* also include the repair and renovation of school bus ancillary
19 facilities.

20 **Section 7. Facilities for Institutions of Higher Education.** In lieu of
21 cash payment from the government of Guam, the government is authorized to
22 issue tax credits, with the exception of income tax and alternative financing,
23 subject to the approval of *I Liheslaturan Guåhan*, for the construction of facilities
24 for the benefit of the Guam Community College or the University of Guam.

1 **Section 8. Definitions and Use of the *Tiyan* Campus.** Section 2 of
2 Public Law 30-37, as amended by Section 6 of Public Law 31-76, is hereby further
3 *amended* to read:

4 **“Section 2. Definitions.** The following meanings *shall* be ascribed
5 to the following terms used in this Act:

6 (a) *Government of Guam shall* mean the government of
7 Guam, with the highest priority be given in descending order:

8 (1) public schools, including GDOE’s administrative
9 support facilities;

10 (2) academy charter schools;

11 (3) the Guam Community College and the University
12 of Guam; and

13 (4) agencies, divisions and departments.

14 (b) *Lease shall* mean the contract between the Lessor, Core
15 Tech International Corporation, and the government of Guam for the
16 lease and maintenance of school facilities, its extended facilities, and
17 the purchase of collateral equipment.

18 (c) *Lessor shall* mean the party which has been selected by *I*
19 *Maga’lahen Guåhan* for the lease and maintenance of school
20 facilities and the purchase of collateral equipment. Lessor, as used in
21 this Act, *shall* also mean and include any assignee or transferee of the
22 rights, credits and off-sets as allowed in this Act.

23 (d) *Extended facilities shall* mean any additional properties
24 added to the lease to support the needs of the government of Guam.
25 The government is hereby authorized to add Lot Naval Air Station
26 *Agana-21* (Airport Parcel 4-R1) to the Lease, and a portion of Lot

1 2181-4NEW-1, which *shall* be adjacent to the existing Lot 2181-
2 4NEW-R1 as covered by the Lease.

3 **Section 9. Procedure for GEDA.** GEDA *shall* immediately proceed with
4 the procurement processes necessary to accomplish the financing, rehabilitation,
5 construction, renovation, expansion, maintenance and insurance of Guam's public
6 schools. GEDA *shall*:

7 (a) Fast-track the issuance of the Request for Proposals
8 (RFP) relative to the needed financing, rehabilitation, construction,
9 renovation, expansion, maintenance and insurance of the Guam
10 public schools and related requirements.

11 (i) Any proposal submitted by offeror(s) must be
12 received by GEDA *no later than* fifteen (15) calendar days
13 after the announcement and publication of the Request for
14 Proposals, whereupon the process must be closed.

15 (ii) The proposal must allow financing of the work
16 and costs of the Awardee over a period of *not more than* thirty
17 (30) years. Lease payments due to the Awardee *shall* be made
18 *no less often* than annually.

19 (iii) The process of reviewing, selecting and awarding
20 of a contract *shall* be completed within fifteen (15) calendar
21 days.

22 **Section 10. Contractual Safeguards.** Prior to undertaking the work of
23 renovating, rehabilitating, or constructing educational facilities, the Guam
24 Economic Development Authority, the Department of Public Works, the Guam
25 Department of Education, and the Developer or Contractor *shall* negotiate and
26 enter into a binding construction contract to build or refurbish the educational

1 facility in accordance with the Guam Building Code, (21 GCA, Ch. 67) and any
2 other applicable requirements. The construction contract *shall* contain contractual
3 obligations typically found in government of Guam construction contracts,
4 including, but *not* limited to:

- 5 (1) Warranties;
- 6 (2) Liquidated damages;
- 7 (3) Performance and payment bonds;
- 8 (4) Indemnity;
- 9 (5) Insurance;
- 10 (6) Specifications;
- 11 (7) Progress Schedule;
- 12 (8) Maintenance;

13 (9) In the area of construction, a Developer's and Contractor's
14 experiences and qualifications must not be confused in the selection
15 process. A Developer may *not* be a Contractor, and vice versa; however, a
16 Developer may partner with a Contractor, and vice versa, to submit a
17 proposal.

- 18 (10) Compliance with Guam Labor Regulations;
- 19 (11) Compliance with Guam Prevailing Wage Rates for
20 Employment;
- 21 (12) Compliance with Public Law 29-98: Restriction Against
22 Contractors Employing Convicted Sex Offenders to Work at Government of
23 Guam Venues; and
- 24 (13) Acceptance tests and procedures.

1 The contract must be submitted for review and approval to all entities
2 charged by law with the duty to review and approve government contracts,
3 including the Office of the Attorney General.

4 **Section 11. Policy in Favor of Energy Efficient and Environmentally**
5 **Sound Standards and Practices in the Design, Construction and/or**
6 **Renovation of Guam Department of Education Buildings.** To the extent
7 practicable, all Guam Department of Education buildings *shall* be designed,
8 constructed and/or renovated using certified recognized sustainable design
9 measurement systems so as to be energy efficient, achieve cost effective operation
10 and environmental compatibility.

11 (a) Definition. For the purposes of this policy, generally,
12 *sustainable* shall mean a recognized sustainable design measuring system,
13 which should be included in the planning, design and construction process
14 so as to quantify the benefit of the sustainable design methods, tools and
15 systems in measured results, using certified recognized sustainable design
16 measurement systems so as to achieve energy efficiency, cost effective
17 operation and environmental compatibility.

18 (b) Policy in Favor of Energy Efficient Equipment and Systems
19 Procurement. To the extent practicable, all Guam Department of Education
20 owned and leased buildings should be retrofitted with energy efficient
21 equipment, such as, but *not* limited to, energy-efficient light bulbs, energy-
22 efficient air-conditioners, energy-star rated appliances, and energy-star rated
23 computer equipment, and to include all associated electrical devices and
24 systems promoting energy conscious procedures that will reduce energy
25 consumption. These retrofits *shall* commence as appropriate due to the

1 usual circumstances mandating replacements due to normal wear and
2 depreciation.

3 (c) Leased Facilities. In the case of government leased buildings,
4 and prior to the retrofitting or installation of permanent systems, which *shall*
5 remain with the leased facilities subsequent to the expiration of the lease, a
6 cost benefit analysis *shall* be conducted to determine the feasibility of
7 retrofitting the leased premises in consideration of savings to be realized
8 relative to the term of the lease. If the retrofit or installation is determined
9 *not* to be cost effective, then the mandate pursuant to this Section *shall not*
10 be applicable.

11 (d) Applicable Sustainable Energy Efficient and Environmentally
12 Sound Designs and Practices for Government Buildings. To the extent
13 practicable, all Guam Department of Education buildings are mandated to
14 be constructed and/or renovated using a certified recognized sustainable
15 design measurement system(s) which promote a whole-building approach to
16 sustainability by recognizing performance in *at least* five (5) key areas of
17 human and environmental health: sustainable site development; water
18 savings; energy efficiency; materials selection; and indoor environmental
19 quality. In addition, all new government buildings and structures *shall*, to
20 the extent practicable, include provisions that will incorporate Rainwater
21 Harvesting methods that will effectively promote water conservation.
22 *Rainwater Harvesting* is the accumulating, processing and storing, of
23 rainwater for reuse, before it reaches the aquifer.

24 (e) Prior to any renovation and/or construction of a Guam
25 Department of Education building, and prior to the issuance of a building
26 permit, the contractor *shall* provide the Guam Energy Office with the design

1 and scope of work for review to ensure it adequately includes or provides
2 for the requisite standards in favor of sustainable energy efficiency and
3 environmentally sound practices. The Guam Energy Office *shall* conduct
4 its assessment, and when it is determined the design and scope of work
5 meets the requisite standards, issue a letter acknowledging its compliance,
6 which *shall* be included in the contractor's building permit application.

7 **Section 12. Authority, Limited.** Financing agreements authorized
8 pursuant to this Act for projects authorized by this Act in Sections 3 (Lease/Lease-
9 back Financing), 4 (Collateral Equipment), 6 (School Bus Procurement and
10 Ancillary Facility Repair and Renovation), and 7 (Facilities for institutions of
11 higher education) *shall not* exceed the aggregate amount of One Hundred Million
12 Dollars (\$100,000,000). The authority to enter into financing agreements pursuant
13 to this Act *shall* be valid *only* after *I Maga'lahaen Guåhan* (the Governor of Guam)
14 transmits to the Speaker of *I Liheslatura* (the Legislature), written certification
15 that any payments to be made pursuant to that authority *will not* hinder the
16 operation of government entities directly related to health, education, or public
17 safety.

18 **Section 13. Policy in Favor of Local Workers.** Contractors or
19 Developers wishing to participate in this project must include terms, conditions,
20 and procedures requiring that the Contractor, by himself and through his affiliates,
21 *shall* at all times employ and maintain a construction work force of which all are
22 United States citizens, permanent residents, or citizens who may exercise work
23 privileges under the Compacts of Free Association between the United States and
24 the Republic of the Marshall Islands, the Federal States of Micronesia, and the
25 Republic of Belau during the different phases of construction, rehabilitation,

1 improvement, expansion, or alteration of educational facilities pursuant to this
2 Act.

3 **Section 14. Allowable Costs.** Project design, construction, and
4 management *shall* be allowable costs under this Act, and up to One Million
5 Dollars (\$1,000,000) *shall* be authorized for the implementation of Public Law 31-
6 203. However, implementation of Public Law 31-203 *shall not* be required as a
7 precursor to any construction, renovation, or procurement activities identified in
8 this Act.

9 **Section 15. Conflicts Prohibited.** Notwithstanding the provisions in this
10 Act, no Covered Person, as such term is defined below, shall be eligible to be
11 assigned or transferred, in whole or in part, any tax credit authorized in this Act by
12 the Lessor.

13 No Covered Person, as such term is defined below, shall be eligible to
14 provide or be paid for, in whole or in part, any services related to design,
15 construction, repair, renovation, rehabilitation, or maintenance contracts for any
16 school facility and/or procurement and preventive maintenance of school buses
17 that are authorized pursuant to this Act. For the purposes of this Section, the term
18 “Covered Person” *shall* mean:

19 (1) any elected or appointed official of the government of Guam
20 that executed the Lease, or any amendments to the Lease, on or after June 1,
21 2011;

22 (2) any elected or appointed official of the government of Guam,
23 unclassified managers of the Guam Economic Development Authority
24 (GEDA), members of the GEDA Board of Directors, and members of *I*
25 *Liheslaturan Guåhan* who hold office at the time of the enactment of this
26 Act;

1 (3) any advisors or consultants of *I Liheslaturan Guåhan* who are
2 advising or working with *I Liheslaturan Guåhan* with respect to passage of
3 this Act;

4 (4) any person or spouse of such person related by consanguinity
5 of the third degree, which for the purposes of this Act *shall* include spouses,
6 all children, parents, grandchildren, siblings, grandparents, great-
7 grandchildren, nieces, nephews, uncles, aunts, and great grandparents, to
8 any person described in Subsections (1) through (3) of this Section.

9 **Section 16. Report.** Upon issuance of the financing authorized by this Act,
10 GEDA *shall* submit a report to *I Liheslaturan Guåhan* detailing the projects to be
11 completed and the annual amounts of revenue pledged or reserved under this Act
12 from the various taxes.

13 **Section 17. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
14 that the capacity of the current forty (40) year old University of Guam Student
15 Center is reaching the limit of its three thousand five hundred (3,500) to four
16 thousand (4,000) support range and needs expansion and renovation towards an
17 enrollment build-out capacity plan to serve up to seven thousand (7,000) students.

18 Unlike its current configuration, the expansion/renovation will turn the
19 facility into a Student Services Center that will serve as a one-stop center by fully
20 integrating University student services that are scattered throughout the University
21 campus. The expansion/renovation will include, but *not* be limited to, financial
22 aid, student admissions and records (undergraduate and graduate), graduate
23 school, and research unit offices; collections office; and federal programs such as
24 Equal Opportunity, Title IX, and the disability support services office.

25 This is in addition to the current enrollment management and student
26 services office, and student health office, and will also include additional

1 resources for student life activities, such as computer labs and technical support,
2 multi-purpose seminar/meeting rooms, student governance hall, safety and
3 security office, bookstore, and cafeteria. The Student Services Center will
4 incorporate energy efficient and green building construction standards (LEED
5 certification criteria).

6 The proposed Student Services Center will cost approximately Eighteen
7 Million Sixty-five Thousand Six Hundred Twenty-five Dollars (\$18,065,625).

8 *I Liheslaturan Guåhan* also finds that there is a severe shortage of engineers
9 in Guam and the Western Pacific. The University of Guam (University) currently
10 offers only a pre-engineering degree program, necessitating many students to leave
11 Guam in pursuit of their engineering degrees and in most cases, opting to not
12 return to Guam. With the projected demands of the military buildup on the island
13 infrastructure, the need to build capacity for an engineering program is even more
14 critical. To address this need, the University is pursuing the creation of the School
15 of Engineering and is proposing the construction of a new Engineering Annex
16 facility onto the University's existing College of Natural and Applied Sciences
17 (CNAS) building to house the program. The classroom and labs of this annex will
18 also serve other academic programs to maximize the use of limited classroom/lab
19 spaces. The proposed annex will cost approximately Three Million Six Hundred
20 Four Thousand Three Hundred Seventy-five Dollars (\$3,604,375). To finance the
21 construction of these new buildings, the University of Guam will enter into a
22 lease-leaseback arrangement with the University of Guam Endowment
23 Foundation, Inc. (Foundation) to secure either a loan agreement with the United
24 States Department of Agriculture (USDA), through their Rural Development -
25 Community Facilities Loan Program, or Project Revenue Bonds issued by the
26 Guam Economic Development Authority, if such USDA loan is *not* available. In

1 addition, the University will re-finance the existing USDA Rural Development
2 Community Facilities Loan for the Jesus and Eugenia Leon Guerrero School of
3 Business and Public Administration Building, with the savings to be utilized
4 toward lease rental payments.

5 *I Liheslaturan Guåhan* finds that the Guam Community College is likewise
6 seeking to further develop their institution through the construction and expansion
7 of the Gregorio G. Perez Crime Lab Building, and the hardening, expansion,
8 and/or renovation of the Guam Community College Building #100 and Building
9 #200. The construction of the Gregorio G. Perez Crime Lab Building and the
10 hardening, expansion, and/or renovation of Building #100 and Building #200 is
11 estimated at Six Million Dollars (\$6,000,000).

12 The USDA offers low interest direct and guaranteed loans with a maximum
13 term of forty (40) years. It is in the best interests of the government of Guam to
14 pursue this financing opportunity with the USDA this fiscal year as loan amounts
15 for the next fiscal year may be significantly reduced, as was the case in previous
16 fiscal years prior to the American Recovery and Reinvestment Act. It is, therefore,
17 the intent of *I Liheslaturan Guåhan* to authorize the University of Guam and the
18 Guam Community College to respectively enter into long term leases to facilitate
19 obtaining loans with the United States Department of Agriculture for the
20 construction of their respective capital improvement projects.

21 **Section 18. University of Guam; Authorization to Enter Into Lease**
22 **Agreements and Refinancing.**

23 (a) Exclusively for the purpose of facilitating the financing or
24 refinancing of the design, construction or renovation of the facilities
25 described below, the University of Guam is hereby authorized to enter into a
26 loan agreement with the USDA for the purpose of refinancing the existing

1 USDA Rural Development Community Facilities Loan for the Jesus and
2 Eugenia Leon Guerrero School of Business and Public Administration
3 Building, and to lease the site of the University of Guam Student Services
4 Center and the site of the Engineering Annex facility onto the existing
5 College of Natural and Applied Sciences (CNAS) building to the University
6 of Guam Endowment Foundation, Inc., and, in that connection, the
7 University is hereby authorized to lease those buildings and site, as
8 improved, back from the Foundation, by entering into one or more lease
9 agreements and one or more lease-back agreements as provided in this
10 Section. The proceeds of such financing or refinancing are to be applied to
11 the following purposes:

12 (1) Refinance existing USDA Community Facilities Loan
13 for the Jesus and Eugenia Leon Guerrero School of Business and
14 Public Administration Building – approximately Twelve Million Four
15 Hundred Eighty-one Thousand Five Hundred Fifteen Dollars
16 (\$12,481,515) as of May 31, 2012;

17 (2) Expansion and renovation of the University of Guam
18 Student Services Center — approximately Eighteen Million Sixty-
19 five Thousand Six Hundred Twenty-five Dollars (\$18,065,625);

20 (3) Construction of an Engineering Annex facility onto the
21 existing College of Natural and Applied Sciences (CNAS) building at
22 the University of Guam for the School of Engineering —
23 approximately Three Million Six Hundred Four Thousand Three
24 Hundred Seventy-five Dollars (\$3,604,375);

25 (4) Funding of any appropriate or necessary debt service
26 reserve; and

1 (5) Payment of expenses incurred in connection with such
2 financing not already included in an existing appropriation for or the
3 regular budget of any government agency or instrumentality or public
4 corporation providing any service in connection with the issuance of
5 such bonds.

6 To the extent the costs of completion of the project described in
7 subparagraph (2) above are less than the amount set forth in
8 subparagraph (2), any excess financing proceeds for such project can
9 be applied toward the costs of the project described in subparagraph
10 (3) above. To the extent the costs of completion of the project
11 described in subparagraph (3) above are less than the amount set forth
12 in subparagraph (3) above, any excess financing proceeds for such
13 project can be applied toward the costs of the project described in
14 subparagraph (2) above.

15 (b) The lease and lease-back agreements *shall* have a term of *not to*
16 *exceed* forty (40) years. The lease-back agreement may be structured as an
17 annually renewable lease with provision for automatic renewals to the
18 extent that liquid fuel tax revenues, funds from the Guam Highway Fund or
19 other available revenues in the amount of up to One Million Dollars
20 (\$1,000,000) per fiscal year beginning FY 2014 are appropriated to the
21 University of Guam Capital Improvements Fund for the purpose of paying
22 rental payments due under the lease-back agreement during such fiscal year.
23 The lease-back agreement, and any loan, bonds or other obligations secured
24 thereby, *shall not* be construed as a debt under any applicable debt
25 limitation contained in the Guam Organic Act *or* Guam law.

1 (c) The lease-back agreement *shall* require that the University be
2 responsible for the procurement and oversight of the design and
3 construction associated with the project or projects authorized to be
4 financed pursuant to this Section. The lease and lease-back agreements
5 *shall* be valid and binding obligations of the University and the Foundation
6 enforceable in accordance with their respective terms, and there shall be no
7 power to terminate or declare null and void any such agreement for
8 procurement violations or any other reason or reasons.

9 (d) The lease and lease-back agreements *shall* provide rental
10 provisions, term, payment, security, default, remedy, and other terms or
11 provisions as may be specified in such agreements, and *shall not* permit the
12 substitution of other public buildings for the public buildings initially leased
13 by the University and the Foundation pursuant to this Section. The lease
14 agreement and lease-back agreement may provide that *if* sufficient funds are
15 *not* appropriated *or* otherwise available for the payment of amounts due
16 under the lease-back, the University will have the obligation to vacate the
17 leased facility or facilities, and the lender or its trustee, as applicable, *shall*
18 have the right of use and occupancy of the leased facility or facilities for the
19 remainder of the term of the lease and lease-back agreements, *unless* new
20 mutually satisfactory terms are entered into. For this purpose, the lease and
21 lease-back agreements may each provide that its respective term *shall* be
22 extended for a period *not to exceed* the shorter of ten (10) years beyond the
23 original term of the agreement *or* such period of time as is necessary to
24 repay in full any financing arranged pursuant to subsection (f) of this
25 Section.

1 (e) To facilitate the purposes of this Act and to provide security for
2 the holders of any financing instruments issued pursuant to this Act, the
3 lease and lease-back agreements may provide that the Foundation may
4 assign, without the need of the consent of the University, the lease and
5 lease-back agreements to any lender, trustee or other party as appropriate to
6 facilitate the financing and refinancing contemplated hereby.

7 (f) To minimize the financing cost to the University, the
8 Foundation has applied to the USDA for a loan secured by the base rental
9 payments to be made by the University pursuant to the lease-back
10 agreement. Alternatively, in the event the Foundation is unable to secure
11 funding through a USDA loan prior to December 31, 2012, the University
12 and the Guam Economic Development Authority are hereby authorized to
13 enter into the lease agreement and lease-back agreement described above,
14 subject to the same terms, conditions and provisions set forth in this Section
15 (substituting the Authority for the Foundation). *I Liheslaturan Guåhan*,
16 pursuant to § 50103(k), Title 12 Guam Code Annotated, hereby approves
17 either the USDA loan or loans and/or the issuance and sale by the Guam
18 Economic Development Authority of Project Revenue Bonds pursuant to
19 Chapter 64 of Title 12 of the Guam Code Annotated for the purposes set
20 forth in Subsection (a) of this Section, such loan or such Project Revenue
21 Bonds to be secured by the base rental payments to be made by the
22 University pursuant to the lease-back agreement; provided, however, that
23 the terms and conditions of such loan or bonds, and the related lease and
24 lease-back agreements, *shall* be consistent with this Section, that any such
25 USDA loan *shall* bear interest at a rate that does *not* exceed five percent
26 (5%) per annum, and with a term that does *not* exceed forty (40) years, and

1 that any such bonds *shall* mature *not later than* forty (40) years after their
2 date of issuance, and *shall* bear interest at such rates and be sold for such
3 price or prices as *shall* result in a yield to the bondholders that does *not*
4 exceed eight and a half percent (8.50%) per annum.

5 (g) The obligation of the University to make lease payments may
6 be secured by a pledge or reservation of liquid fuel tax revenues, funds from
7 the Guam Highway Fund or other available revenues in the amount. Any
8 pledge or reservation pursuant to this Section *shall* be made on lease
9 financing terms that do *not* cause the lease obligation of the College to be
10 public indebtedness within the meaning of Section 11 of the Guam Organic
11 Act or to violate or breach any existing bond covenant. The tax revenues
12 pledged or reserved and thereafter received by the government, the
13 University or by any trustee, depository or custodian *shall* be deposited in a
14 separate account and *shall* be immediately subject to such reservation or the
15 lien of such pledge without any physical delivery thereof or further act, and
16 such reservation or the lien of such pledge *shall* be valid and binding
17 against all parties having claims of any kind in tort, contract or otherwise
18 against the government of Guam, the University or such trustee, depository
19 or custodian, irrespective of whether the parties have notice thereof. The
20 instrument by which such pledge or reservation is created need not be
21 recorded. Any amounts pledged as provided in this Section are hereby
22 continuously appropriated for the purpose of making lease payments, but
23 any amounts only reserved as provided in this Section and not pledged,
24 *shall* be subject to annual appropriation for the purpose of making lease
25 payments. In the event amounts are pledged as provided in this Section, any
26 surplus tax revenues *shall* be released to the government on a monthly basis.

1 **Section 19. Savings From Refinancing of Existing USDA Rural**
2 **Development Community Facilities Loan.** The savings, as a result of the
3 refinancing of the USDA Rural Development Community Facilities Loan for the
4 Jesus and Eugenia Leon Guerrero School Business and Public Administration
5 Building, *shall* be re-deposited into the University of Guam Capital Improvement
6 Fund to fund the debt service incurred from projects listed in Subsection (a) of
7 Section 18 of this Act.

8 **Section 20.** Notwithstanding any other provision of law, §16132 of Title
9 17, Guam Code Annotated, is hereby *amended* to read as follows:

10 “§ 16132. **Creation of the University of Guam Capital**
11 **Improvements Fund.** (a) There is hereby created, separate and apart
12 from other funds of the government of Guam, a fund known as the
13 University of Guam Capital Improvements Fund. The University of Guam
14 Capital Improvements Fund *shall not* be commingled with either the
15 General Fund, the Current Fund of the University of Guam, or any other
16 fund of the government of Guam. The University of Guam Capital
17 Improvements Fund *shall* be held in an account, or accounts, at a Guam
18 financial institution, or institutions, separate and apart from all other
19 accounts and funds of the government of Guam account. The University of
20 Guam Capital Improvements Fund *shall* be expended exclusively for the
21 payment of lease rental payments payable pursuant to the lease-back
22 agreement entered into in order to secure financing or refinancing of the
23 design, construction and collateral equipment of the College of Business
24 and Public Administration, the replacement of the roof of the Fine Arts
25 Building, the refinancing of the existing USDA Community Facilities Loan
26 for the Jesus and Eugenia Leon Guerrero School of Business and Public

1 Administration Building, the expansion and renovation of the University of
2 Guam Student Services Center, and the construction of an Engineering
3 Annex facility onto the existing College of Natural and Applied Sciences
4 (CNAS) building for the School of Engineering.

5 There is hereby appropriated annually, beginning with Fiscal Year
6 2002, the sum of Five Hundred Thousand Dollars (\$500,000.00) from the
7 Guam Highway Fund to the University of Guam Capital Improvements
8 Fund for the purpose of paying the debt service incurred for the existing
9 USDA Community Facilities Loan for the Jesus and Eugenia Leon Guerrero
10 School of Business and Public Administration Building, or any USDA loan
11 incurred to refinance such existing loan, until such debt service is fully paid.
12 No funds appropriated herein shall result in a reduction of appropriations or
13 allocation of funds appropriated or allocated to or in support of the
14 Department of Public Works (DPW) Highway Division. "

15 **Section 21. Creation of the Guam Community College Capital**
16 **Improvements Fund.**

17 There is hereby created, separate and apart from other funds of the
18 government of Guam, a fund known as the Guam Community College Capital
19 Improvements Fund. The Guam Community College Capital Improvements Fund
20 *shall not* be commingled with either the General Fund, the Current Fund of the
21 Guam Community College, or any other fund of the government of Guam. The
22 Guam Community College Capital Improvements Fund *shall* be held in an
23 account, or accounts, at a Guam financial institution, or institutions, separate and
24 apart from all other accounts and funds of the government of Guam account. The
25 Guam Community College Capital Improvements Fund *shall* be expended
26 exclusively for the payment of lease rental payments payable pursuant to the lease-

1 back agreement entered into with the Guam Community College Foundation to
2 secure financing for the construction, expansion, renovation and/or hardening of
3 the Gregorio G. Perez Crime Lab Building, and Guam Community College
4 Building #100 and #200.

5 **Section 22. Guam Community College; Authorization to Enter Into**
6 **Lease Agreements.**

7 (a) Exclusively for the purpose of facilitating the financing of the
8 construction, expansion, renovation, and/or hardening of the facilities
9 described below, the Guam Community College is hereby authorized to lease
10 the site of the Guam Community College Gregorio G. Perez Crime Lab
11 extension and the Guam Community College Building #100 and #200 to the
12 Guam Community College Foundation, and, in that connection, the College
13 is hereby authorized to lease those buildings and site, as improved, back
14 from the GCC Foundation, by entering into one or more lease agreements
15 and one or more lease-back agreements as provided in this Section. The
16 proceeds of such financing or are to be applied to the following purposes:

17 (1) Construction, expansion, renovation and/or hardening of
18 the Gregorio G. Perez Crime Lab Building, and Guam Community
19 College Building #100 and #200;

20 (2) Funding of any appropriate or necessary debt service
21 reserve; and

22 (3) Payment of expenses incurred in connection with such
23 financing not already included in an existing appropriation for or the
24 regular budget of any Government agency or instrumentality or public
25 corporation providing any service in connection with the issuance of
26 such bonds.

1 (b) The lease and lease-back agreements *shall* have a term *not* to
2 exceed forty (40) years. The lease-back agreement may be structured as an
3 annually renewable lease with provision for automatic renewals to the
4 extent that liquid fuel tax revenues, funds from the Guam Highway Fund or
5 other available revenues in the amount of up to Three Hundred Thousand
6 Dollars (\$300,000) per fiscal year beginning FY 2014 are appropriated to
7 the Guam Community College Capital Improvements Fund for the purpose
8 of paying rental payments due under the lease-back agreement during such
9 fiscal year. The lease-back agreement, and any loan, bonds or other
10 obligations secured thereby, *shall not* be construed as a debt under any
11 applicable debt limitation contained in the Guam Organic Act *or* Guam law.

12 (c) The lease-back agreement *shall* require that the College be
13 responsible for the procurement and oversight of the design and
14 construction associated with the project or projects authorized to be
15 financed pursuant to this Section. The lease and lease-back agreements
16 *shall* be valid and binding obligations of the College and the GCC
17 Foundation enforceable in accordance with their respective terms, and there
18 shall be no power to terminate or declare null and void any such agreement
19 for procurement violations or any other reason or reasons.

20 (d) The lease and lease-back agreements *shall* provide rental
21 provisions, term, payment, security, default, remedy, and other terms or
22 provisions as may be specified in such agreements and *shall not* permit the
23 substitution of other public buildings for the public buildings initially leased
24 by the College and the GCC Foundation pursuant to this Section. The lease
25 agreement and lease-back agreement may provide that *if* sufficient funds are
26 *not* appropriated *or* otherwise available for the payment of amounts due

1 under the lease-back, the College will have the obligation to vacate the
2 leased facility or facilities, and the lender or its trustee, as applicable, *shall*
3 have the right of use and occupancy of the leased facility or facilities for the
4 remainder of the term of the lease and lease-back agreements, unless new
5 mutually satisfactory terms are entered into. For this purpose, the lease and
6 lease-back agreements may each provide that its respective term *shall* be
7 extended for a period *not to exceed* the shorter of ten (10) years beyond the
8 original term of the agreement *or* such period of time as is necessary to
9 repay in full any financing arranged pursuant to Subsection (f) of this
10 Section.

11 (e) To facilitate the purposes of this Act and to provide security for
12 the holders of any financing instruments issued pursuant to this Act, the
13 lease and lease-back agreements may provide that the GCC Foundation may
14 assign, without the need of the consent of the College, the lease and lease-
15 back agreements to any lender, trustee or other party as appropriate to
16 facilitate the financing and refinancing contemplated hereby.

17 (f) To minimize the financing cost to the College, the GCC
18 Foundation has applied to the USDA for a loan secured by the base rental
19 payments to be made by the College pursuant to the lease-back agreement.
20 Alternatively, in the event the GCC Foundation is unable to secure funding
21 through a USDA loan prior to December 31, 2012, the College and the
22 Guam Economic Development Authority are hereby authorized to enter into
23 the lease agreement and lease-back agreement described above, subject to
24 the same terms, conditions and provisions set forth in this Section
25 (substituting the Authority for the GCC Foundation). *I Liheslaturan*
26 *Guåhan*, pursuant to § 50103(k), Title 12 Guam Code Annotated, hereby

1 approves either the USDA loan or the issuance and sale by the Guam
2 Economic Development Authority of Project Revenue Bonds pursuant to
3 Chapter 64 of Title 12 of the Guam Code Annotated for the purposes set
4 forth in Subsection (a) of this Section, such loan or such Project Revenue
5 Bonds to be secured by the base rental payments to be made by the College
6 pursuant to the lease-back agreement; provided, however, that the terms and
7 conditions of such loan or bonds, and the related lease and lease-back
8 agreements, *shall* be consistent with this Section, that such USDA loan *shall*
9 bear interest at a rate that *does not* exceed five percent (5%) per annum and
10 with a term that *does not* exceed forty (40) years, and that such bonds *shall*
11 mature *not later than* forty (40) years after their date of issuance, and *shall*
12 bear interest at such rates and be sold for such price or prices as *shall* result
13 in a yield to the bondholders that *does not* exceed eight and a half percent
14 (8.50%) per annum.

15 (g) The obligation of the College to make lease payments may be
16 secured by a pledge or reservation of liquid fuel tax revenues, funds from
17 the Guam Highway Fund or other available revenues. Any pledge or
18 reservation pursuant to this Section *shall* be made on lease financing terms
19 that do *not* cause the lease obligation of the College to be public
20 indebtedness within the meaning of Section 11 of the Guam Organic Act, or
21 to violate or breach any existing bond covenant. The tax revenues pledged
22 or reserved and thereafter received by the government, the College or by
23 any trustee, depository or custodian *shall* be deposited in a separate account
24 and shall be immediately subject to such reservation or the lien of such
25 pledge without any physical delivery thereof or further act, and such
26 reservation or the lien of such pledge *shall* be valid and binding against all

1 parties having claims of any kind in tort, contract or otherwise against the
2 government of Guam, the College or such trustee, depository or custodian,
3 irrespective of whether the parties have notice thereof. The instrument by
4 which such pledge or reservation is created need not be recorded. Any
5 amounts pledged as provided in this Section are hereby continuously
6 appropriated for the purpose of making lease payments, but any amounts
7 only reserved as provided in this Section and not pledged, *shall* be subject
8 to annual appropriation for the purpose of making lease payments. In the
9 event amounts are pledged as provided in this Section, any surplus tax
10 revenues *shall* be released to the government on a monthly basis.

11 **Section 23. Severability.** *If* any provision of this Law or its application to
12 any person or circumstance is found to be invalid or contrary to law, such
13 invalidity *shall not* affect or provisions or applications of this Law which can be
14 given effect without the invalid provisions or application, and to this end the
15 provisions of this Law are severable.

I MINA' TRENTAI UNU NA LIHESLATURAN GUÅHAN

2012 (SECOND) Regular Session

Date: 6/4/12

VOTING SHEET

SBill No. 437-31(COR)

Resolution No. _____

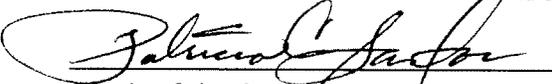
Question: _____

<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	✓				
BLAS, Frank F., Jr.		*			
CRUZ, Benjamin J. F.		✓			
DUENAS, Christopher M.	✓				
GUTHERTZ, Judith Paulette	✓				
MABINI, Sam	✓				
MUNA-BARNES, Tina Rose		*			
PALACIOS, Adolpho Borja, Sr.	✓				
PANGELINAN, vicente (ben) cabrera					EA
RESPICIO, Rory J.	✓				
RODRIGUEZ, Dennis G., Jr.	✓				
SILVA TAIJERON, Mana	✓				
WON PAT, Judith T.		*			
YAMASHITA, Aline A.	✓				

TOTAL

10 4 0 0 1

CERTIFIED TRUE AND CORRECT:


 Clerk of the Legislature

* 3 Passes = No vote
 EA = Excused Absence



Ufisinin Todu Guam

SENATOR DENNIS G. RODRIGUEZ, Jr.

I Mina'trentai Unu Na Liheslaturan Guåhan

CHAIRMAN, COMMITTEE ON HEALTH & HUMAN SERVICES,
ECONOMIC DEVELOPMENT, SENIOR CITIZENS AND ELECTION REFORM

April 24, 2012

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

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

RE: Committee Report – Bill No. 437-31(COR) - As Substituted

2012 APR 24 AM 11:57
JN

Dear Speaker Won Pat:

Transmitted herewith, for your consideration, is the **Committee Report on BILL NO. 437-31 (COR)- An act to authorize tax credits to the awardees of a contract for rehabilitation and renovation of public schools;** Sponsored by Senator Judith P. Guthertz, DPA, and referred to the Committee on Health & Human Services, Economic Development, Senior Citizens and Election Reform. Bill No. 437-31(COR) was publicly heard on March 27, 2012.

Committee votes are as follows:

<u>3</u>	TO PASS
<u>1</u>	NOT TO PASS
<u>1</u>	ABSTAIN
<u>5</u>	TO REPORT OUT ONLY
<u>1</u>	TO PLACE IN INACTIVE FILE

Senseramente,

Senator Dennis G. Rodriguez, Jr.
Chairman

Attachments



Ufisinin Todu Guam

SENATOR DENNIS G. RODRIGUEZ, Jr.

I Mina'trentai Unu Na Liheslaturan Guåhan

CHAIRMAN, COMMITTEE ON HEALTH & HUMAN SERVICES,
ECONOMIC DEVELOPMENT, SENIOR CITIZENS AND ELECTION REFORM

COMMITTEE REPORT
ON
Bill 437-31 (COR)
as
Substituted

**An act to authorize tax credits to the awardees
of a contract for rehabilitation and renovation
of public schools.**



Ufisinan Todu Guam

SENATOR DENNIS G. RODRIGUEZ, Jr.

I Mina'trentai Unu Na Liheslaturan Guåhan

CHAIRMAN, COMMITTEE ON HEALTH & HUMAN SERVICES,
ECONOMIC DEVELOPMENT, SENIOR CITIZENS AND ELECTION REFORM

April 23, 2012

MEMORANDUM

To: **ALL MEMBERS**
Committee on Health & Human Services, Economic Development, Senior Citizens and Election Reform.

From: **Senator Dennis G. Rodriguez, Jr.** *DR*
Committee Chairperson

Subject: **Committee Report on Bill No. 437-31(COR).** - As Substituted

Transmitted herewith, for your consideration, is the **Committee Report on BILL NO. 437-31 (COR) - An act to authorize tax credits to the awardees of a contract for rehabilitation and renovation of public schools**; Sponsored by Senator Judith P. Guthertz, DPA.

This report includes the following:

- Committee Voting Sheet
- Committee Report Narrative/Digest
- Copy of Bill No. 437-31 (COR)
- Public Hearing Sign-in Sheet
- Copies of Submitted Testimony and Supporting Documents
- Copy of COR Referral of Bill No. 437-31 (COR)
- Notices of Public Hearing (1st and 2nd)
- Copy of the Public Hearing Agenda
- Related News Articles (Public hearing publication of public notice)

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 me.

Si Yu'os Ma'åse'!

Attachments



Ufisinan Todu Guam

SENATOR DENNIS G. RODRIGUEZ, Jr.

I Mina'trentai Unu Na Liheslaturan Guåhan

CHAIRMAN, COMMITTEE ON HEALTH & HUMAN SERVICES,
ECONOMIC DEVELOPMENT, SENIOR CITIZENS AND ELECTION REFORM

COMMITTEE VOTING SHEET

SUBSTITUTE BILL NO. 437-31 (COR)- An act to authorize tax credits to the awardees of a contract for rehabilitation and renovation of public schools; Sponsored by JP Guthertz, DPA.

	SIGNATURE	TO PASS	NOT TO PASS	ABSTAIN	REPORT OUT ONLY	PLACE IN INACTIVE FILE
DENNIS G. RODRIGUEZ, Jr. Chairman					4/24/12	
ADOLPHO B. PALACIOS, Sr. Vice Chairman						
JUDITH T. WON PAT, Ed.D. Speaker						
BENJAMIN J. F. CRUZ Vice-Speaker						
TINA ROSE MUÑA BARNES Legislative Secretary						
THOMAS C. ADA		4/24/12				
VICENTE C. PANGELINAN						
RORY J. RESPICIO		4/24/12				
JUDITH P. GUTHERTZ, DPA		4/24/12				
FRANK F. BLAS, Jr.						
V. ANTHONY ADA					4/24/12	
ALINE A. YAMASHITA, Ph.D.						
SAM MABINI, Ph.D.					4/24/12	
MANA SILVA TAJERON					4/24/12	
CHRISTOPHER M. DUENAS					4/24/12	



Ufisinan Todu Guam

SENATOR DENNIS G. RODRIGUEZ, Jr.

I Mina'trentai Unu Na Liheslaturan Guåhan

CHAIRMAN, COMMITTEE ON HEALTH & HUMAN SERVICES,
ECONOMIC DEVELOPMENT, SENIOR CITIZENS AND ELECTION REFORM

COMMITTEE REPORT DIGEST

Bill No. 437-31(COR), as Substituted

- I. OVERVIEW: The Committee on Health & Human Services, Economic Development, Senior Citizens and Election Reform conducted a public hearing on March 27, 2012.** The hearing convened at 2:05PM in I Liheslatura's Public Hearing Room. Among the items on the agenda was the consideration of **BILL NO. 437-31 (COR)- An act to authorize tax credits to the awardees of a contract for rehabilitation and renovation of public schools;** Sponsored by Senator Judith P. Guthertz, DPA

Public Notice Requirements

Notices were disseminated via hand-delivery/fax and/or email to all senators and all main media broadcasting outlets on March 20, 2012 (5-day notice), and again on March 22, 2012 (48-hour notice).

Senators Present

Senator Dennis G. Rodriguez, Jr.	Chairman
Senator Adolpho B. Palacios, Sr.	Vice-Chairman
Senator Thomas C. Ada	Committee Member
Senator Rory J. Respicio	Committee Member
Senator Judith Guthertz, DPA	Committee Member
Senator ben pangelinan	Committee Member
Senator Sam Mabini, Ph.D.	Committee Member
Senator V. Anthony Ada	Committee Member
Senator Christopher Duenas	Committee Member

The public hearing on agenda item Bill No. 437-31(COR) was called to order at 1:35PM.

II. SUMMARY OF TESTIMONY & DISCUSSION.

Chairman Dennis G. Rodriguez, Jr., convened the Public Hearing on Bill 437-31(COR). **Senator Judith P. Guthertz DPA, author of Bill 437-31 (COR), explained the intent of the bill.**

Senator Judi Guthertz: Mr. Chairman, Bill 437 is actually quite simple. It allows us to fully utilize the \$60 Million in Federal ARRA funds that are available. The Department of Education says that they need \$139 million for renovating, rehabilitating and rebuilding public schools. This bill will cover the shortfall of about \$79 million, by authorizing tax credits. The contractor or contractors that will renovate and rehabilitate our schools can use these tax credits. The combination of ARRA funding and tax credits should allow GDOE to accomplish these tasks. Our government is financially unable to take care of this problem, but it is essential for our children and their education that we provide them with suitable school facilities. These proposed tax credits can be used against any taxes due under the Business Privilege Tax law, that includes the Gross Receipts Tax, the alcoholic beverage tax, liquid fuel tax, automotive surcharges, tobacco tax, the Hotel Occupancy Tax and real property tax.

In addition, there is a provision in the bill to use a lease-and-lease-back option to lease a school to a contract awardee, and then lease-back the school from the awardee. I believe this may be the best solution for GDOE to renovate, rehabilitate and rebuild public schools, and I look forward to what the financial experts have to say about this plan. Thank you.

Mr. Chairman: Thank you Senator Guthertz. We did invite the Department of Education as well as the Department of Administration to provide testimony and to be here, but we know that the DOE will be submitting testimony and that should be forthcoming. We also received an email testimony from Joe S. San Augustin who is an elected member of the Education Board and the members have a copy of that testimony. Who was in support with that legislation and has provided some amendments to this legislation. Okay I would now like to recognize Mr. Pangelinan from GEDA.

Mr. Karl Pangelinan: WRITTEN TESTIMONY

Thank you very much Karl Pangelinan, Mr. Tydingco?

Deputy Attorney General Tydingco: Good afternoon Chairman Rodriguez and senators. Im Phil Tydingco on behalf of Attorney General Rapadas and the office of the attorney general. I have to be the wet blanket here but I guess I will be and so far as the intent of the bill at finding ways to be creative of trying renovate and to rehabilitate our bills is allot able intent. There is number of issues that we would want to raise and bring to your attention when you go this route that your decision is informed and you way the risk and the benefits of pursuing this course of financing in procurement and so forth. As you know this model is the model that is similar to the JFK situation. So I could just sing that tune but that this would be JFK times how many schools you plan to have repaired and financed this way. There are no assurances built into this so we put you on notice about that when you make these policy decisions about risking benefits. I know that we have been asked to provide language for assurances, theirs no way to have the assurances to make sure you want the quality of the schools you built. The potential for many different JFK's to come up is built into this bill, but again like anything else if the benefits outweigh that risk then you'll be making those decisions together with the Governor. Secondly because I know that we also provided language which if we do not involve DPW and the contracting agency or purchasing agency then there will be no assurances for quality or for the product you want in the end. Secondly, I assume because it was indebted through bond council with GEDA that the proposed legislation is completely different from what its proposed here so because there are issues with the current language, it would affect the current bonds that we have out there right now. So as drafted, it would pose serious legal problems for us and our obligations under the bonds currently. A third point to make of course, I think theirs a separation of powers problem, section 4 basically the Legislature directing that all current procurements be terminated, that's a separation of powers violation right there so that would make this unconstitutional. A factual

point just to direct, we are unsure how it is that our understand that the ARRA 60 million has been converted to CIP funds so that is not necessarily available we believe that is appropriate unless you plan to deappropriate that from DOE, so that's something that you need to factor into how your supposed to make this whole 139 million dollar package work. Finally, a point, section 5 the procedure, it appears that your modifying waving the procurement rules and regs and we're quite surprised because we don't know how you can make a multimillion dollar procurement done in 15 days. I mean just doing the JFK one took almost a year just to get our people together, plus again you don't have DPW involved, you only have GEDA doing it. Their just the finance arm, their not engineers and then it proposes basically it looks like you want everything done in 30 days and we think its quite impractical, but again these are only things we point out for you to digest and consider when you make your informed position on how you vote on this bill. Thank you.

Mr. Chairman: Thank you very much sir for that and we'll be sure to involve you when we do a mark up on this. I would like to now ask the Vice-Chair if he has any questions...not at this time? I would like to acknowledge Senator Mabini and Senator Mana, thank you for joining us this afternoon. We'll start with Senator Respicio do you have any questions.

Senator Respicio Yes thank you very much Mr. Chairman and gentleman thank you for testifying and for providing some much needed guidance to see how we can make this bill work. We are in receipt of, as the Chairman pointed out, an email from Joe S. San Augustin from the board of Education and he shares a similar concern as the AG does wanting to put into the bill to certain requirements such as warranties, liquidated damages, performance and payment bonds, indemnity, insurance, standard specifications, technical specifications, progress schedule, maintenance, compliance with Guam Labor Regulations, I mean he listed 12 items. Mr. Tydingco did you get a copy of this email?

Deputy Attorney General Tydingco: No, I did not but I might sound similar if you look at our testimony we submitted on the Miata a lot of states law that I think, it sounds like a similar listing that we provided to this body. When it wanted to authorize and ratify that settlement and we indicated there that to get the assurances for that affordable housing we should include these contractual provisions so that ordinarily for DPW would include in the construction and that should involve as a party, the government. If the government is only a party on the financing side of the house that's the only other than being a tenant on the underline lease, those are the only legal remedies you'll have and that's not really much if you don't like the product you end up with. So yeah it does look like the same standard provisions we have indicated recently in some testimony provided to the Legislature.

Senator Respicio: Yeah okay, will you please take a look at what Mr. San Agustin is offering as an amendment to the bill and at sometime confirmed for me, I'd like to know for my continued support of this bill if this amendment might give you a better comfort in terms of how to prevent the you know I say the new JFK is the new Southern High School and really its unfortunate that that's the way that

school is right now and we don't want to create 36 different new southern high schools and JFK as you pointed out. You also made some reference to the RFP process and the bills requirement within 15 days the RFP will be issued out. I just want to ask Karl Pangelinan very quickly are you comfortable with these timelines?

Mr. Pangelinan: If you noticed in the revised bill we submitted those were left blank and again they were left blank because we can have the timelines where the timelines were left blank.

Senator Respicio: You have a revised bill?

Mr. Pangelinan: Correct and it was attached to my testimony.

If your leaving it blank, do you have any idea how many number of days are sufficient?

You know I don't feel too comfortable commenting on that at this point, you know, again our role in betting in this bill and creating the revised suggestion was really for finding a solution for the finance portion, I think with regard to...

But beyond that your agency will be tasked to do the RFP itself?

That is correct as stated in the bill, you know I'm going to differ to this being a policy call, I mean if that's the will of this body then we'll certainly be ready and willing and able to carry it out. As far as the time frames are concerned, I cant comment on that until we have full legal review on it. At first glance it does seem a little tight timeline wise, but again I would have to get our legal council to review that portion of it out.

You guys know we can't get anything done in 15 calendar days. The review selection of word and contract process shall be completed within 15 days. This is a multimillion dollar RFP my goodness it barely took us a year or two just to do JFK, much less there's just no way. Why put these timelines on there, let the development and proper RFP with the proper input and the proper experts not be rushed. We have 36 schools, its not going to be done in 36 months, much less, 30 days. I just don't see how just reviewing this especially when were talking about the fact if you go with the two options, just the legal work, the review in and of itself and much less the development of the RFP. I mean perhaps in the market we could consider a, or maybe we actually have to go out and actually hire a real consultant to do this kind of RFP. That's how usually what the feds would require. They usually hire a consultant to develop this type of RFP, you might want to look at that. That's what we do with large federal grants that require projects and construction and so forth so they usually require that the RFP is developed by some expert, so we can all feel assured that we have folks looking at it thoroughly as you know, this is rather complex, so I would beseech you to consider that as another way to perhaps tweak that.

Yeah and in section 4, General where you raised the separation of powers, it looks like on the revised requested bill that section 4 still remains in tact, so I'm wondering and I want to ask, what is the thinking behind asking for the authority to terminate the existing bids offers or requests for our proposals within and that involve ARRA funds, isn't this the Governor or doesn't the Governor have the current authority right now to terminate the RFPs.

Mr. Tydingco: Well again DOE, if they follow the same procurement rules and regs and the laws that the rest of us follow they can terminate within the contexts of those rules provided that its done again properly within context of the procurement rules, but if this was to, well first off this is separation of powers issue but lets just say that this went into effect. This is just an invitation for protest built in so and it would tie everything up. So im not sure what the thinking is behind this exactly but if their in the middle of these things then their in the middle of them. I don't know, its always the agency can always terminate within the context of the rules. So if they use it properly of course their subject to protest but you know that's the right under our rules.

Senator Respicio: But isn't it that an RFP can be terminated even after its been awarded for whatever reason.

Mr. Tydingco: For the proper reasons that are listed in the rules, I don't know them off the top of my head and of course there are some remedies provided to the person who may think that or protest that termination and claim that it was not consistent with the reasons that are allowed for terminating under those circumstances and then they get their remedies or damages set forth after an award. If it was done fraudulently then of course their going to get their profits for improper purposes. If it was done for proper purposes then the remedies provide for you to get the costs of your preparation of your RFP and so forth. So there are remedies provided from after an award or at different stages of the procurement. So I mean DOE can do this again within their context of their rules if I can recall they haven't had most of these done anyway, so I don't even know why this matters, to be frank.

Senator Respicio: I guess DOE would have to agree to do this.

Mr. Tydingco: Right, but if I recall the last unless they pushed them all out miraculously in the last two or three weeks, I think I was at the last roundtable where they said they hadn't. So that their was still 60 million on the table. So that's not true? So its less than that? Okay, so maybe even less. But I understand that they have pushed it all out. So the 60 million is already, part of that is already committed.

Senator Ben Pangelinan: They still have 42 million available for ARRA funding itself, like construction, of which 3 million is spent on design and if you cancelled everything you spend that 3 million for nothing because you would have to design everything.

Mr. Tydingco: Okay so they only have 39 million available so..

Senator Pangelinan: But 20 million has been obligated and bided out and 12 million has been contracted. So you only have about 12-15 million left to issue RFPs for.

Mr. Tydingco: Well half of that is potential litigation if this stays in.

Mr. Chairman: Senator Respicio?

Senator Respicio: No, but just a follow up question, you know I am sure that this is a bill that the administration supports, particularly Mr. Vince Leon Guerrero, have you had conversations with him? And discussions with just what is the administrations plan is to address all the system wide systemic approach to repairing these schools.

Mr. Pangelinan: I haven't had any discussions with Mr. Leon Guerrero outside of our last sub-committee task force committee meeting and within that meeting theirs a lot of moving parts to this bill and there are some numbers that need to be bedded. Number 1 and this came up as board member San Augustin was at the sub-committee meeting. Number 1 the 139 million dollar from sedecso, that's really the only thing that we have on paper as far as what's needed for the schools, but you know theres that question, is that all that's needed? And was there proper structural assessment? So I believe his facility's sub-committee meeting was supposed to have confirmed or validated those numbers. Secondly as Speaker Pangelinan stated, the amount that's mentioned with regard to ARRA you know I think that that number needs to be fully confirmed as far as what is still available and what has been an expensed. I believe there was like 800,000 that has been expensed and a certain number that's also been awarded. So those numbers need to be flushed through. If I'm not mistaken, and ill differ to the author of the bill, I mean the reason for some of the timelines indicated was just the risk of us loosing this ARRA money, I mean the clocks ticking and I think whatever it turns into at the end of the year and that was part of the intention for putting in these timelines.

Senator Respicio: And just finally, Mr. Chairman, your suggested bill confirms that there is a financing method that's possible.

Mr. Pangelinan: There's a way to do it with the 2 major considerations that we had to bear in mind. Number 1, the bond covenants and then secondly the impact that ceiling. So with the proposed revision, it keeps in mind those considerations.

Senator Respicio: Okay thank you.

Mr. Chairman: Thank you Senator, I apologize to the author, I should have differed to you first and so I will go ahead and recognize you.

Senaor Judi Guthertz: Thank you Deputy General and also thank you Karl for your comments and testimony are very helpful and I want to assure the AG that of course I have the same goals that you do, and I'm sure that whatever's done is

done properly and to ensure that the government of Guam of protected and the interest of our citizens are protected and any expenditure funds for school facilities or for any other purpose. The deadlines that were in the initial bill as submitted really were to deal with the ARRA timeline issue. I was informed by representatives of the DOE that they were asking Legislature for a Resolution to extend, to ask the DOE and the federal DOE to extend the deadline and we already did that once, if I'm not mistaken. So this would be the second time, if we were to do that, that this government and this legislature would ask the Federal Government to forgive us for not spending the money in a timely matter and fashion. And to give us more time to spend the money. So that's what motivated the timelines that were in the original bill that was filed. I have no embarrassment about putting those timelines in there because I didn't want to ask the federal government for permission to have more time to spend money that we should've committed and used at least by the end of last year or if not early this year. If DOE's made some progress with some of the ARRA money, that's fine, but that does not negate the other portions or the other intent which is to identify additional funds, that are so badly needed to fix all the schools. I don't like this idea of piece meal, where we'll do this school, we'll do that school, because all of our school are in great need of physical rehabilitation, their in bad shape. Many of these schools were built in the 60s in the 70s and they've had piece meals. Types of repairs done, and things like that over the years and they are not creating the proper learning environment, that are supposed to help work to support our teachers, the learning of the students, and the work of all the other support staff, that go into a school. So the concept behind the bill is that really was to try and find a way to do this, in 1 big initiative to devote our full attention to it and to find a way to fund it. I know everyone's very sensitive about money issues now, nationally and locally, but this is something we really have to do, because our children are worth it. The children of Guam are worth the attention needed to put their schools in the proper condition to facilitate their learning and to give them every opportunity to excel, and to learn as much as they can and prepare themselves for the future. I'm happy Mr. Chairman that GEDA spent time in trying to develop a revised bill to share with us and I know through your leadership I know you'll give it full attention and support. I'm also very happy that Mr. Tydingco cam and shared his recommendations, and as your know that 2 ½ weeks ago, I raised the issue of JFK, very strongly, and I even had wrote to the AG, asking for their support to ensure that whateer mechanisms we have available to us to protect the Government investment and the needs of the children up at JFK facility and the teachers and everybody else because that is the focus of the AG's office. My goal was not to try and create a legal battle between the "owner" and the contractor and this Government, but my goal was to facilitate a Resolution of issues. And I'm happy to hear that through cooperative efforts, which includes Director Brown at DPW, we got the attention of the "owner of JFK" whose held the lease of that school, and who recently came to Guam and recently acted to resolve the issues at JFK quickly. Even in the absence of certain sections in this contract that was entered in between JFK and the Government of Guam, I mean this company and the Government of Guam, still we were able to do something this way because the threat of the AG's office, I think was enough to get the attention of the "owner" of JFK. But going back to this bill, I feel comfortable with the intent of this bill. I want to work with the

Chairman of the Committee to ensure that the intent is met in the revised version and I'd like us to go forward as quickly as possible, with all of the protections that have been discussed and to look at the options available. I'd like to see the schools repaired, I know we can't do it as a legislative body on our own we have to work very closely with the executive branch and the Governor and the school board and the superintendent and the superintendent's team and Public Works and the AG's office, but we can do it. We can do it if we are all committed to really helping our schools and getting things really put in shape as soon as we possibly can. So with that Mr. Chairman, thank you.

Mr. Chairman: Thank you Senator Guthertz, thank you also to Senator Tony Ada for joining us. Karl before I move along here, the 139,000,000, that were saying is needed, I know you said earlier that even as a member of the Governor's sub-committee, we still don't have a hold on what exactly that is for.

Mr. Pangelinan: Well it is itemized, as far as per school and what different categories that repair or rehabilitation is necessary. I think there was just some question, then again it was supposed to have been verified with facility sub-committee that is chaired by Mr. San Augustin you know to go through that number. He made some comments that he's not sure whether the structural integrity of each of these facilities were taken in account, some of the categories are a little broad, they talk about the exterior, they talk about the interior, and again their broad categories and were just not sure if that number covers everything that's needed for that particular facility. It was supposed to have been flushed down and I believe it has been I just haven't reviewed an update from the facility sub-committee.

Mr. Chairman: Okay, if you can I think its very important as we move forward with this legislation, we had a meeting earlier with the Green Technology sub-committee and that came up and nobody was also able to answer that question that actually cold. We know the number its 139 million that was even the number that was picked with a bond authorization bill that we just passed but I think someone has to answer really because is this or what its appearing to look like is that this is the fix all so I'm not sure if that is the case so that would be very important to the sub-committee. Thank you.

Senator Duenas: Thank you Mr. Chair and I would like to join the author in saying that truly it was the intent of this legislation that I was really in support of. As you know, I have worked with the DOE for the last several weeks to see through some solutions or possible solutions with regard to the ARRA funding and the possible request or in subject to that maybe the loss of the fund. I was happy to see multiple strong efforts with regard to that. So I just want to be clear with you Karl that, so you are understanding that in the even that its problematic with regard to current obligations already set forth and whatever happens between now and the passage of this bill that that would have to be taken into consideration of DOE's comfortable with their current procurement and maybe the future procurement online.

Mr. Pangelinan: I mean of course that certainly needs to be taken into account.

Senator Duenas: Okay? So I think what's important especially in light of the number of recommendations or at least findings of what the AG's office has, I just think it is going to be important that even within the spirit of this bill would it be then your still your contention or your support that any effort by DOE to continue to expand their funds and to come in line with the deadlines, I'm assuming that would be a leveraging opponent of the balancing of the projects which certainly need to be done.

Mr. Pangelinan: You mean as far as the amount that identified that is un-awarded and to use that remaining balance to leverage?

Senator Duenas: Well even just the effort going forward to ensure that I mean I'm sure what I see here is a more comprehensive approach and why I agreed in principle to the idea was because we're going to take care of all schools, were not just going to single out just because we have the ARRA money as an opportunity to approach this in a wholeistic fashion, but if the DOE has some other mechanisms or moving forward it would still be considered complimentary to the efforts of the bill.

Mr. Pangelinan: Yes!

Senator Duenas: Okay thank you Karl, I just wanted to make sure that GEDA would still be on the same page that DOE is undertaking the endeavor of taking care of what they have cash in the bank for now, but it would still be seen as part of a comprehensive package in moving forward to take care of our schools.

Mr. Pangelinan: Yes and additionally we need to identify whatever that number is that they ultimately end up awarding or expending. Does that number tear into that 139 million overall number. I mean again there's a lot of bids that were out there and there's a lot of needs within this 140, we'll call it 140 million, list from sudesco. Again was whatever awarded addressed needs to be backed out with the overall balance of the financing

Senator Duenas: And Karl I think that its important also to know that while it maybe a request to the legislature, I think even on the separation of powers question and one of the General's findings, which I believe to be correct, this would be the Governor requesting for an extension not the legislature because not through legislation allowed for the account to be established, so that ARRA could become a local funding or in accounts established for us to deposit money to, but it's the Governor, I believe, that was given the authority under ARRA to expand.

Mr. Pangelinan: I believe he was the one that was granted the last request for extension.

Senator Duenas: So I could see his concern because it would really be on his watch in terms of what happens to this funding. Okay so that's why I think all of

us are hopefully in unison, we don't want to have to make the Governor ask to extend the use of spending this money properly. Thanks Karl.

Mr. Chairman: thank you Senator, Senator Yamashita?

Senator Yamashita: than you very much Mr. Chair. Thank you Mr. AA and Mr. Pangelinan for being with us, I always appreciate the incite that Mr. Tydingco brings, he says it straight up and always puts a focus on making sure that we look at all the angles. I'll admit that when Senator Guthertz contacted me about this I got really excited and hopeful because as you all know the conditions of our schools. Yesterday I spent an hour listening to teachers talking about the conditions of their schools and its really easy to sit somewhere and think about it but its different to go there and work there. And so when Senator Guthertz said maybe this is a way we can address it, and I said I would like to be a really big part of that conversation. So now I understand that there are things that we need to clean up and I appreciate the guidance because that does need to happen. I also want to state that when both Senator Rodriguez and I were at a meeting the sedecso rep did state that that 139 million estimate did not include a deep contractual review or assessments. I know I'm not using the right words but she did and I'm so sorry I cant remember her name but if I see her face I still cant remember her name, so that they did visuals but they didn't in depth and so we knew that that amount was not a true amount and I eco with the previous speaker said that this is not just for ARRA based school but its gotta be for all of our schools and I do know that ARRA is a concern we all or wait I don't know if all of you did but I got a note stating that our current superintendent said that she was concerned and as a matter of fact, I really believe or speaker actually introduced a bill to address appeal processes to expedite and to put it into the hands of our OPA. I'm pretty sure that's on a block somewhere and so all of those are concerns and because monies are tight and because we don't want to loose anything, I again was very thankful that Dr. Guthertz put the effort into this and of course we got to clean it up. We cant loose any money, we've got to be smart about how were using the money, we got to be smart about how we leverage our money and I really am concerned that the Department's not at the table right now because anytime theirs an opportunity to say this is how were going to help our schools and help our kids and the teachers who make due with the rust and the leaks and the filth, that's what we gotta do. So I am told all the time what's rush? There's a rush and we are now into the month of April marc is ending, were loosing the time. So I appreciate this and I look forward to the mark up and I look forward to doing it the right way and to fixing it and its just that there's a huge rush for all 31,000 kids, thank you Mr. Chair.

Mr. Chairman: Thank you Senator, Vice-Chair? Senator Ada?

Senator Ada: Thank you Mr. Chairman, first of all I do share all the concerns that was raised by the AG regarding the existing and ongoing bids and RFPs and also the timeframe that initially is being allocated for the development of the review of proposals, so I have very serious concerns with that. I would like to bring to the attention of course the committee and the fact that on April 19th actually April 18th of 2011 the Governor signed into law Public Law 31-29 which

authorized the DOE to enter into a public private partnership for the management of the maintenance operations and repair of the GDOE facilities and that is otherwise known as the PMC, the Performance Management Contract. Where you basically competitively bid for this PMContract and then the responsibility is left to that contractor to then to bid out the various contracts. That was passed in an effort to bring our schools into compliance PL 28-45 which is adequate education act and there was a proviso that in that law that basically said 120 days after the bill was enacted DOE was supposed to start putting together the preliminaries and what was actually going to allow it to trigger it to go into effect, is once a payment is forced or a budget has been identified to pay this PMC and for all the projects so here's a public law that was passed last year in April. Now we're basically reviewing the funding mechanism to this. So I think that as we go into the markup we need to see how basically we could basically actually marry these two Public Laws together. The 3rd item I would like to state for the record is the fact that whenever we talk about adequate education, it seems that we talk about basically the classroom, making sure there's books in the classroom, making sure there's teachers in the classrooms but if we go back to when GCA chapter 7 in there it identifies and defines adequate public education and it means public schools which at the minimum are required to provide regular timely school bus transportation, from the school for the attendance, or basically timely school bus transportation to get our kids to and from school and so I raise that because just a couple of weeks ago, DPW came down and gave an informational briefing and basically highlighted the fact that the bus situation at DPW while it's barely holding on right now, they're projecting that you're going to start seeing those busses again breaking down and a lot of that of course is just that we don't budget enough funds to provide the effective maintenance for the busses but a lot of them are actually old busses way beyond their economic service life so it's like it becomes more expensive to operate them and more expensive to maintain them. So I would hope then that as we go into the markup that we work into this bill in bill 437-31 some provisions. So I look forward to working with you in the markup session to see how we might be able to work into this bill some procurement busses. Thank you.

Mr. Chairman: Thank you Senator Ada. Speaker Ben?

Senator Pangelinan: Thank you very much, Phil I know you maybe didn't have an opportunity to review the revised bill that was presented and was attached to Mr. Pangelinan's testimony.

Mr. Tydingco: Just now I've been scanning through it.

Senator Pangelinan: And I'm asking that because you mentioned of course the bond covenants, the prohibitions against obligating any more claim against the business privilege tax and the bill still has a provision that would the pledge the business tax and I wanted to kind of view and ask Mr. Pangelinan did you have the bond council put something in writing that distinguishes between pledging the GRT and giving a tax credit to the GRT, why are the 2 different introducing a bill that allows a tax credit against the GRT the against the bond covenant and why introducing a bill that pledges a GRT is not contrary to the bond covenant, I

think that's the question I want. And Phil would you have an opinion why the distinction.

Mr. Tydingco: No in fact I would be, asking Karl to run that question by the bond council as bond councils background is taxes. So that's tax on top of the bond that's its double specialty. So we would run it directly through their bond council or the Government's bond council, Mr. Dierks or Furman. It's to my understanding that this may or may not have already.

Senator Pangelinan: According to Karl this was already provided by the bond council.

Mr. Tydingco: Right, right, right but I don't know the answer to that question. In fact I would ask that and again I have to confess that I was looking at Karl's copy of it because it provides for 2 ways and I was just trying to translate it again into the sort of practical aspects of it. Are we looking at an RFP that calls for, I mean if theirs 36 schools, are we talking about 36 leases? Or are we going to lease out 30% of our schools or what? I mean don't get me wrong but I hate to be a wet blanket but obviously we need to think outside of the box and this is the way to go and they've come back with that ability and then I would probably call up GRT and say okay what's the impact on the BPT I mean that's also revenues too that the Government counts on so...

Senator Pangelinan: So that's my question Karl could you have them address that an on why on another bill why it says that on one bill were awarding any tax credits over and above what's on it on a already authorized bill by law which is a clam against the BPT and why that is contrary to the bond covenants and why pledging BPT for a new deck is not contrary to the bond covenant.

Mr. Pangelinan: Yes a very good question Mr. Speaker I do have the responses in several different areas, its just a matter of compiling to formally respond to that question and you know once we do get all of that information we'll furnish it to the committee.

Senator Pangelinan: Okay maybe that question should be put to him in one single correspondence rather than asking him a portion of it and just to distinguish why a BPT claim contrary to the bond covenant but not a BPT pledge.

Mr. Pangelinan: And he does have the technical answers and again it came in pieces, as relative to your question, I'll just have him consolidate.

Mr. Tydingco: they only thing I can think of real quickly, the only people that may have and that might help just a tini bit is that again with bond holders or disclosures of what's committed and what's not committed and so...

Senator Pangelinan: But their telling us that we cant put any new commitments forward.

Mr. Tydingco: Right so we would have to have that clarified through but that's would be my understanding is that it depends on what areas disclosed and so forth.

Mr. Pangelinan: And I think he'll also know the difference between a pledge and revenue reservation and the differences.

Senator Pangelinan: Good we'll look forward to that. I just want to state also for the record you know this idea that were going to give this money to the Governor and GEDA because you know they do a better job of putting the RFP and going up against the timeline and we should have done this is the beginning, I do want to say for the record, that when we first started and the ARRA funds, I had introduced legislation and it was passed that set up the ARRA procurement council to be headed out of the Chief Executive Office. So that we have the person in charge, in control can move the procurement process forward? But of course the Governor and Lt. Governor both voted against the bill and when it came for a override they booted it because they said we don't need it. So it kind of puzzles me that back then they were saying that we don't need it and we don't want it actually, you know we were offering it to him, to manage that ARRA procurement process and he says that we don't want it and we don't need it, its not necessary, its duplicative and now were saying they should have it, he wants it. I don't know so that's kind of a little and its just a comment Karl, and im not asking for your testimonies and the 2 individuals now that are trying to grab the ARRA funds didn't want it at all because they voted against the override and they voted against establishing the procurement council. I also want to state for the record that the expedited appeals procurement process that the Speaker had introduced the bill is already included on the bond bills so that we do have the expedited procurement process that's in place and that would allow any protest of RFPs issued by DOE to be expedited and it allows the projects to move forward so that we can continue moving forward under the current procurement process. The plans for all of the projects are all 90% complete and were supposed to have been completed about a week ago to about 100% completion and that would have encompassed the entire amount available for construction and were hoping to release the final RFPs out by sometime in the next week or so. The OPA has resolved one protest and rewarded it 7 million dollars another protest is supposed to be resolved by the end of this week and that leaves us with maybe between depending on when the issues are about 12-15 million dollars available to encumber and to put out under RFP in order to ensure that we can no. 1 obligate through the RFP process by September and of course begin contracting and execute the contract by December which means that we would not have to return or loose any of the ARRA funds under this process and if we were to cancel this out now because were going to give the Education task force this money then were going to have to spend more money on design, more time and RFPs and I doubt that we'll be able to complete all of that process of redesigning the projects and redoing the specs and biding it out. Karl I know that the way that this is designed is just to get around the debt ceiling is that correct?

Mr. Pangelinan: Well that was obviously one of the considerations that we had to bear in mind, I mean there is no more capacity to be in debt.

Senator Pangelinan: So what were trying to do is trying to find out way around it.

Mr. Pangelinan: In a nutshell we are looking at solutions and we found these solutions.

Senator Pangelinan: Now what is our repayment ceiling? D you know that? At which point do we meet the ability to repay debt, is that a part of the consideration at all that GEDA has looked at? We kind of figured a way around the debt ceiling now but we haven't figured our way around the repayment ceiling because we gotta repay it. Whether its part of the debt ceiling borrowing or outside the debt ceiling borrowing, we got to pay it back. So have you figured out a way to fix the repayment ceiling?

Mr. Pangelinan: Now again in the last part of my testimony we indicated that we wouldn't and we needed to work with DOE to identify some of the cuts and obviously the ideal situation was that whatever cuts that were identified were going to be proportionate to the debt service for this issue and for this project.

Senator Pangelinan: Oh so you would cut the DOE budget to pay for this.

Mr. Pangelinan: I mean that would be the proposed solution; there's obviously no room in the Government expenditures right now to afford this financing. DOE wants their schools to be repaired, I think they need to somehow incorporate this into their budget and I believe there has been several studies that identified a number of ways that DOE can cut down their budget and were going to need to do an amortization schedule find out exactly what that nuts going to be, but that was in my last part of my testimony.

Senator Pangelinan: Was that the intent of the author?

Senator Guthertz: Well obviously DOE would have to tighten up its expenditures but you know DOE's hiring people and now they've been hiring new people. Even with the financial difficulties that they claim they have and asking for the release of the balance of the money that have been kept and reserved budget DOE's been hiring people; school aides, project coordinators for the last 2 months. I don't understand how their able to keep hiring people and say that they don't have money.

Senator Pangelinan: Those hiring's are part of the requirement of the federal grants in the high risk status.

Senator Guathertz: But Ben their not just hiring to comply with that their hiring for other positions as well. And I think when we talk about how the DOE can save money it has to look at its personnel hiring practices and how they hire people. When its at the highest ranges rather than at the beginning ranges in some cases new employees.

Senator Guthertz: No the intent of the author is to make sure the schools built and to ask the DOE to be part of the solution

Senator Pangelinan: And so...okay I got it.

Mr. Pangelinan: Again, our role was to find a solution and so I think we've found the vehicle and I think we just need to...

Senator Pangelinan: And how much would we cut from DOE?

Mr. Pangelinan: We'd have to flush out the numbers but the early you know based on let's call it roughly 80 million in new monies that we'd have to borrow outside of the ARRA, were looking at North of 7 million a year.

Senator Pangelinan: Okay do you know where? Any idea? Teachers?

Mr. Pangelinan: Now that's not in my lane. My objective was to find the financing part and I think we have that.

Senator Pangelinan: Okay so...but I think anybody can find the financing I mean that's why we have the financial crisis. So I know that we can always be creative and always find a way to borrow the money. It's finding a way to pay it back is always the challenge. I certainly appreciate the fact that your getting around the ceiling but I'm going to ask you to devote the same kind of creativity to getting around the repayment ceiling.

Mr. Pangelinan: And it is indicated there that we would work very closely with DOE that we'll hopefully find some cuts. And I said ideally we'll be proportionate to the new debt service.

Senator Pangelinan: Thank you very much, and thank you Mr. Chair.

Mr. Chairman: Thank you Mr. Speaker, Senator Mabini? No. Senator Taijeron? No. Senator Ada? No. I know there was a follow up, Senator Duenas?

Senator Duenas: Karl, I wish DOE was here but this reminds me of...okay I won't go there. I would suggest though, and I didn't sit down with DOE on the other issues, but I would suggest that what your facing here is they have an operational budget regardless and they cannot go on for years and years and years to eternity without fixing their schools. So I would suggest that money lives within their operational budget, because once you amortize this debt, over a long period of time, by fixing all of the schools in one shot, then you've identified that funding source because that should take away from their operational requirements which would be to fix those schools anyways. So I really think that that would be the area to work with them on and that was the area that worked with them on, when we sat at the table weeks ago and they were in full support of that.

Mr. Chairman: Thank you Senator Duenas, Senator Palacios?



Ufisinan Todu Guam

SENATOR DENNIS G. RODRIGUEZ, Jr.

I Mina'trentai Unu Na Liheslaturan Guåhan

CHAIRMAN, COMMITTEE ON HEALTH & HUMAN SERVICES,
ECONOMIC DEVELOPMENT, SENIOR CITIZENS AND ELECTION REFORM

Senator Palacios: Thank you Mr. Chairman. Mr. Chairman, I would like to call the attention of Mr. Pangelinan and of course the Governor's office, would you be willing to consider looking over the evergreen recommendations for some cuts within the school systems? I understand that there are several millions and millions of dollars that in their opinion are now unnecessary expenses and that it would not hurt the quality of education if some of these cuts were made? Could you and the Governor's Office look at this and see which are still viable recommendations and implement some of these cuts because I tend to agree with many of the recommendations or the evergreen consultants

Mr. Pangelinan: Absolutely and that's a very good point.

Senator Palacios: Thank you.

Mr. Chairman: Thank you Senator Palacios. Thank you very much that concludes the public hearing on Bill 437-31.

Fiscal Note: Requested March 9, 2012 (attached)

III. FINDINGS AND RECOMMENDATIONS

Pursuant to the March 27, 2012 public hearing, it had been the intention of the Committee to subsequently conduct a *Markup Session* on Bill No. 437-31(COR). However, because of time constraints, the Committee has not conducted a markup session as of the date of this report. Due to the desire have the Author to have the Bill reported out for the April 23, 2012 Legislative Session, the Committee is accommodating the Author and hereby reporting out the Bill. Further, in lieu of the markup session, the Author has submitted to the Committee a proposed Substitute Bill 437-31(COR) for inclusion in the Committee Report and subsequent consideration by *I Liheslaturan Guåhan*. The Author's Substitute Bill No. 437-31(COR) is incorporated into this committee report.

The Committee on Health & Human Services, Economic Development, Senior Citizens and Election Reform, hereby reports out Substitute Bill No. 437-31(COR), with the recommendation to

Report out only.

I MINA'TRENTAI UNU NA LIHESLATURAN GUAHAN
2012 (SECOND) Regular Session

2012
MAR 27 5:11 PM '12

Bill No. 437 -31 (COR)

Introduced by:

J.P. Guthertz, DPA
Aime A. Yamashiro, Ph.D. *aj*
Rory J. Nespicio *rn*

J. Mabin
A. B. Alacios, Sr. AB
C. M. Duenas, CD

AN ACT TO AUTHORIZE TAX CREDITS TO THE
AWARDEE OF A CONTRACT FOR REHABILITATION
AND RENOVATION OF PUBLIC SCHOOLS.

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. Legislative Findings and Intent. The present condition of
3 the Guam public schools is in a deplorable condition which creates an un-
4 conducive environment that hinders learning and the work and production
5 of the teachers and the students.

6 The government has available certain funds from the American
7 Reinvestment and Recovery Act ("ARRA"), which is approximately
8 \$60,000,000.00. The Department of Education estimates the cost of the
9 renovation, rebuilding and rehabilitation of the Guam public schools to be

1 about \$139,000,000.00. This leaves a government shortfall of approximately
2 \$79,000,000.00.

3 *I Liheslaturan Guahan* finds that the government of Guam is
4 financially strapped and obligated to provide essential services for all the
5 people of Guam. The government is unlikely to afford payments for
6 renovation and rehabilitation of the schools. It is therefore the intent of *I*
7 *Liheslaturan Guahan* to leverage and utilize the government's ability to issue
8 tax credits, tax rebates, and tax offsets to an Awardee of a contract willing
9 to provide financing for the renovation and rehabilitation work on the
10 schools.

11 **Section 2. Definitions.** The following definitions shall be used for
12 the purposes of this act.

13 (a) "*Government of Guam*" shall mean the government of Guam, its
14 agencies, departments, divisions, and departments.

15 (c) "*Awardee*" shall mean the party who will be selected by the Guam
16 Economic Development Authority to provide financing and to perform
17 renovation and rehabilitation.

18 **Section 3. Lease/Lease-back.** To take advantage of alternative
19 financing under the Internal Revenue Code, the government shall have the
20 option and right to lease the schools to the Awardee and lease-back the
21 schools from the Awardee. The terms and conditions of the lease/lease-

1 back shall be negotiated between the parties, which may include
2 maintenance of the schools.

3 **Section 3. Payment of Expenses.** In lieu of any cash payment from
4 the Government of Guam to the Awardee for financing, renovation,
5 rehabilitation, and maintenance expenses, the government is authorized to
6 issue tax credits, and alternative financing. The tax credits authorized
7 under this Act shall be subject to bond counsel approval. The tax credit
8 permitted shall be as follows:

9 (a) The Awardee may utilize tax credits for the payments due to
10 the Awardee from the Government. The tax credits shall be applied
11 against taxes due under the Business Privilege Tax Law (namely, 11 GCA
12 Chapter 26, which shall include business privilege tax, alcoholic beverage
13 tax, liquid fuel tax, automotive surcharges, and tobacco tax), the excise tax
14 on transient lodging and occupants as found in 11 GCA Chapter 30, and all
15 real property taxes.

16 (b) The authorization of the Awardee to off-set or credit may be
17 applied by the Awardee against any amount owed to the government of
18 Guam.

19 (c) The parties or persons entitled to use the rights of off-set and
20 credits as set forth in this law shall be as follows:

21 i. If the Awardee is a corporation, then the Awardee and

1 any shareholder owning or holding a minimum of five percent
2 (5%) in the corporation shall also have the right to use the
3 rights of off-set and credits.

4 ii. If the Awardee is a partnership, then all the partners
5 shall have the right to use the rights of off-set and credits. If a
6 partner is a corporation, then the rights as set forth above
7 concerning corporations shall apply to the corporation and its
8 shareholders.

9 iii. If the Awardee is a person or persons, then such rights
10 shall apply to a person or persons.

11 (d) The tax credit authorized herein shall be freely assignable and
12 transferable, in whole or in part, to any party, company, partnership or
13 corporation. The assignment and transfer may be by gift or may be for
14 legal consideration. Any assignment and/or transfer shall be in writing,
15 notarized, and an original thereof shall be filed with GEDA, with a copy to
16 the Department of Revenue and Taxation.

17
18 Section 4. Existing Bids/Offers/RFP's. All existing bids, offers or
19 request for proposals for the financing, renovation, rehabilitation, and
20 maintenance expenses of the Guam public schools which involve the use of
21 ARRA funds are hereby terminated and cancelled. GEDA shall start a new

1 procurement process providing payments by tax credits to the Awardee.

2
3 **Section 5. Procedure for GEDA.** GEDA shall immediately proceed
4 with the procurement processes necessary to accomplish the financing,
5 rehabilitation, renovation and maintenance of Guam's public schools using
6 ARRA funds and payments to the Awardee by tax credits. GEDA shall:

7 (a) Consolidate and use the remaining funds from the American
8 Recovery and Reinvestment Act (ARRA) and the financing by the
9 Awardee to accomplish said renovation, rehabilitation and
10 maintenance.

11 (b) Within fifteen (15) days of the enactment of this Act, issue a
12 Request for Proposals (RFP) relative to the needed financing,
13 rehabilitation, renovation and maintenance of the Guam public
14 schools.

15 i. Any proposal submitted by offeror(s) must be received
16 by GEDA by no later than fifteen (15) calendar days
17 after the announcement and publication of the Request
18 for Proposals, whereupon the process must be closed.

19 ii. The proposal must allow financing of the work and
20 costs of the Awardee over a period of 30 years.

21 Payments of the principal and interest due to the

1 Awardee shall be annually.

2 iii. The review, selection and award of contract process
3 shall be completed within fifteen (15) calendar days.

4 **Section 6. Report.** The Guam Economic Development Agency
5 (GEDA) shall submit an annual report to I Liheslaturan Guahan detailing
6 the impact of this Act on the various taxes, until the amount of the tax
7 credit is fully exhausted

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

I MINA' TRENTAIUNU NA LIHESLATURAN GUÅHAN
2012 (Second) Regular Session

Bill No. 437-31(COR)
As Substituted by the
Committee on Human Services
Introduced by:

J.P. GUTHERTZ, DPA
A.A. YAMASHITA, Ph.D.
R.J. RESPICIO
S.A. MABINI
A.B. PALACIOS, SR.
C.M. DUENAS

**AN ACT TO AUTHORIZE LEASE FINANCING FOR THE
REHABILITATION, CONSTRUCTION, EXPANSION
AND RENOVATION OF PUBLIC SCHOOL FACILITIES.**

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

2 **Section 1. Legislative Findings and Intent.** Presently, the deplorable
3 condition of Guam's public schools, combined with an ever-increasing
4 number of students, hinder the educational development of our youth. Our
5 schools, and facilities, such as the Guerrero Administration building, which
6 contains the Department of Education offices, are run down, leaking,
7 cramped and insufficient. These facilities are inadequate to properly service
8 the needs of education, and instead create a chilling effect in the protecting,
9 helping and developing our most valuable treasure - our youth. Therefore,
10 renovation, expansion, construction, and rehabilitation have become a
11 necessity.

12 The government has available certain funds from the American
13 Reinvestment and Recovery Act ("ARRA"), approximately Sixty Million

1 Dollars (\$60,000,000.00). The Department of Education estimates the cost
2 of the renovation, expansion, construction, and rehabilitation of Guam’s
3 public schools to be about One Hundred Thirty Nine Million Dollars
4 (\$139,000,000.00). This leaves a government shortfall of approximately
5 Seventy Nine Million Dollars (\$79,000,000.00).

6 *I Liheslaturan Guåhan* finds that the government of Guam is financially
7 strapped and obligated to provide essential services for all the people of
8 Guam. The government is unlikely to be able to afford payments from its
9 current budget for the costs of the necessary renovation, expansion,
10 construction, and rehabilitation of the schools, including collateral
11 equipment, buses, and bus shelters. It is therefore the intent of *I*
12 *Liheslaturan Guåhan* to leverage and utilize the government’s ability to issue
13 lease revenue bonds and/or certificates of participation in lease obligations,
14 to provide financing for the renovation, expansion, construction, and
15 rehabilitation work on the schools and facilities.

16 **Section 2. Definitions.** The following definitions shall be used for the
17 purposes of this act.

18 a. “*Government of Guam*” shall mean the government of Guam, its
19 agencies, divisions, and departments.

20 b. “*GEDA*” shall mean the Guam Economic Development Authority.

1 c. "*Awardee*" shall mean one (1) party as selected by GEDA to
2 provide financing and to perform renovation, expansion, construction, and
3 rehabilitation. An Awardee may cooperate with its affiliates or another
4 entity or entities in any manner the Awardee deems appropriate to provide
5 for the financing, rehabilitation, construction, renovation, expansion,
6 maintenance, and insurance of School Facilities to the extent envisioned by
7 this Act, and in the event of such cooperation, Awardee shall include such
8 affiliates or other entities.

9 d. "*School Facilities*" or "*School(s)*" shall mean those public school
10 facilities, including land, improvements, and equipment, selected by the
11 Department of Education for renovation, expansion, and rehabilitation
12 pursuant to this Act. School facilities shall also mean and include any land,
13 improvements, administrative offices, equipment, and facilities that serve
14 and benefit education.

15 e. "*Lease Financing Agreements*" shall mean all agreements,
16 instruments, and other documents necessary or appropriate to implement
17 any financing pursuant to this Act, including any project revenue bonds
18 issued for the purpose of this Act.

19 f. "*Expansion*" shall mean the act of increasing, adding, or enlarging
20 any government facility.

1 g. *"Facility"* shall mean and include any school facility, and any other
2 real and/or personal property, land or building owned, leased, used or
3 controlled by the government of Guam.

4 **Section 3. Lease/Lease-back Financing.**

5 a. To take advantage of tax-exempt financing under the Internal
6 Revenue Code, the government shall have the option and right to lease any
7 School and its facilities to the Awardee and lease-back the School from the
8 Awardee for the purpose of the renovation, expansion, and rehabilitation
9 of the School and its facilities. The terms and conditions of the Lease
10 Financing Agreements shall be negotiated between the parties, and shall
11 include maintenance of the Schools by the Awardee. In order to take
12 advantage of the Guam Organic Act exemption from state income taxes for
13 bonds issued by the government of Guam or by its authority, GEDA has
14 the option to, and is authorized to issue limited obligation project revenue
15 bonds to make a loan to the Awardee for the purpose of financing the
16 costs of the rehabilitation, construction, renovation, expansion and all costs
17 related thereto. If such bonds are issued in accordance with the GEDA
18 Project Revenue Bond Act of 1982 (being Chapter 64 of Title 12 of the
19 Guam Code Annotated), and each underlying lease in accordance with this
20 Act, the terms and conditions of such project revenue bonds are hereby

1 approved pursuant to Section 50103(k) of Title 12 of the Guam Code
2 Annotated.

3 b. The obligation of the government to make lease payments may be
4 secured by a pledge or reservation of all or any portion of the revenues
5 from taxes due under the Business Privilege Tax Law (namely, 11 GCA
6 Chapter 26, which shall include business privilege tax, alcoholic beverage
7 tax, liquid fuel tax, automotive surcharges, and tobacco tax), and all real
8 property taxes. Any pledge or reservation pursuant to this Section shall be
9 made on lease financing terms that do not cause the lease obligation of the
10 government to be public indebtedness within the meaning of Section 11 of
11 the Guam Organic Act or to violate or breach any existing bond covenant.
12 The tax revenues pledged or reserved and thereafter received by the
13 government or by any trustee, depository or custodian shall be deposited
14 in a separate account and shall be immediately subject to such reservation
15 or the lien of such pledge without any physical delivery thereof or further
16 act, and such reservation or the lien of such pledge shall be valid and
17 binding against all parties having claims of any kind in tort, contract or
18 otherwise against the government of Guam or such trustee, depository or
19 custodian, irrespective of whether the parties have notice thereof. The
20 instrument by which such pledge or reservation is created need not be

1 recorded. Any amounts pledged as provided in this Section are hereby
2 continuously appropriated for the purpose of making lease payments, but
3 any amounts only reserved as provided in this Section and not pledged,
4 shall be subject to annual appropriation for the purpose of making lease
5 payments. Surplus tax revenues shall be released to the government on a
6 monthly basis. Upon the execution and delivery by the government and/or
7 GEDA of Lease Financing Agreements, such agreements shall be valid and
8 binding obligations of the government and GEDA, as applicable,
9 enforceable in accordance with their respective terms, and there shall be no
10 power to terminate or declare null and void any such agreement.

11 **Section 4. Collateral Equipment.** The government is authorized to
12 include in its request the provision of collateral equipment, buses, and bus
13 shelters. The collateral equipment, buses and bus shelters shall then become
14 the property of the government. Thereafter, the maintenance, repair and
15 replacement of collateral equipment, buses and bus shelters shall be the
16 responsibility of the government.

17 **Section 5. Existing Bids/Offers/RFPs.** All existing bids, offers or
18 requests for proposals for the financing, renovation, expansion,
19 rehabilitation, and maintenance expenses of the Guam public schools which
20 involve the use of ARRA funds are hereby terminated and cancelled.

1 **Section 6. Bid/Performance & Payment Bonds.** The Proposer
2 shall post a bid bond in the amount of Twenty Million Dollars
3 (\$20,000,000.00) at the time of the submission of its proposal. The Awardee
4 shall post a performance and payment bond for the construction portion in
5 the amount of the full construction cost of the project. All bonds shall be
6 executed by a surety company holding a certificate of authority from the
7 Secretary of the Treasury (Dept. Circular 570).

8 **Section 7. School Bus Procurement and Ancillary Facility Repair**
9 **and Renovation.** In lieu of cash payment from the Government of Guam,
10 the government is authorized to issue tax credits and alternative financing,
11 subject to the approval of *I Liheslaturan Guåhan*, for the procurement of
12 new school buses and repair and renovation of school bus ancillary
13 facilities.

14 **Section 8. Facilities for institutions of higher education.** In lieu of
15 cash payment from the Government of Guam, the government is
16 authorized to issue tax credits and alternative financing, subject to the
17 approval of *I Liheslaturan Guåhan*, for the construction of facilities for the
18 benefit of the Guam Community College or the University of Guam.

19 **Section 9. Definitions and Use of the Tiyan Campus.** Public Law
20 31-76, Section 6 amended Section 2 of Public Law 30-37. Public Law 31-76,

1 Section 6 is hereby amended to read:

2 *“Section 2. Definitions. The following meanings shall be ascribed*
3 *to the following terms used in this Act:*

4 (a) *Government of Guam shall mean the government of Guam, its*
5 *agencies, divisions and departments.*

6 (b) *Lease shall mean the contract between the Lessor, Core Tech*
7 *International Corporation, and the Government of Guam for the lease*
8 *and maintenance of school facilities, its extended facilities, and the*
9 *purchase of collateral equipment.*

10 (c) *Lessor shall mean the party which has been selected by I Magalahen*
11 *Guahan for the lease and maintenance of school facilities and the*
12 *purchase of collateral equipment. Lessor, as used in this Act shall also*
13 *mean and include any assignee or transferee of the rights, credits and*
14 *off-sets as allowed in this Act.*

15 (d) *Extended facilities shall mean any additional properties added to the*
16 *lease to support the needs of the Government of Guam. The*
17 *Government is hereby authorized to add Lot Naval Air Station*
18 *Agana-21 (Airport Parcel 4-R1) to the Lease, and a portion of lot*
19 *2181-4NEW-1, which shall be adjacent to the existing lot*
20 *2181-4NEW-R1 as covered by the Lease.*

1 **Section 10. Procedure for GEDA.** GEDA shall immediately proceed
2 with the procurement processes necessary to accomplish the financing,
3 rehabilitation, construction, renovation, expansion, maintenance and
4 insurance of Guam's public schools using ARRA funds and lease financing.

5 GEDA shall:

6 a. Consolidate and use the remaining funds from the American
7 Recovery and Reinvestment Act (ARRA) and the financing by the
8 Awardee to accomplish said rehabilitation, construction, renovation,
9 expansion, maintenance and insurance.

10 b. Fast-track the issuance of the Request for Proposals (RFP)
11 relative to the needed financing, rehabilitation, construction,
12 renovation, expansion, maintenance and insurance of the Guam public
13 schools and related requirements.

14 i. Any proposal submitted by offeror(s) must be received
15 by GEDA by no later than fifteen (15) calendar days after the
16 announcement and publication of the Request for Proposals,
17 whereupon the process must be closed.

18 ii. The proposal must allow financing of the work and
19 costs of the Awardee over a period of not more than 30 years.

20 Lease payments due to the Awardee shall be made no less

1 often than annually.

2 iii. The process of reviewing, selecting and awarding of a
3 contract shall be completed within fifteen (15) calendar days.

4 **Section 11. Contractual Safeguards.** Prior to undertaking the work
5 of renovating, rehabilitating, or constructing educational facilities, the
6 Guam Economic Development Authority, The Department of Public Works,
7 Guam Department of Education and the Developer or Contractor shall
8 negotiate and enter into a binding construction contract to build or
9 refurbish the educational facility in accordance with Guam Building Code,
10 (21 G.C.A. Ch. 67) and any other applicable requirements. The construction
11 contract shall contain contractual obligations typically found in Government
12 of Guam construction contracts, including but not limited to:

- 13 1. Warranties;
- 14 2. Liquidated damages;
- 15 3. Performance and payment bonds;
- 16 4. Indemnity;
- 17 5. Insurance;
- 18 6. Specifications;
- 19 7. Progress Schedule;
- 20 8. Maintenance;

1 9. In the area of construction; a Developer's and Contractor's
2 experiences and qualifications must not be confused in the selection
3 process. A Developer may not be a Contractor, and vice versa;
4 however a Developer may partner with a Contractor, and vice versa,
5 to submit a proposal.

6 10. Compliance with Guam Labor Regulations;

7 11. Compliance with Guam Prevailing Wage Rates for Employment of
8 Temporary Alien Workers (H2) on Guam;

9 12. Compliance with Public Law 29-98: Restriction Against
10 Contractors Employing Convicted Sex Offenders to Work at
11 Government of Guam Venues.

12 The contract must be submitted for review and approval to all entities
13 charged by law with the duty to review and approve government
14 contracts, including the Office of the Attorney General.

15 **12. Report.** Upon issuance of the financing authorized by this Act,
16 GEDA shall submit a report to *I Liheslaturan Guahan* detailing the projects to
17 be completed and the annual amounts of revenue pledged or reserved
18 under this Act from the various taxes.

19 **13. Severability.** If any provision of this Law or its application to
20 any person or circumstance is found to be invalid or contrary to law, such

- 1 invalidity shall not affect or provisions or applications of this Law which can
- 2 be given effect without the invalid provisions or application, and to this end
- 3 the provisions of this Law are severable.

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EDDIE BAZA CALVO
GOVERNOR OF GUAM
LIMVA LAREN GUAHAN
RAY TENDRIG
GOVERNOR OF GUAM
I SEGUNDO NA MATA LAREN GUAHAN
KARL PANGELINAN
ADMINISTRATOR
ADMINISTRADOR

**Testimony on Bill 437-31 (COR)
Karl Pangelinan, Administrator
Guam Economic Development Authority (GEDA)
March 27, 2012**

Hafa Adai Senator Rodriguez and members of the Committee on Health & Human Services, Senior Citizens, Economic Development and Election Reform. I would like to thank you for the opportunity to provide testimony *in support* of Bill 437-31 (COR), **“AN ACT TO AUTHORIZE TAX CREDITS TO THE AWARDEE OF A CONTRACT FOR REHABILITATION AND RENOVATION OF PUBLIC SCHOOLS”**

Mr. Chairman, I have had the opportunity to meet personally with the author of Bill 437, Senator Guthertz, and my testimony will reflect the favorable outcome of our discussion on the bill as well as the support Bill 437 has received from Governor Calvo’s Educational Learning Task Force.

My meeting, which included Christina Garcia and Lester Carlson, with Senator Guthertz was both frank and fruitful. We informed Senator Guthertz that Tax Credits alone could not provide the financial injection needed to address the needs as stated in Bill 437 which reads in part “...the present condition of certain Guam public schools is deplorable, which creates an un-conducive environment that hinders learning and the work and production of the teachers and the students.” We then presented a Lease/Lease-back financing approach, which would entail reserving a portion of the Business Privilege Tax (BPT) as the pledged security. Using the BPT will allow the Government of Guam to take advantage of tax-exempt financing and will help keep the cost of borrowing as low as possible. Additionally, GEDA has looked into the option of issuing bonds in accordance with the GEDA Project Revenue Bond Act as contained in Title 12, Chapter 64 of the Guam Code Annotated as another option to fund facility repair and renovation. As a point of information, BPT backed bonds would be federal tax exempt, the GEDA Project Revenue Bonds would be triple tax exempt. Both options are presented as options in a revised Bill 437 from Bond Counsel which I have attached to this testimony.

Senator Guthertz expressed deep concern for the lack of the Government of Guam to have appropriate recourse for ensuring that projects like the new John F. Kennedy High School are delivered on time, at or below budget and that the government receives full beneficial use of the facility, whether it be a new school or repair/renovation of existing facilities. I assured Senator Guthertz that bond covenants can be included in the financing ultimately approved by the legislature for this major endeavor in favor of the Government of Guam.

The Governor's Educational Learning Task Force discussed several financing options last week and has endorsed the financing alternatives I have mentioned earlier. At last week's meeting, Senator Guthertz's Senior Policy Advisor, Dr. Richard Wyttenbach-Santos, stated that the intent of Bill 437 was to explore options and the bill was always meant to be flexible. GEDA sincerely thanks Senator Guthertz and the co-sponsors of Bill 437 for providing the vehicle from which much needed public school facilities can be expeditiously addressed.

We emphasize that although this solution to fund school repairs and renovations is available, we need to work closely with the Department of Education to identify funds, perhaps through operational cuts, to cover the new debt service or lease payment.

Senator Rodriguez, Thank you for the opportunity to present testimony consistent with the intent of Bill No. 437-31. *Senseramente.*

Si Yu'os Ma'ase,



Karl A. Pangelinan
GEDA Administrator

attachment



Joseph Anthony Mesngon <jmesngon.senatorrodriguez@gmail.com>

Fw: Testimony on Bill 437-31

1 message

Senator Dennis G. Rodriguez, Jr. <senatorrodriguez@gmail.com>

Mon, Apr 23, 2012 at 8:41 AM

Reply-To: senatorrodriguez@gmail.com

To: Joseph AQ Mesngon <jmesngon.senatorrodriguez@gmail.com>

Cc: Clifton Herbert <cherbert.senatorrodriguez@gmail.com>

Joe

Please print and prepare to attach to committee report on 437.

Thanks

Dennis G. Rodriguez, Jr.

From: "Taling M. Taitano" <tmtaitano@gdoe.net>**Date:** Mon, 23 Apr 2012 08:36:38 +1000**To:** <senatorrodriguez@gmail.com>**Cc:** Francis Santos<fesantos57@gmail.com>; Dr. Paul Pineda<ppineda.spcs@gmail.com>**Subject:** Testimony on Bill 437-31

Thank you for the opportunity to provide testimony on Bill 437-31(COR), an act to authorize tax credits to the awardee of a contract for rehabilitation and renovation of public schools. The Department of Education welcomes and supports any additional financing for the repair and renovation of our schools.

I understand that GEDCA has proposed substitute language. Again, the Department welcomes any additional financing in whatever form that will provide the Department with additional resources.

Technically, I believe these funds are no longer ARRA SFSF as referred to in the Bill. Under Public Law 31-40, these funds were set up as the *Adequate Education Trust Account* and are local in nature with the caveat that the Government of Guam has committed to USDOE to encumber the funds by September 30, 2012.

To ensure that funds are encumbered by September 30, 2012, I would recommend that GDOE be allowed to continue to move forward to obligate the projects until a contract envisioned by this Bill is in place. At that time any unobligated CIP funds will be transferred to the awardee. This will enable us to continue to move forward while this contract is put in place. Additionally, any specifications for projects not obligated will be provided to the awardee to leverage any work already performed.

It is my understanding that the cancellation of bids, proposals or requests for proposals refer to any Invitation for Bid or Request for Proposals that have not been awarded. I would caution that one of the effects of the current downturn in the construction industry is that contractors are competitive to the extent of being litigious. Cancellation of an ongoing bid may result in protest or litigation due to the resources dedicated to preparing bids.

Please note that these funds have also been made available to purchase equipment and technology. Certain of these purchases are dependent on the completion of renovation projects, eg, STEM (science, technology, engineering, math) equipment are dependent on the upgrade of the STEM classrooms at George Washington High School and Untalan Middle School. I would recommend that these funds continue to be set aside for these equipment and technology projects as future funding may not be available.

Thank you again for the opportunity to testify on this proposed legislation.

--

Preparing Students for Life!

Taling M Taitano
Interim Superintendent
Guam Department of Education
PO Box DE, Hagatna GU 96932
671 300-1547 work
671 488-2234 cell
671 472-5009 fax



Joseph Anthony Mesngon <jmesngon.senatorrodriguez@gmail.com>

Fw: Bill 437-31

1 message

Senator Dennis G. Rodriguez, Jr. <senatorrodriguez@gmail.com>

Mon, Apr 23, 2012 at 8:41 AM

Reply-To: senatorrodriguez@gmail.com

To: Joseph AQ Mesngon <jmesngon.senatorrodriguez@gmail.com>, Clifton Herbert <cherbert.senatorrodriguez@gmail.com>

Same with this please
Dennis G. Rodriguez, Jr.

From: "Phil Tydingco" <ptydingco@guamattorneygeneral.com>**Date:** Tue, 3 Apr 2012 13:27:30 +1000**To:** <senatorrodriguez@gmail.com>; <rfttehan@yahoo.com>; <mtorres@gmail.com>**Cc:** Lenny Rapadas<lradas@guamattorneygeneral.com>; Patrick

Mason<pmason@guamattorneygeneral.com>; Marie Cruz<mcruz@guamattorneygeneral.com>; Deborah Rivera<drivera@guamattorneygeneral.com>; John

Weisenberger<j.weisenberger.ag@guamattorneygeneral.com>; Fred

Nishihira<fnishihira@guamattorneygeneral.com>; Laura Mooney<lmooney@guamattorneygeneral.com>

Subject: Bill 437-31

Hafa Adai Chairman Rodriguez

It is my understanding that your staff person, Mia Torres, called to inquire if our Office had submitted written testimony. I recall only providing verbal testimony about the concerns of Attorney General Rapadas and the Office of the Attorney General generally about the risks versus the benefits of legislation that authorizes procurements that solicit both the financing and building or renovation or repairs of schools through the use of tax credits or lease back financing programs, but without the legal contract obligations and remedies being available to DOE or GovGuam for poor performance, untimeliness, or substandard quality repairs or renovations of the numerous schools identified as in need of such repairs or renovations.

The original Bill 437-31 had the following problems: (1) The bill proposed to use tax credits (BPTs) where an estimated \$80M to \$139Million is reported as being needed according to the bill, but these numbers may be either overstated or understated. (2) The bill may impact the debt ceiling of the government of Guam, and (3) likely infringe on the current bond covenants regarding the pledge of these monies or tax credits. (3) The bill has a section four whose language violates the separation of powers doctrine and invites protests and potential litigation when it declares the termination of all ARRA funded existing bids, offers, or RFPs for the financing, renovation, rehabilitation, and maintenance expenses of Guam public schools. (4) The bill's section five is problematic by imposing unrealistic or wholly impractical timelines for the procurement to renovate numerous schools (reportedly over 30) including crafting the RFPs to solicit, procure, award and contract a vendor/vendors to the do design, renovation, financing, construction, etc. for all DOE schools in need of repairs within 30 days of the enactment of the bill. (5) Finally, the original bill as drafted will create the potential for multiple JFK High School type quality and timeliness construction issues without any contractual assurances and remedies, especially since the bill identifies only one Government of Guam agency as being directly involved—i.e., just GEDA and does not provide the opportunity for DOE and or DPW to be in contract privity with the financing or construction companies who do the renovation or repairs.

The bill offered as a replacement by GEDA has not been vetted or reviewed completely by our Office. However, I could not help but notice that the issues raised in numbers 3, 4, and 5 above also exist with GEDA's bill even if the financing scheme is one of a lease back, which by the way brings the scenario closer to being just like JFKHS.

I have attached a letter I sent regarding a similar potential JFKHS situation where the issue of what kind of legislative language will provide assurances and remedies for the government of Guam agencies like DOE and DPW to make certain that the construction or renovation is done in a timely manner and quality manner with remedies being made available. The proposed language underlined in version two would provide the opportunity to be in contract privity and provide for such assurances and remedies.

It is my understanding that there will be a mark-up meeting on this bill later on. Please keep us informed and I will make certain that an Assistant Attorney General attends.

Thanks,

Phil

 **3-14-12 Letter to Senator Pangelinan.pdf**
163K



Dennis Rodriguez, Jr. <senatordrodriguez@gmail.com>

Joe S San Agustin <jssa3gepb@yahoo.com>
To: Dennis Rodriguez <senatordrodriguez@gmail.com>

Mon, Mar 26, 2012 at 8:02 PM

Senator Rodriguez, Due to prior obligation I will not be able to attend the Public Hearing scheduled for tomorrow 3/27/2012 .

I am in full support of the Bill ⁴⁴⁷431, my only input is the following:

"Prior to undertaking the work of building or rehabilitating educational facilities. Guam Economic Development Authority, The Department of Public Works, Guam Department of Education and the Developer or Contractor shall negotiate and enter into a binding construction contract to build or refurbish our educational facility in accordance with Guam Building Code, 21 G.C.A. Ch. 67 and any other applicable requirements. The Construction contract shall contain contractual obligations typically found in Government of Guam construction contracts, including but not limited to:

1. Warranties;
2. Liquidated damages;
3. Performance and payment bonds;
4. Indemnity;
5. Insurance;
6. Standard Specifications;
7. Technical Specifications;
8. Progress Schedule;
9. Maintenance;
10. Compliance with Guam Labor Regulations;
11. Compliance with Guam Prevailing Wage Rates for Employment of Temporary Alien Workers (H2) on Guam;
12. Compliance with Public Law 29-98: Restriction Against Contractors Employing Convicted Sex Offenders to Work at Government of Guam Venues.

The contract must be submitted for review and approval to all entities charged by law with the duty to review and approve government contracts, including the Office of the Attorney General."

Additionally, I ask that it also include the option for bidders to offer alternative means of being paid other than tax credits, and if GEDA is able to assist in the financing of the contracts like what happen with the JFK contract, that it be offered to all bidders prior to awarding of the contract this will ensure all bidders had a fair and equal opportunity to bid accordingly.

Senator, if possible my email be submitted as testimony of my support and read at the public hearing.

Thank You
Joe S. San Agustin, Elected Member
Guam Education Board Member
LAGU District



COMMITTEE ON RULES

I Mina'trentai Unu na Libeslaturan Guåhan • The 31st Guam Legislature
155 Hesler Place, Hagåtña, Guam 96910 • www.guamlegislature.com
E-mail: roryforguam@gmail.com • Tel: (671)472-7679 • Fax: (671)472-3547

2012 MAR 22 PM 3:00
سنة
2012

Senator
Rory J. Respicio
CHAIRPERSON
MAJORITY LEADER

March 22, 2012

Memorandum

Senator
Judith P. Guthertz
VICE CHAIRPERSON
ASST. MAJORITY LEADER

To: Pat C. Santos
Clerk of the Legislature

MAJORITY MEMBERS:

From: Senator Rory J. Respicio

Speaker
Judith T. Won Pat

Subject: Fiscal Notes

Vice Speaker
Benjamin J. F. Cruz

Hafa Adai!

Senator
Tina Rose Muña Barnes
LEGISLATIVE SECRETARY
MAJORITY WHIP

Attached please find the fiscal notes for the bill numbers listed below. Please note that the fiscal notes, or waivers, are issued on the bills as introduced.

Senator
Dennis G. Rodriguez, Jr.
ASST. MAJORITY WHIP

Bill No.: 434-31 (COR)
437-31 (LS)

Senator
Thomas C. Ada

Senator
Adolpho B. Palacios, Sr.

Please forward the same to MIS for posting on our website. Please contact our office should you have any questions regarding this matter.

Senator
vicente c. pangelinan

MINORITY MEMBERS:

Si Yu'os ma'åse'!

Senator
Aline A. Yamashita
ASST. MINORITY LEADER

Senator
Christopher M. Duenas

**BUREAU OF BUDGET & MANAGEMENT RESEARCH**

OFFICE OF THE GOVERNOR
Post Office Box 2950, Hagåtña Guam 96932

EDDIE BAZA CALVO
GOVERNOR

RAY TENORIO
LIEUTENANT GOVERNOR

JOHN A. RIOS
DIRECTOR

STEPHEN J. GUERRERO
DEPUTY DIRECTOR

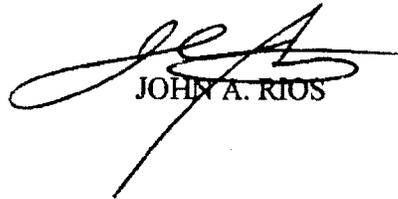
MAR 22 2012

Senator Rory J. Respicio
Chairperson, Committee on Rules
I Mina'trentai Unu na Liheslaturan Guåhan
The 31st Guam Legislature
155 Hesler Place
Hagåtña, Guam 96932

Hafa Adai Senator Respicio:

Transmitted herewith are Fiscal Note on the following Bill Nos.: 434-31(COR), 437-31(LS).

If you have any question(s), please do not hesitate to call the office at 475-9412/9106.


JOHN A. RIOS

Enclosures

cc: Senator Vicente (ben) Pangelinan

**Bureau of Budget & Management Research
Fiscal Note of Bill No. 437-31 (COR)**

AN ACT TO AUTHORIZE TAX CREDITS TO THE AWARDEE OF A CONTRACT FOR REHABILITATION AND RENOVATION OF PUBLIC SCHOOLS.

Department/Agency Appropriation Information	
Dept./Agency Affected: Department of Revenue & Taxation (DRT)	Dept./Agency Head: John P. Camacho
Department's General Fund (GF) appropriation(s) to date:	\$10,250,643
Department's Other Fund (Specify) appropriation(s) to date: Tax Collection Enhancement Fund (TCEF) - \$696,831; Better Public Service Fund (BPSF) - \$1,422,747	2,119,578
Total Department/Agency Appropriation(s) to date:	\$12,370,221

Fund Source Information of Proposed Appropriation			
	General Fund:	(Specify Special Fund):	Total:
FY 2012 Unreserved Fund Balance ¹		\$0	\$0
FY 2012 Adopted Revenues	\$0	\$0	\$0
FY 2012 Appro. (P.L. 30-196)	\$0	\$0	\$0
Sub-total:	\$0	\$0	\$0
Less appropriation in Bill	\$0	\$0	\$0
Total:	\$0	\$0	\$0

Estimated Fiscal Impact of Bill						
	One Full Fiscal Year	For Remainder of FY 2012 (if applicable)	FY 2013	FY 2014	FY 2015	FY 2016
General Fund	\$0	\$0	\$0	\$0	\$0	\$0
(Specify Special Fund)	\$0	\$0	\$0	\$0	\$0	\$0
Total	\$0	\$0	\$0	\$0	\$0	\$0

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

Analyst: Michael M. Aflague, B&M Analyst Date: 3/19/12 Director: John A. Rios, Director Date: MAR 21 2012

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



COMMITTEE ON RULES

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E-mail: roryforguam@gmail.com • Tel: (671)472-7679 • Fax: (671)472-3547

Senator
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CHAIRPERSON
MAJORITY LEADER

Senator
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VICE CHAIRPERSON
ASST. MAJORITY LEADER

MAJORITY MEMBERS:

Speaker
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Vice Speaker
Benjamin J. F. Cruz

Senator
Tina Rose Muña Barnes
LEGISLATIVE SECRETARY
MAJORITY WHIP

Senator
Dennis G. Rodriguez, Jr.
ASST. MAJORITY WHIP

Senator
Thomas C. Ada

Senator
Adolpho B. Palacios, Sr.

Senator
vicente c. pangelinan

MINORITY MEMBERS:

Senator
Aline A. Yamashita
ASST. MINORITY LEADER

Senator
Christopher M. Duenas

March 8, 2012

MEMORANDUM

To: Pat Santos
Clerk of the Legislature

Attorney Therese M. Terlaje
Legislative Legal Counsel

From: Senator Rory J. Respicio

Subject: Referral of Bill No. 437-31(COR)

As the Chairperson of the Committee on Rules, I am forwarding my referral of Bill No. 437-31 (COR).

Please ensure that the subject bill is referred, in my name, to the respective committee, as shown on the attachment. I also request that the same be forwarded to all members of *I Mina'trentai Unu na Liheslaturan Guåhan*.

Should you have any questions, please feel free to contact our office at 472-7679.

Si Yu'os Ma'åse!

(1) Attachment

I Mina'Trentai Unu Na Liheslaturan Guahan

Bill Log Sheet

BILL NOS.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	120 DAY DEADLINE	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	STATUS
437-31 (COR)	J. P. Guthertz, DPA, Aline A. Yamashita, Ph.D., Rory J. Respicio, S. Mabini, A. B. Palacios, Sr., C. M. Duenas	AN ACT TO AUTHORIZE TAX CREDITS TO THE AWARDEE OF A CONTRACT FOR REHABILITATION AND RENOVATION OF PUBLIC SCHOOLS.	03/07/12 4:44 p.m.	3/8/2012		Committee on Health & Human Services, Senior Citizens, Economic Development and Election Reform			



SENATOR DENNIS G. RODRIGUEZ, JR.

TO: ALL SENATORS
FROM: SENATOR DENNIS G. RODRIGUEZ, JR. CHAIRPERSON
SUBJECT: 1st NOTICE OF PUBLIC HEARING

1st NOTICE OF PUBLIC HEARING
Tuesday, March 27, 2012 1:30PM

In accordance with the Open Government Law, Public Law 24-109, relative to notice for Public Meetings. Please be advised that the Committee on Health & Human Services, Economic Development, Senior Citizens and Election Reform will be conducting a Public Hearing on March 27, 2012, at /Liheslaturan Guahan's Public Hearing Room in Hagåtña, on the following:

1:30PM

- Bill 437-31(COR) - An act to authorize tax credits to the awardee of a contract for rehabilitation and renovation of public schools. (Introduced by Senator J.P. Guthertz, DPA)
- Bill 408-31(COR) - An act to establish the Office of Vital Statistics Revolving Fund, by amending §3227 of Chapter 3, and adding a new §3227.1 to Chapter 3, of Article 2, Title 10, Guam Code Annotated. (Introduced by Senator Dennis G. Rodriguez, Jr.)

Testimony should be addressed to Senator Dennis Rodriguez, Jr., Chairman, and may be submitted via- hand delivery to our office at 176 Serenu Avenue Suite 107 Tamuning, Guam 96931 or our mailbox at the Main Legislature Building at 155 Hesler Place, Hagåtña, Guam 96910, or via email to senatordrodriguez@gmail.com.

We comply with Title II of the Americans with Disabilities Act (ADA). Individuals who require an auxiliary aid or service (i.e. qualified sign language interpreters, documents in Braille, large print, etc.) for effective communication, or a modification of policies or procedures to participate in a program service, or activity of Senator Dennis Rodriguez, Jr. should contact Clifton Herbert at 649-8638 (TODU) as soon as possible but no later than 48 hours before this scheduled event. We look forward to your attendance and participation.

For further information, please contact the Office of Senator Dennis Rodriguez, Jr. at 649-8638 (TODU)

Chairman,
Committee on
Health & Human
Services,
Senior Citizens,
Economic
Development,
& Election Reform

Member,
Committee on
Public Safety, Law
Enforcement,
& Judiciary

Member,
Committee on
Youth, Cultural Affairs,
Procurement, General
Government
Operations, & Public
Broadcasting

Member,
Committee on
Municipal Affairs,
Tourism,
Housing & Recreation

Member,
Committee on Rules,
Federal, Foreign &
Micronesian
Affairs, & Human &
Natural Resources

Member,
Committee on the
Guam Military Buildup
& Homeland Security

Member,
Committee on
Appropriations,
Taxation,
Public Debt, Banking,
Insurance,
Retirement, & Land

Member,
Committee on Utilities,
Transportation, Public
Works,
& Veterans Affairs

Assistant Majority Whip



Joseph Anthony Mesngon <jmesngon.senatorrodriguez@gmail.com>

1st Notice of Public Hearing

Clifton Herbert <cherbert.senatorrodriguez@gmail.com>

Tue, Mar 20, 2012 at 2:44 PM

To: "Dennis Rodriguez Jr." <senatorrodriguez@gmail.com>, "Adolpho B. Palacios" <senator@senatorpalacios.com>, Aline Yamashita <aline4families@gmail.com>, Ben Pangelinan <senbenp@guam.net>, Benjamin JF Cruz <senadotbjcruz@gmail.com>, Chris Duenas <duenasenator@gmail.com>, "Dr. Sam Mabini" <senatorsam@senatormabini.com>, "Frank Blas Jr." <frank.blasjr@gmail.com>, Judi Guthertz <judiguthertz@pticom.com>, Judi Won Pat <speaker@judiwonpat.com>, Mana Silva Taijeron <senatormana@gmail.com>, "Rory J. Respicio" <roryforguam@gmail.com>, Tina Muna Barnes <tinamunabarnes@gmail.com>, Tom Ada <tom@senatorada.org>, Tony Ada <senatorTonyada@guamlegislature.org>
Bcc: phnotice@guamlegislature.org

Ufisinan Todu Guam
SENATOR DENNIS G. RODRIGUEZ, Jr.
I Mina'trentai Unu Na Liheslaturan Guáhan
CHAIRMAN, COMMITTEE ON HEALTH & HUMAN SERVICES,
ECONOMIC DEVELOPMENT, SENIOR CITIZENS AND ELECTION REFORM

Dear Senators,

Buenas yan Hafa Adai!

Please see attached notice of Public Hearing. Should you have any questions or concerns please feel free to contact our office at anytime.

Sincerely,

[Quoted text hidden]

 **Senators 1st Notice Public Hearing Mar. 27, 2012.pdf**
62K

**Listserv: phnotice@guamlegislature.org
As of Apr. 11, 2012**

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SENATOR DENNIS G. RODRIGUEZ, JR.

PRESS RELEASE

FIRST NOTICE OF PUBLIC HEARING

Tuesday, March 27, 2012 1:30PM

Chairman,
Committee on
Health & Human
Services,
Senior Citizens,
Economic
Development,
& Election Reform

Member,
Committee on
Public Safety, Law
Enforcement,
& Judiciary

Member,
Committee on
Youth, Cultural Affairs,
Procurement, General
Government
Operations, & Public
Broadcasting

Member,
Committee on
Municipal Affairs,
Tourism,
Housing & Recreation

Member,
Committee on Rules,
Federal, Foreign &
Micronesian
Affairs, & Human &
Natural Resources

Member,
Committee on the
Guam Military Buildup
& Homeland Security

Member,
Committee on
Appropriations,
Taxation,
Public Debt, Banking,
Insurance,
Retirement, & Land

Member,
Committee on Utilities,
Transportation, Public
Works,
& Veterans Affairs

Assistant Majority Whip

In accordance with the Open Government Law, Public Law 24-109, relative to notice for Public Meetings. Please be advised that the Committee on Health & Human Services, Economic Development, Senior Citizens and Election Reform will be conducting a Public Hearing on March 27, 2012, at *I Liheslaturan Guåhan's* Public Hearing Room in Hagåtña, on the following:

1:30PM

- Bill 437-31(COR) - An act to authorize tax credits to the awardee of a contract for rehabilitation and renovation of public schools. *(Introduced by Senator J.P. Guthertz, DPA)*
- Bill 408-31(COR) - An act to establish the Office of Vital Statistics Revolving Fund, by amending §3227 of Chapter 3, and adding a new §3227.1 to Chapter 3, of Article 2, Title 10, Guam Code Annotated. *(Introduced by Senator Dennis G. Rodriguez, Jr.)*

Testimony should be addressed to Senator Dennis Rodriguez, Jr., Chairman, and may be submitted via- hand delivery to our office at 176 Serenu Avenue Suite 107 Tamuning, Guam 96931 or our mailbox at the Main Legislature Building at 155 Hesler Place, Hagåtña, Guam 96910, or via email to senatordrodriguez@gmail.com.

We comply with Title II of the Americans with Disabilities Act (ADA). Individuals who require an auxiliary aid or service (i.e. qualified sign language interpreters, documents in Braille, large print, etc.) for effective communication, or a modification of policies or procedures to participate in a program service, or activity of Senator Dennis Rodriguez, Jr. should contact our office at 649-8638 (TODU) as soon as possible but no later than 48 hours before this scheduled event. We look forward to your attendance and participation.

For further information, please contact the Office of Senator Dennis Rodriguez, Jr. at 649-8638 (TODU)

Ufisinan Todu Guam • 31st Guam Legislature

176 Serenu Avenue, Suite 107, Tamuning, Guam 96931 / Telephone: 671-649-TODU (8638) / Facsimile: 671-649-0520

E-mail: senatordrodriguez@gmail.com



Joseph Anthony Mesngon <jmesngon.senatorrodriguez@gmail.com>

1st Notice of Public Hearing

Clifton Herbert <cherbert.senatorrodriguez@gmail.com>

Tue, Mar 20, 2012 at 2:43 PM

To: clynt@spbguam.com, dcristostomo@guampdn.com, dmgeorge@guampdn.com, dtamondong@guampdn.com, editor@mvariety.com, gdumat-ol@guampdn.com, gerry@mvguam.com, hottips@kuam.com, jason@kuam.com, john@kuam.com, jtyquiengco@spbguam.com, marvic@mvguam.com, mindy@kuam.com, mpieper@guampdn.com, mvariety@pticom.com, news@spbguam.com, nick.delgado@kuam.com, parroyo@k57.com, reporter3@glimpsesofofguam.com, ricknauta@hitradio100.com, sabrina@kuam.com, slimtiaco@guampdn.com, thebigshow@k57.com, therese.hart.writer@gmail.com, zita@mvguam.com, Amritha Alladi <aalladi@guampdn.com>, Erin Thompson <egthompson@guampdn.com>, "George, Duane M" <dmgeorge@guam.gannett.com>, gerry partido <gerrypartido.mvguam3@gmail.com>, James <officemanager@hitradio100.com>, Janela <janela@mvguam.com>, Jesse Lujan <jesselujan27@yahoo.com>, "Jon A. Anderson" <editor@mvguam.com>, Jr <news@lifeneews.com>, Katrina <life@guampdn.com>, Kevin Kerrigan <kevin@spbguam.com>, Kevin Kerrigan <news@k57.com>, Laura Matthews <llmatthews@guampdn.com>, Oyaol Ngirairikl <odngirairikl@guampdn.com>, Pacific Daily News <news@guampdn.com>, "rgibson@k57.com" <rgibson@k57.com>, William Gibson <breakfastshowk57@gmail.com>

Bcc: jmesngon.senatorrodriguez@gmail.com

Ufisinan Todu Guam
SENATOR DENNIS G. RODRIGUEZ, Jr.
 I Mina'trentai Unu Na Liheslaturan Guåhan
 CHAIRMAN, COMMITTEE ON HEALTH & HUMAN SERVICES,
 ECONOMIC DEVELOPMENT, SENIOR CITIZENS AND ELECTION REFORM

Hafa Adai Newsrooms!

Please see attached notice of public hearing. Should you have any questions or concerns, please contact our office at anytime. Thanks and have a great day!

Sincerely

Clifton Herbert

176 Serenu Avenue Suite 107 Tamuning, Guam 96931

Telephone: 671.649.8638

Email: Cherbert.senatorrodriguez@gmail.com

This e-mail may contain data that is confidential, proprietary or non-public personal information, as that term is defined in the Gramm-Leach-Bliley Act (collectively, Confidential Information).

The Confidential Information is disclosed conditioned upon your agreement that you will treat it confidentially and in accordance with applicable law, ensure that such data isn't used or disclosed except for the limited purpose for which it's being provided and will notify and cooperate with us regarding any requested or unauthorized disclosure or use of any Confidential Information.

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SENATOR DENNIS G. RODRIGUEZ, JR.

TO: ALL SENATORS
FROM: SENATOR DENNIS G. RODRIGUEZ, JR. CHAIRPERSON
SUBJECT: 2nd NOTICE OF PUBLIC HEARING

2nd NOTICE OF PUBLIC HEARING
Tuesday, March 27, 2012 1:30PM

In accordance with the Open Government Law, Public Law 24-109, relative to notice for Public Meetings. Please be advised that the Committee on Health & Human Services, Economic Development, Senior Citizens and Election Reform will be conducting a Public Hearing on March 27, 2012, at *Liheslaturan Guåhan's* Public Hearing Room in Hagåtña, on the following:

1:30PM

- Bill 437-31(COR) - An act to authorize tax credits to the awardee of a contract for rehabilitation and renovation of public schools. *(Introduced by Senator J.P. Guthertz, DPA)*
- Bill 408-31(COR) - An act to establish the Office of Vital Statistics Revolving Fund, by amending §3227 of Chapter 3, and adding a new §3227.1 to Chapter 3, of Article 2, Title 10, Guam Code Annotated. *(Introduced by Senator Dennis G. Rodriguez, Jr.)*

Testimony should be addressed to Senator Dennis Rodriguez, Jr., Chairman, and may be submitted via- hand delivery to our office at 176 Serenu Avenue Suite 107 Tamuning, Guam 96931 or our mailbox at the Main Legislature Building at 155 Hesler Place, Hagåtña, Guam 96910, or via email to senatordrodriguez@gmail.com.

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For further information, please contact the Office of Senator Dennis Rodriguez, Jr. at 649-8638 (TODU)

Chairman,
Committee on
Health & Human
Services,
Senior Citizens,
Economic
Development,
& Election Reform

Member,
Committee on
Public Safety, Law
Enforcement,
& Judiciary

Member,
Committee on
Youth, Cultural Affairs,
Procurement, General
Government
Operations, & Public
Broadcasting

Member,
Committee on
Municipal Affairs,
Tourism,
Housing & Recreation

Member,
Committee on Rules,
Federal, Foreign &
Micronesian
Affairs, & Human &
Natural Resources

Member,
Committee on the
Guam Military Buildup
& Homeland Security

Member,
Committee on
Appropriations,
Taxation,
Public Debt, Banking,
Insurance,
Retirement, & Land

Member,
Committee on Utilities,
Transportation, Public
Works,
& Veterans Affairs

Assistant Majority Whip

Ufisinan Todu Guam • 31st Guam Legislature

176 Serenu Avenue, Suite 107, Tamuning, Guam 96931 / Telephone: 671-649-TODU (8638) / Facsimile: 671-649-0520
E-mail: senatordrodriguez@gmail.com



Joseph Anthony Mesngon <jmesngon.senatorrodriguez@gmail.com>

2nd Notice of Public Hearing

2 messages

Clifton Herbert <cherbert.senatorrodriguez@gmail.com>

Thu, Mar 22, 2012 at 10:20 AM

To: "Dennis Rodriguez Jr." <senatorrodriguez@gmail.com>, "Adolpho B. Palacios" <senator@senatorpalacios.com>, Aline Yamashita <aline4families@gmail.com>, Ben Pangelinan <senbenp@guam.net>, Benjamin JF Cruz <senadotbjcruz@gmail.com>, Chris Duenas <duenasenator@gmail.com>, "Dr. Sam Mabini" <senatorsam@senatormabini.com>, "Frank Blas Jr." <frank.blasjr@gmail.com>, Judi Guthertz <judiguthertz@pticom.com>, Judi Won Pat <speaker@judiwonpat.com>, Mana Silva Taijeron <senatormana@gmail.com>, "Rory J. Respicio" <roryforguam@gmail.com>, Tina Muna Barnes <tinamunabarnes@gmail.com>, Tom Ada <tom@senatorada.org>, Tony Ada <senatorTonyada@guamlegislature.org>
Bcc: phnotice@guamlegislature.org

Ufisinan Todu Guam
SENATOR DENNIS G. RODRIGUEZ, Jr.
 I Mina'trentai Unu Na Liheslaturan Guåhan
 CHAIRMAN, COMMITTEE ON HEALTH & HUMAN SERVICES,
 ECONOMIC DEVELOPMENT, SENIOR CITIZENS AND ELECTION REFORM

Dear Senators,

Buenas yan Hafa Adai!

Please see attached 2nd Notice of Public Hearing. Should you have any questions or concerns please feel free to contact our office at anytime. Thanks and have a great day!

Sincerely,
 Clifton Herbert

176 Serenu Avenue Suite 107 Tamuning, Guam 96931

Telephone: 671.649.8638

Email: Cherbert.senatorrodriguez@gmail.com

This e-mail may contain data that is confidential, proprietary or non-public personal information, as that term is defined in the Gramm-Leach-Bliley Act (collectively, Confidential Information).

The Confidential Information is disclosed conditioned upon your agreement that you will treat it confidentially and in accordance with applicable law, ensure that such data isn't used or disclosed except for the limited purpose for which it's being provided and will notify and cooperate with us regarding any requested or unauthorized disclosure or use of any Confidential Information.

By accepting and reviewing the Confidential information, you agree to indemnify us against any losses or expenses, including attorney's fees that we may incur as a result of any unauthorized use or disclosure of this data due to your acts or omissions. If a party other than the intended recipient receives this e-mail, he or she is requested to instantly notify us of the erroneous delivery and return to us all data so delivered.

2 attachments

 **Public Hearing 1st Notice Mar. 27, 2012.pdf**
386K

 **Public Hearing 1st Notice Mar. 27, 2012.doc**
543K



SENATOR DENNIS G. RODRIGUEZ, JR.

PRESS RELEASE

SECOND NOTICE OF PUBLIC HEARING

Tuesday, March 27, 2012 1:30PM

Chairman,
Committee on
Health & Human
Services,
Senior Citizens,
Economic
Development,
& Election Reform

Member,
Committee on
Public Safety, Law
Enforcement,
& Judiciary

Member,
Committee on
Youth, Cultural Affairs,
Procurement, General
Government
Operations, & Public
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Member,
Committee on
Municipal Affairs,
Tourism,
Housing & Recreation

Member,
Committee on Rules,
Federal, Foreign &
Micronesian
Affairs, & Human &
Natural Resources

Member,
Committee on the
Guam Military Buildup
& Homeland Security

Member,
Committee on
Appropriations,
Taxation,
Public Debt, Banking,
Insurance,
Retirement, & Land

Member,
Committee on Utilities,
Transportation, Public
Works,
& Veterans Affairs

Assistant Majority Whip

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- Bill 408-31(COR) - An act to establish the Office of Vital Statistics Revolving Fund, by amending §3227 of Chapter 3, and adding a new §3227.1 to Chapter 3, of Article 2, Title 10, Guam Code Annotated. (*Introduced by Senator Dennis G. Rodriguez, Jr.*)

Testimony should be addressed to Senator Dennis Rodriguez, Jr., Chairman, and may be submitted via- hand delivery to our office at 176 Serenu Avenue Suite 107 Tamuning, Guam 96931 or our mailbox at the Main Legislature Building at 155 Hesler Place, Hagåtña, Guam 96910, or via email to senatordrodriguez@gmail.com.

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For further information, please contact the Office of Senator Dennis Rodriguez, Jr. at 649-8638 (TODU)

Ufisinan Todu Guam • 31st Guam Legislature

176 Serenu Avenue, Suite 107, Tamuning, Guam 96931 / Telephone: 671-649-TODU (8638) / Facsimile: 671-649-0520
E-mail: senatordrodriguez@gmail.com

 **Senators 2nd Notice Public Hearing Mar. 27, 2012.pdf**
62K

Clifton Herbert <cherbert.senatordrodriguez@gmail.com>

Thu, Mar 22, 2012 at 10:24
AM

To: clynt@spbgum.com, dcrisostomo@guampdn.com, dmgeorge@guampdn.com, dtamondong@guampdn.com, editor@mvariety.com, gdumat-ol@guampdn.com, gerry@mvguam.com, hottips@kuam.com, jason@kuam.com, john@kuam.com, jtyquiengco@spbgum.com, marvic@mvguam.com, mindy@kuam.com, mpieper@guampdn.com, mvariety@pticom.com, news@spbgum.com, nick.delgado@kuam.com, parroyo@k57.com, reporter3@glimpsesofiguam.com, ricknauta@hitradio100.com, sabrina@kuam.com, slintiaco@guampdn.com, thebigshow@k57.com, therese.hart.writer@gmail.com, zita@mvguam.com, Amritha Alladi <aalladi@guampdn.com>, Erin Thompson <egthompson@guampdn.com>, "George, Duane M" <dmgeorge@guam.gannett.com>, gerry partido <gerrypartido.mvguam3@gmail.com>, James <officemanager@hitradio100.com>, Janela <janela@mvguam.com>, Jesse Lujan <jesselujan27@yahoo.com>, "Jon A. Anderson" <editor@mvguam.com>, Jr <news@lifenevns.com>, Katrina <life@guampdn.com>, Kevin Kerrigan <kevin@spbgum.com>, Kevin Kerrigan <news@k57.com>, Laura Matthews <lmatthews@guampdn.com>, Oyaol Ngirairikl <odngirairikl@guampdn.com>, Pacific Daily News <news@guampdn.com>, "rgibson@k57.com" <rgibson@k57.com>, William Gibson <breakfastshowk57@gmail.com>

Bcc: jmesngon.senatordrodriguez@gmail.com

Ufisinan Todu Guam
SENATOR DENNIS G. RODRIGUEZ, Jr.
I Mina'trentai Unu Na Liheslaturan Guáhan
CHAIRMAN, COMMITTEE ON HEALTH & HUMAN SERVICES,
ECONOMIC DEVELOPMENT, SENIOR CITIZENS AND ELECTION REFORM

Hafa Adai Newsrooms!

Please see attached 2nd notice of public hearing. Should you have any questions or concerns please feel free to contact our office. Thanks and have a great day!

Sincerely,

[Quoted text hidden]

2 attachments

 **Public Hearing 2nd Notice Mar. 27, 2012.doc**
543K

 **Public Hearing 2nd Notice Mar. 27, 2012.pdf**
386K



SENATOR DENNIS G. RODRIGUEZ, JR.

Chairman,
Committee on
Health & Human
Services,
Senior Citizens,
Economic
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& Election Reform

Member,
Committee on
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Appropriations,
Taxation,
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Insurance,
Retirement, & Land

Member,
Committee on Utilities,
Transportation, Public
Works,
& Veterans Affairs

Assistant Majority Whip

AGENDA

Tuesday, March 27, 2012

1:30PM

Public Hearing Room, I Liheslatura

I. Call to Order

II. Items for Public Consideration:

- Bill 437-31(COR) - An act to authorize tax credits to the awardee of a contract for rehabilitation and renovation of public schools. (*Introduced by Senator J.P. Guthertz, DPA*)
- Bill 408-31(COR) - An act to establish the Office of Vital Statistics Revolving Fund, by amending §3227 of Chapter 3, and adding a new §3227.1 to Chapter 3, of Article 2, Title 10, Guam Code Annotated. (*Introduced by Senator Dennis G. Rodriguez, Jr.*)

III. Adjournment / Recess

Testimony should be addressed to Senator Dennis Rodriguez, Jr., Chairman, and may be submitted via- hand delivery to our office at 176 Serenu Avenue Suite 107 Tamuning, Guam 96931 or our mailbox at the Main Legislature Building at 155 Hesler Place, Hagåtña, Guam 96910, or via email to senatordrodriguez@gmail.com.

For more information, please contact the Office of Senator Dennis Rodriguez, Jr. at 649-8638/0511.

Ufisinan Todu Guam • 31st Guam Legislature

176 Serenu Avenue, Suite 107, Tamuning, Guam 96931 / Telephone: 671-649-TODU (8638) / Facsimile: 671-649-0520

E-mail: senatordrodriguez@gmail.com



COMMITTEE ON RULES

I Mina'trentai Unu na Libeslaturan Guåhan • The 31st Guam Legislature
155 Hesler Place, Hagåtña, Guam 96910 • www.guamlegislature.com
E-mail: roryforguam@gmail.com • Tel: (671)472-7679 • Fax: (671)472-3547

Senator
Rory J. Respicio
CHAIRPERSON
MAJORITY LEADER

Senator
Judith P. Guthertz
VICE CHAIRPERSON
ASST. MAJORITY LEADER

MAJORITY
MEMBERS:

Speaker
Judith T. Won Pat

Vice Speaker
Benjamin J. F. Cruz

Senator
Tina Rose Muña Barnes
LEGISLATIVE SECRETARY
MAJORITY WHIP

Senator
Dennis G. Rodriguez, Jr.
ASST. MAJORITY WHIP

Senator
Thomas C. Ada

Senator
Adolpho B. Palacios, Sr.

Senator
vicente c. pangelinan

MINORITY
MEMBERS:

Senator
Aline A. Yamashita
ASST. MINORITY LEADER

Senator
Christopher M. Duenas

May 25, 2012

MEMORANDUM

To: Patricia C. Santos
Clerk of the Legislature

From: Senator Rory J. Respicio
Majority Leader & Rules Char

Subject: Supplement to Committee Report - Bill No. 437-31

Hafa Adai!

Transmitted herewith is a further substituted version of Substitute Bill No. 437-31 (COR), submitted by Senator Dennis G. Rodriguez Jr., Chairperson, Committee on Health & Human Services, Senior Citizens, Economic Development and Election Reform.

Please include this memo and the attachment as a "Supplement" to the Committee Report on Substitute Bill No. 437-31 (COR).

Please make the appropriate indication in your records; and forward to MIS for posting on our website. I also request that the same be forwarded to all Senators of *I Mina'trentai Unu na Libeslaturan Guåhan*.

Si Yu'os ma'åse'!

2012 MAY 29 AM 9:22
Rory



COMMITTEE ON RULES

I Mina'trentai Unu na Libeslaturan Guåhan • The 31st Guam Legislature
155 Hesler Place, Hagåtña, Guam 96910 • www.guamlegislature.com
E-mail: roryforguam@gmail.com • Tel: (671)472-7679 • Fax: (671)472-3547

Senator
Rory J. Respicio
CHAIRPERSON
MAJORITY LEADER

Senator
Judith P. Guthertz
VICE CHAIRPERSON
ASST. MAJORITY LEADER

MAJORITY MEMBERS:

Speaker
Judith T. Won Pat

Vice Speaker
Benjamin J. F. Cruz

Senator
Tina Rose Muña Barnes
LEGISLATIVE SECRETARY
MAJORITY WHIP

Senator
Dennis G. Rodriguez, Jr.
ASST. MAJORITY WHIP

Senator
Thomas C. Ada

Senator
Adolpho B. Palacios, Sr.

Senator
vicente c. pangelinan

MINORITY MEMBERS:

Senator
Aline A. Yamashita
ASST. MINORITY LEADER

Senator
Christopher M. Duenas

Supplement to the Committee Report on Substitute Bill No. 437-31 (COR)

**"AN ACT TO AUTHORIZE TAX CREDITS TO
THE AWARDEE OF A CONTRACT FOR
REHABILITATION AND RENOVATION OF
PUBLIC SCHOOLS."**

*NOTE: The original Committee Report on
Substitute Bill No. 437-31 (COR)
was filed on April 24, 2012.



Ufisinan Todu Guam

SENATOR DENNIS G. RODRIGUEZ, Jr.

I Mina'trentai Unu Na Liheslaturan Guåhan

CHAIRMAN, COMMITTEE ON HEALTH & HUMAN SERVICES,
ECONOMIC DEVELOPMENT, SENIOR CITIZENS AND ELECTION REFORM

May 15, 2012

MEMORANDUM

To: ALL MEMBERS
Committee on Health & Human Services, Economic Development, Senior Citizens and Election Reform.

From: Senator Dennis G. Rodriguez, Jr. 
Committee Chairperson

Subject: Supplemental Committee Report on Bill No. 437-31(COR), as Substituted, Referred Back to Committee, and as Further Substituted by the Committee.

Transmitted herewith, for your consideration, is the **Committee Report on BILL NO. 437-31 (COR) as Substituted, Referred Back to Committee, and as Further Substituted by the Committee - An act to authorize tax credits to the awardees of a contract for rehabilitation and renovation of public schools.**

This report includes the following:

- Supplemental Committee Report Narrative/Digest
- Copy of Bill No. 437-31 (COR) (See attached Committee Report of April 23, 2012)
- Copy of Substitute Bill No. 437-31 (COR) (See attached Committee Report of April 23, 2012)
- Copy of Substitute Bill No. 437-31 (COR), as further Substituted
- Markup Session Sign-in Sheet
- Copies Supporting Documents
- Copy of COR Referral of Bill No. 437-31 (COR) (See attached Committee Report of April 23, 2012)
- Notices of Markup Session (1st and 2nd)

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 me.

Si Yu'os Ma'åse'!

Attachments



Ufisinan Todu Guam

SENATOR DENNIS G. RODRIGUEZ, Jr.

I Mina'trentai Unu Na Liheslaturan Guåhan

CHAIRMAN, COMMITTEE ON HEALTH & HUMAN SERVICES,
ECONOMIC DEVELOPMENT, SENIOR CITIZENS AND ELECTION REFORM

Supplemental

**COMMITTEE REPORT
ON**

Bill 437-31 (COR)

as

Substituted,

Referred Back to Committee,

and as

Further Substituted

**An act to authorize tax credits to the awardees
of a contract for rehabilitation and renovation
of public schools.**



Ufisanan Todu Guam

SENATOR DENNIS G. RODRIGUEZ, Jr.

I Mina'trentai Unu Na Liheslaturan Guåhan

CHAIRMAN, COMMITTEE ON HEALTH & HUMAN SERVICES,
ECONOMIC DEVELOPMENT, SENIOR CITIZENS AND ELECTION REFORM

COMMITTEE VOTING SHEET

BILL NO. 437-31 (COR) - An act to authorize tax credits to the awardees of a contract for rehabilitation and renovation of public schools; as Substituted, Referred Back to Committee, and Further Substituted by the Committee.

	SIGNATURE	TO PASS	NOT TO PASS	ABSTAIN	REPORT OUT ONLY	PLACE IN INACTIVE FILE
DENNIS G. RODRIGUEZ, Jr. Chairman					5/18/12	
ADOLPHO B. PALACIOS, Sr. Vice Chairman					5/22/12	
JUDITH T. WON PAT, Ed.D. Speaker						
BENJAMIN J. F. CRUZ Vice-Speaker					5/22/12	
TINA ROSE MUÑA BARNES Legislative Secretary					5/22/12	
THOMAS C. ADA						
VICENTE C. PANGELINAN						
RORY J. RESPICIO						
JUDITH P. GUTHERTZ, DPA						
FRANK F. BLAS, Jr.						
V. ANTHONY ADA						
ALINE A. YAMASHITA, Ph.D.					5/22/12	
SAM MABINI, Ph.D.					5/22/12	
MANA SILVA TAIJERON					5/22/12	
CHRISTOPHER M. DUENAS						



Ufisinan Todu Guam

SENATOR DENNIS G. RODRIGUEZ, Jr.

I Mina'trentai Unu Na Liheslaturan Guåhan

CHAIRMAN, COMMITTEE ON HEALTH & HUMAN SERVICES,
ECONOMIC DEVELOPMENT, SENIOR CITIZENS AND ELECTION REFORM

COMMITTEE REPORT DIGEST

Bill No. 437-31(COR), as Substituted,

**Referred Back to Committee,
and as**

FURTHER SUBSTITUTED By The COMMITTEE

I. OVERVIEW: The Committee on Health & Human Services, Economic Development, Senior Citizens and Election Reform conducted a public hearing on March 27, 2012. The hearing convened at 2:05PM in I Liheslatura's Public Hearing Room. Among the items on the agenda was the consideration of **BILL NO. 437-31 (COR)- An act to authorize tax credits to the awardees of a contract for rehabilitation and renovation of public schools;** Sponsored by Senator Judith P. Guthertz, DPA.

Bill No. 437-31, as Substituted by the Committee, was reported out on April 23, 2012. Substitute Bill No. 437-31 (COR) was *Referred Back to Committee* during the April 23 to 25, 2012 Legislative Session.

A Markup Session was conducted for Bill No. 437-31, as Substituted by the Committee and referred back to Committee on Friday, May 11, 2012, at the office of Committee Chairman Dennis G. Rodriguez, Jr.

Markup Session Notice

Notices were disseminated to the Author of the Bill on May 09, 2012, all Committee Members via email on May 10, 2012, and to the Guam Economic Development Authority, the Department of Administration, the Guam Department of Education, the Office of the Attorney General, the Governor's Education Learning Task, and the Governor's Assistant on Economic Affairs, on May 09, 2012 (attached).

Senators Present

Senator Judith Guthertz, DPA	Committee Member
Senator Thomas C. Ada	Committee Member
Senator Rory J. Respicio	Committee Member
Aline A. Yamashita, Ph.D.	Committee Member
Senator V. Anthony Ada	Committee Member
Senator Christopher Duenas	Committee Member

Others Present

Ms. Tina Garcia	Guam Economic Development Authority
Ms. Antoinette Leon Guerrero	Guam Economic Development Authority
Henry Taitano	Office of the Governor
Tony Blaz	Deputy Director, Department of Administration
Ronald E. Teehan, Jr.	Committee Director, Office of Senator D.G. Rodriguez, Jr.

II. SUMMARY OF MARKUP.

It was agreed during the Markup Session by Committee members, in open discussion and in consultation with GEDA representatives, the office of the Governor and the Department of Administration, that Section 5 of the Bill should be deleted. The section would be in conflict with American Recovery and Reinvestment Act funding already committed to ongoing Guam Department of Education projects. The deleted Section read:

~~“Section 5. [Existing Bids/Offers/RFPs. All existing bids, offers or requests for proposals for the financing, renovation, expansion, rehabilitation, and maintenance expenses of the Guam public schools which involve the use of ARRA funds are hereby terminated and cancelled.]”~~

[Subsequent sections were renumbered accordingly]

The proposed amendment by Senator T.C. Ada to Section 7 of Substitute Bill 437 was accepted, and now reads:

“Section 6 [7]. School Bus Procurement and Ancillary Facility Repair and Renovation. In lieu of cash payment from the Government of Guam, the government is authorized to issue tax credits and alternative financing ~~[subject to the approval of the Legislature]~~, for the Multi-Year procurement of up to fifty (50) new school buses from the same manufacturer, complete with the diagnostic tools and equipment, and preventative maintenance services for the first year that the buses are placed into service. Procurement of buses shall be accomplished in accordance with §5237, Chapter 5, 5 GCA, and 2 GAR, Division 4 §3121 and that preventative maintenance services after the first year shall be bid on a competitive basis, of which the DPW Maintenance Division shall be allowed to submit a bid. Said procurement shall also include the and repair and renovation of school bus ancillary facilities.”

In consultation with Ms. Tina Garcia, GEDA, and consistent with the written testimony of Karl Pangelinan, GEDA Administrator, a new subsection (c) was added to Section 3 – Lease/Lease-back Financing, to read:

“(c) Contracts and other instruments entered into by the government, the Education Agency, GEDA, DPW and the contractor pursuant to and in accordance with this Chapter shall be valid and binding obligations of the government, GEDA, DPW and the Education Agency, as applicable, enforceable in accordance with their respective terms, and there shall be no power to terminate or declare null and void any such agreement for procurement violations or any other reason or reasons.”

It was stated by Ms. Tina Garcia, GEDA, that the inclusion of this provision is supported by Bond Counsel, Stan Dirks, and is necessary so as to avoid the problems and delays incurred in the JFK High School bid process. Additionally, time is of the essence in that any delays to the RFP and bid award process could jeopardize the ARRA funds which must be committed by no later than September 2012.

The Markup Session on Bill No. 437-31 (COR) concluded, with the agreed upon requested changes to the Bill to be made by Committee staff, and once again reported out by the Chairman.

A new Section 11 relative to energy efficient and environmentally sound standards being utilized, to the extent practicable, was added, to read:

“Section 11. Policy in Favor of Energy Efficient and Environmentally Sound Standards and Practices in the Design, Construction and/or Renovation of Guam Department of Education Buildings. To the extent practicable, all Guam Department of Education buildings shall be designed, constructed and/or renovated using certified recognized sustainable design measurement systems so as to be energy efficient, achieve cost effective operation and environmental compatibility.

(a) Definition. For the purposes of this policy, generally, *sustainable* shall mean a recognized sustainable design measuring system should be included in the planning, design and construction process so as to quantify the benefit of the sustainable design methods, tools and systems in measured results, using certified recognized sustainable design measurement systems so as to achieve energy efficiency, cost effective operation and environmental compatibility.

(b) Policy in Favor of Energy Efficient Equipment and Systems Procurement. To the extent practicable, all Guam Department of Education owned and leased buildings should be retrofitted with energy efficient equipment, such as, but not limited to, energy-efficient light bulbs, energy-efficient air-conditioners, energy-star rated appliances, and energy-star rated computer equipment, and to include, all associated electrical devices and systems promoting energy conscious procedures that will reduce energy consumption. These retrofits shall commence as appropriate due to the usual circumstances mandating replacements due to normal wear and depreciation.

(c) Leased Facilities. In the case of government leased buildings, and prior to the retrofitting or installation of permanent systems which shall remain with the leased facilities subsequent to the expiration of the lease, a cost benefit analysis shall be conducted to determine the feasibility of retrofitting the leased premises in consideration of savings to be realized relative to the term of the lease. If the retrofit or installation is determined not to be cost effective, then the mandate pursuant to this §5012 shall not be applicable.

(d) Applicable Sustainable energy efficient and environmentally sound designs and practices for Government Buildings. To the extent practicable, all Guam Department of Education buildings are mandated to be constructed and/or renovated using a certified recognized sustainable design measurement system(s) which promote a whole-building approach to sustainability by recognizing performance in at least five key areas of human and environmental health: sustainable site development, water savings, energy efficiency, materials selection and indoor environmental quality. In addition, all new government buildings and structures shall, to the extent practicable, include provisions that will incorporate Rainwater Harvesting methods that will effectively promote water conservation. *Rainwater Harvesting* is the accumulating, processing and storing, of rainwater for reuse, before it reaches the aquifer.

(e) Prior to any renovation and/or construction of a Guam Department of Education building, and prior to the issuance of a building permit, the contractor shall provide the Guam Energy Office with the design and scope of work for review to ensure it adequately includes or provides for the requisite standards in favor of sustainable energy efficiency and environmentally sound practices. The Guam Energy Office shall conduct its assessment, and when it is determined the design and scope of work meets the requisite standards, issue a letter acknowledging its compliance which shall be included in the contractor's building permit application."

Note: The April 23, 2012 Committee Report on Bill No. 437-31 (COR), a Substituted, is appended to this Supplemental Committee Report.

III. FINDINGS AND RECOMMENDATIONS

Pursuant to the March 27, 2012 public hearing, it had been the intention of the Committee to subsequently conduct a *Markup Session* on Bill No. 437-31(COR). However, because of time constraints, the Committee had not conducted a markup session as of the date of the first committee report on April 23, 2012. Due to the desire of the Author to have the Bill reported out for the April 23, 2012 Legislative Session, the Committee accommodated the Author and reported out the Bill. Further, in lieu of the markup session, the Author submitted to the Committee a proposed Substitute Bill 437-31(COR) for inclusion in the Committee Report and subsequent consideration by *I Liheslaturan Guåhan*. The Author's Substitute Bill No. 437-31(COR) was incorporated into the April 23, 2012 Committee Report.

Substitute Bill No. 437-31 (COR) was reported out on April 23, 2012, and was subsequently referred back to Committee during the April 23-25, 2012 Legislative Session. A markup session for Substitute Bill No. 437-31 (COR) was held on May 10, 2012 at 10:30 A.M. The Markup Session Attendance Signup Sheet is attached to this report.

The Committee on Health & Human Services, Economic Development, Senior Citizens and Election Reform, hereby **reports out Substitute Bill No. 437-31(COR), as Substituted, Referred Back to Committee, and as Further Substituted by the Committee,** with the recommendation to Report out only.

I MINA' TRENTAIUNU NA LIHESLATURAN GUÅHAN
2012 (Second) Regular Session

Bill No. 437-31(COR), as Substituted
Committee on Health & Human Services,
Economic Development, Senior Citizens, and
Election Reform, referred back to Committee,
and as Further Substituted by the Committee.

Introduced by:

J.P. GUTHERTZ, DPA
A.A. YAMASHITA, Ph.D.
R.J. RESPICIO
S.A. MABINI
A.B. PALACIOS, SR.
C.M. DUENAS

AN ACT TO AUTHORIZE LEASE FINANCING FOR THE
REHABILITATION, CONSTRUCTION, EXPANSION AND
RENOVATION OF PUBLIC SCHOOL FACILITIES.

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

2 **Section 1. Legislative Findings and Intent.** Presently, the
3 deplorable condition of Guam's public schools, combined with an
4 ever-increasing number of students, hinder the educational development of
5 our youth. Our schools, and facilities, such as the Guerrero
6 Administration building, which contains the Department of Education
7 offices, are run down, leaking, cramped and insufficient. These facilities
8 are inadequate to properly service the needs of education, and instead
9 create a chilling effect in the protecting, helping and developing our most
10 valuable treasure - our youth. Therefore, renovation, expansion,
11 construction, and rehabilitation have become a necessity.

1 The government has available certain funds from the American
2 Reinvestment and Recovery Act (“ARRA”), approximately Sixty Million
3 Dollars (\$60,000,000.00). The Department of Education estimates the cost
4 of the renovation, expansion, construction, and rehabilitation of Guam’s
5 public schools to be about One Hundred Thirty Nine Million Dollars
6 (\$139,000,000.00). This leaves a government shortfall of approximately
7 Seventy Nine Million Dollars (\$79,000,000.00).

8 *I Liheslaturan Guåhan* finds that the government of Guam is
9 financially strapped and obligated to provide essential services for all the
10 people of Guam. The government is unlikely to be able to afford
11 payments from its current budget for the costs of the necessary renovation,
12 expansion, construction, and rehabilitation of the schools, including
13 collateral equipment, buses, and bus shelters. It is therefore the intent of *I*
14 *Liheslaturan Guåhan* to leverage and utilize the government’s ability to issue
15 lease revenue bonds and/or certificates of participation in lease obligations,
16 to provide financing for the renovation, expansion, construction, and
17 rehabilitation work on the schools and facilities.

18 **Section 2. Definitions.** The following definitions shall be used for the
19 purposes of this act.

20 a. “*Government of Guam*” shall mean the government of Guam, its
21 agencies, divisions, and departments.

22 b. “*GEDA*” shall mean the Guam Economic Development Authority.

23 c. “*Awardee*” shall mean one (1) party as selected by GEDA to

1 provide financing and to perform renovation, expansion, construction, and
2 rehabilitation. An Awardee may cooperate with its affiliates or another
3 entity or entities in any manner the Awardee deems appropriate to provide
4 for the financing, rehabilitation, construction, renovation, expansion,
5 maintenance, and insurance of School Facilities to the extent envisioned by
6 this Act, and in the event of such cooperation, Awardee shall include such
7 affiliates or other entities.

8 d. *"School Facilities" or "School(s)"* shall mean those public school
9 facilities, including land, improvements, and equipment, selected by the
10 Department of Education for renovation, expansion, and rehabilitation
11 pursuant to this Act. School facilities shall also mean and include any land,
12 improvements, administrative offices, equipment, and facilities that serve
13 and benefit education.

14 e. *"Lease Financing Agreements"* shall mean all agreements,
15 instruments, and other documents necessary or appropriate to implement
16 any financing pursuant to this Act, including any project revenue bonds
17 issued for the purpose of this Act.

18 f. *"Expansion"* shall mean the act of increasing, adding, or enlarging
19 any government facility.

20 g. *"Facility"* shall mean and include any school facility, and any other
21 real and/or personal property, land or building owned, leased, used or
22 controlled by the government of Guam.

23 **Section 3. Lease/Lease-back Financing.**

1 a. To take advantage of tax-exempt financing under the Internal
2 Revenue Code, the government shall have the option and right to lease any
3 School and its facilities to the Awardee and lease-back the School from the
4 Awardee for the purpose of the renovation, expansion, and rehabilitation
5 of the School and its facilities. The terms and conditions of the Lease
6 Financing Agreements shall be negotiated between the parties, and shall
7 include maintenance of the Schools by the Awardee. In order to take
8 advantage of the Guam Organic Act exemption from state income taxes for
9 bonds issued by the government of Guam or by its authority, GEDA has
10 the option to, and is authorized to issue limited obligation project revenue
11 bonds to make a loan to the Awardee for the purpose of financing the costs
12 of the rehabilitation, construction, renovation, expansion and all costs
13 related thereto. If such bonds are issued in accordance with the GEDA
14 Project Revenue Bond Act of 1982 (being Chapter 64 of Title 12 of the
15 Guam Code Annotated), and each underlying lease in accordance with this
16 Act, the terms and conditions of such project revenue bonds are hereby
17 approved pursuant to Section 50103(k) of Title 12 of the Guam Code
18 Annotated.

19 b. The obligation of the government to make lease payments may be
20 secured by a pledge or reservation of all or any portion of the revenues
21 from taxes due under the Business Privilege Tax Law (namely, 11 GCA
22 Chapter 26, which shall include business privilege tax, alcoholic beverage
23 tax, liquid fuel tax, automotive surcharges, and tobacco tax), and all real

1 property taxes. Any pledge or reservation pursuant to this Section shall
2 be made on lease financing terms that do not cause the lease obligation of
3 the government to be public indebtedness within the meaning of Section 11
4 of the Guam Organic Act or to violate or breach any existing bond
5 covenant. The tax revenues pledged or reserved and thereafter received
6 by the government or by any trustee, depository or custodian shall be
7 deposited in a separate account and shall be immediately subject to such
8 reservation or the lien of such pledge without any physical delivery thereof
9 or further act, and such reservation or the lien of such pledge shall be valid
10 and binding against all parties having claims of any kind in tort, contract or
11 otherwise against the government of Guam or such trustee, depository or
12 custodian, irrespective of whether the parties have notice thereof. The
13 instrument by which such pledge or reservation is created need not be
14 recorded. Any amounts pledged as provided in this Section are hereby
15 continuously appropriated for the purpose of making lease payments, but
16 any amounts only reserved as provided in this Section and not pledged,
17 shall be subject to annual appropriation for the purpose of making lease
18 payments. Surplus tax revenues shall be released to the government on a
19 monthly basis. Upon the execution and delivery by the government
20 and/or GEDA of Lease Financing Agreements, such agreements shall be
21 valid and binding obligations of the government and GEDA, as applicable,
22 enforceable in accordance with their respective terms, and there shall be no
23 power to terminate or declare null and void any such agreement.

1 (c) Contracts and other instruments entered into by the government, the
2 Education Agency, GEDA, DPW and the contractor pursuant to and in
3 accordance with this Chapter shall be valid and binding obligations of the
4 government, GEDA, DPW and the Education Agency, as applicable,
5 enforceable in accordance with their respective terms, and there shall be no
6 power to terminate or declare null and void any such agreement for
7 procurement violations or any other reason or reasons.

8 **Section 4. Collateral Equipment.** The government is authorized to
9 include in its request the provision of collateral equipment, buses, and bus
10 shelters. The collateral equipment, buses and bus shelters shall then
11 become the property of the government. Thereafter, the maintenance,
12 repair and replacement of collateral equipment, buses and bus shelters
13 shall be the responsibility of the government.

14 **Section 5. Bid/Performance & Payment Bonds.** The Proposer shall
15 post a bid bond in the amount of Twenty Million Dollars (\$20,000,000.00) at
16 the time of the submission of its proposal. The Awardee shall post a
17 performance and payment bond for the construction portion in the amount
18 of the full construction cost of the project. All bonds shall be executed by
19 a surety company holding a certificate of authority from the Secretary of
20 the Treasury (Dept. Circular 570).

21 **Section 6. School Bus Procurement and Ancillary Facility Repair**
22 **and Renovation.** In lieu of cash payment from the Government of Guam,

1 the government is authorized to issue tax credits and alternative financing,
2 for the Multi-Year procurement of up to fifty (50) new school buses from
3 the same manufacturer, complete with the diagnostic tools and equipment,
4 and preventative maintenance services for the first year that the buses are
5 placed into service. Procurement of buses shall be accomplished in
6 accordance with §5237, Chapter 5, 5 GCA, and 2 GAR, Division 4 §3121 and
7 that preventative maintenance services after the first year shall be bid on a
8 competitive basis, of which the DPW Maintenance Division shall be
9 allowed to submit a bid. Said procurement shall also include the and
10 repair and renovation of school bus ancillary facilities.

11 **Section 7. Facilities for institutions of higher education.** In lieu of
12 cash payment from the Government of Guam, the government is
13 authorized to issue tax credits and alternative financing, subject to the
14 approval of *I Liheslaturan Guåhan*, for the construction of facilities for the
15 benefit of the Guam Community College or the University of Guam.

16 **Section 8. Definitions and Use of the Tiyan Campus.** Public Law
17 31-76, Section 6 amended Section 2 of Public Law 30-37. Public Law 31-76,
18 Section 6 is hereby amended to read:

19 *“Section 2. Definitions. The following meanings shall be ascribed*
20 *to the following terms used in this Act:*

21 (a) *Government of Guam shall mean the government of Guam, its*
22 *agencies, divisions and departments.*

23 (b) *Lease shall mean the contract between the Lessor, Core Tech*

1 *International Corporation, and the Government of Guam for the lease*
2 *and maintenance of school facilities, its extended facilities, and the*
3 *purchase of collateral equipment.*

4 (c) *Lessor shall mean the party which has been selected by I Maga'lahan*
5 *Guåhan for the lease and maintenance of school facilities and the*
6 *purchase of collateral equipment. Lessor, as used in this Act shall*
7 *also mean and include any assignee or transferee of the rights, credits*
8 *and off-sets as allowed in this Act.*

9 (d) *Extended facilities shall mean any additional properties added to the*
10 *lease to support the needs of the Government of Guam. The*
11 *Government is hereby authorized to add Lot Naval Air Station*
12 *Agana-21 (Airport Parcel 4-R1) to the Lease, and a portion of lot*
13 *2181-4NEW-1, which shall be adjacent to the existing lot*
14 *2181-4NEW-R1 as covered by the Lease.*

15 **Section 9. Procedure for GEDA.** GEDA shall immediately
16 proceed with the procurement processes necessary to accomplish the
17 financing, rehabilitation, construction, renovation, expansion, maintenance
18 and insurance of Guam's public schools using ARRA funds and lease
19 financing. GEDA shall:

20 a. Consolidate and use the remaining funds from the
21 American Recovery and Reinvestment Act (ARRA) and the financing
22 by the Awardee to accomplish said rehabilitation, construction,
23 renovation, expansion, maintenance and insurance.

1 b. Fast-track the issuance of the Request for Proposals (RFP)
2 relative to the needed financing, rehabilitation, construction,
3 renovation, expansion, maintenance and insurance of the Guam
4 public schools and related requirements.

5 i. Any proposal submitted by offeror(s) must be received
6 by GEDA by no later than fifteen (15) calendar days after the
7 announcement and publication of the Request for Proposals,
8 whereupon the process must be closed.

9 ii. The proposal must allow financing of the work and
10 costs of the Awardee over a period of not more than 30 years.
11 Lease payments due to the Awardee shall be made no less often
12 than annually.

13 iii. The process of reviewing, selecting and awarding of a
14 contract shall be completed within fifteen (15) calendar days.

15 **Section 10. Contractual Safeguards.** Prior to undertaking the
16 work of renovating, rehabilitating, or constructing educational facilities,
17 the Guam Economic Development Authority, the Department of Public
18 Works, the Guam Department of Education and the Developer or
19 Contractor shall negotiate and enter into a binding construction contract to
20 build or refurbish the educational facility in accordance with Guam
21 Building Code, (21 G.C.A. Ch. 67) and any other applicable requirements.
22 The construction contract shall contain contractual obligations typically
23 found in Government of Guam construction contracts, including but not

1 limited to:

2 1. Warranties;

3 2. Liquidated damages;

4 3. Performance and payment bonds;

5 4. Indemnity;

6 5. Insurance;

7 6. Specifications;

8 7. Progress Schedule;

9 8. Maintenance;

10 9. In the area of construction; a Developer's and Contractor's
11 experiences and qualifications must not be confused in the selection
12 process. A Developer may not be a Contractor, and vice versa;
13 however a Developer may partner with a Contractor, and vice versa,
14 to submit a proposal.

15 10. Compliance with Guam Labor Regulations;

16 11. Compliance with Guam Prevailing Wage Rates for Employment
17 of Temporary Alien Workers (H2) on Guam;

18 12. Compliance with Public Law 29-98: Restriction Against
19 Contractors Employing Convicted Sex Offenders to Work at
20 Government of Guam Venues.

21 The contract must be submitted for review and approval to all
22 entities charged by law with the duty to review and approve government
23 contracts, including the Office of the Attorney General.

1 **Section 11. Policy in Favor of Energy Efficient and**
2 **Environmentally Sound Standards and Practices in the Design,**
3 **Construction and/or Renovation of Guam Department of Education**

4 **Buildings.** To the extent practicable, all Guam Department of Education
5 buildings shall be designed, constructed and/or renovated using certified
6 recognized sustainable design measurement systems so as to be energy
7 efficient, achieve cost effective operation and environmental compatibility.

8 (a) Definition. For the purposes of this policy, generally,
9 *sustainable* shall mean a recognized sustainable design measuring system
10 should be included in the planning, design and construction process so as
11 to quantify the benefit of the sustainable design methods, tools and systems
12 in measured results, using certified recognized sustainable design
13 measurement systems so as to achieve energy efficiency, cost effective
14 operation and environmental compatibility.

15
16 (b) Policy in Favor of Energy Efficient Equipment and Systems
17 Procurement. To the extent practicable, all Guam Department of
18 Education owned and leased buildings should be retrofitted with energy
19 efficient equipment, such as, but not limited to, energy-efficient light bulbs,
20 energy-efficient air-conditioners, energy-star rated appliances, and
21 energy-star rated computer equipment, and to include, all associated
22 electrical devices and systems promoting energy conscious procedures that
23 will reduce energy consumption. These retrofits shall commence as

1 appropriate due to the usual circumstances mandating replacements due to
2 normal wear and depreciation.

3
4 (c) Leased Facilities. In the case of government leased buildings,
5 and prior to the retrofitting or installation of permanent systems which
6 shall remain with the leased facilities subsequent to the expiration of the
7 lease, a cost benefit analysis shall be conducted to determine the feasibility
8 of retrofitting the leased premises in consideration of savings to be realized
9 relative to the term of the lease. If the retrofit or installation is determined
10 not to be cost effective, then the mandate pursuant to this §5012 shall not be
11 applicable.

12 (d) Applicable Sustainable energy efficient and environmentally
13 sound designs and practices for Government Buildings. To the extent
14 practicable, all Guam Department of Education buildings are mandated to
15 be constructed and/or renovated using a certified recognized sustainable
16 design measurement system(s) which promote a whole-building approach
17 to sustainability by recognizing performance in at least five key areas of
18 human and environmental health: sustainable site development, water
19 savings, energy efficiency, materials selection and indoor environmental
20 quality. In addition, all new government buildings and structures shall,
21 to the extent practicable, include provisions that will incorporate Rainwater
22 Harvesting methods that will effectively promote water conservation.
23 *Rainwater Harvesting* is the accumulating, processing and storing, of

1 rainwater for reuse, before it reaches the aquifer.

2 (e) Prior to any renovation and/or construction of a Guam
3 Department of Education building, and prior to the issuance of a building
4 permit, the contractor shall provide the Guam Energy Office with the
5 design and scope of work for review to ensure it adequately includes or
6 provides for the requisite standards in favor of sustainable energy
7 efficiency and environmentally sound practices. The Guam Energy Office
8 shall conduct its assessment, and when it is determined the design and
9 scope of work meets the requisite standards, issue a letter acknowledging
10 its compliance which shall be included in the contractor's building permit
11 application.

12 **Section 12. Report.** Upon issuance of the financing authorized by
13 this Act, GEDA shall submit a report to *I Liheslaturan Guahan* detailing the
14 projects to be completed and the annual amounts of revenue pledged or
15 reserved under this Act from the various taxes.

16 **Section 13. Severability.** If any provision of this Law or its
17 application to any person or circumstance is found to be invalid or contrary
18 to law, such invalidity shall not affect or provisions or applications of this
19 Law which can be given effect without the invalid provisions or
20 application, and to this end the provisions of this Law are severable.

SENATOR DENNIS G. RODRIGUEZ, JR.
*Committee on Health & Human Services, Economic Development,
 Senior Citizens and Election Reform*

MARK-UP MEETING ON BILL 437-31(COR)

Thursday, May 11, 2012 10:30am Sen. Rodriguez Conference Room

Name	Organization	Contact Numbers	Email Address
1. Judith Guthertz	Leg.	472-5834	judiguthert2@pticom
2. Ayl	Legislative	6483474	alineffamilies@gmail.com
3. Phyllis Ruspini	Legislative	472-1679	PhyllisRuspini@gmail.com
4. Tony Ada	"	472-5681	vanthonyada@gmail.com
5. Tom Ada	"	473-3301	tom@senatorada.org
6. CHAS DUFRES	"	727-1329	duenasenator@gmail.com
7. Henry Taitano	Office of the Governor	777-3380	henrytaitano@gmail.com
8. Tina Garcia	GEDA	647-4327	tgarcia@investguam.com
9. Antoinette Leon Guerrero	GEDA	647-4332	alg@investguam.com
10. Ron Teehan	Ofc. of Sen. D.G. Rodriguez	649-0511	rfteehan@yahoo.com
11. Tony Blaz	DC 4	475-1734	tblaz58@gmail.com
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Si Yu'os Ma'ase' for your participation in today's oversight hearing!

Subject: Language for bill 437
From: Tina Garcia (cgarcia@investguam.com)
To: rfteehan@yahoo.com;
Cc: antoinette@guameda.net; senatordrodriguez@gmail.com; kpangelinan@guameda.net;
henry.taitano@guam.gov;
Date: Saturday, May 12, 2012 8:20 AM

Hafa Adai Ron,

Sorry for not getting back to you yesterday as we got right into our board meeting in the afternoon.

As mentioned, the language we need to include with the lease financing is as follows:

"Contracts and other instruments entered into by the government, the Education Agency, GEDA, DPW and the contractor pursuant to and in accordance with this Chapter shall be valid and binding obligations of the government, GEDA, DPW and the Education Agency, as applicable, enforceable in accordance with their respective terms, and there shall be no power to terminate or declare null and void any such agreement for procurement violations or any other reason or reasons."

As a point of reference, I have included GEDA's testimony on Bill 448-31 which also includes a request to add this language to the bill.

Please let me know if you need more information.

Si Yu'os Ma'ase,
Tina

Testimony on Bill 448-31 (COR)
Karl Pangelinan, Administrator
Guam Economic Development Authority (GEDA)
May 10, 2012

Hafa Adai Senator Vicente C. Pangelinan and members of the Committee on Appropriations, Taxation, Public Debt, Banking, Insurance, Retirement, and Land. Thank you for the opportunity to provide testimony in opposing Bill 448-31 (COR), “An act to add a new Chapter 58C to Title 5 Guam Code Annotated relative to the rehabilitation, renovation, and construction of public schools.”

Governor Calvo has declared that the repairs and renovations of the Guam Department of Education (GDOE) is a top priority and has created an executive level task force that brings together stakeholders to explore different options to finance school capital improvements. Despite the debt limit constraints of GovGuam, these repairs must be done as the safety of our children and education administration are at risk. GEDA is working with the task force, including members of the Legislature, in identifying commonly used financing vehicles that will not impact the government debt ceiling, to include public-private partnerships, federal tax credits, joint use financing and energy efficiency financing.

I note the following with respect to Bill 448 that will impair our ability to move forward:

1. The legislative findings say that the “plan” will need “final approval” by the Legislature. Presumably, that approval is the same as the approval by the Legislature of the “Contract” as provided in Section 58C101(a). In any event, the entire procurement, selection and negotiation process must be completed before the transaction goes back to the Legislature for its final approval, apparently within its sole and absolute discretion. That creates an undefined risk for all proposers, and an even greater risk for DOE, DPW, GEDA and the contractor selected. They each will have a substantial amount of time, effort and expense invested at that point.
2. GEDA project revenue bonds would be an appropriate and desirable element of the plan, in order to obtain the triple tax-exemption. Presumably, they are authorized to be a part of the plan by the language to the effect that the contractor may cooperate with other entities. The term and conditions of such bonds would also need to be approved by the Legislature under current law (GEDA statute Section 50103(k)).
3. The negotiated arrangements are to include a construction contract that includes contractual obligations typically found in government of Guam construction contracts, including standard and technical specifications and a progress schedule. This provision highlights the need for detailed plans and specifications for the rehabilitation, renovation and construction work to be done. Those plans and specifications should be in place before the procurement process to select a contractor begins. As the Guam DOE does not have such detailed plans and specifications, we conclude that the timetable requirements of Bill 448 are unrealistic.

4. We have found there is a conflict in the bill as written. Section 58C103 says that the contractor shall not be responsible for “capital maintenance” of furniture and equipment, but Section 58C109 leaves that to the discretion of the Education Agency.

5. The transaction is to have a “minimal financial impact” on the government of Guam. I don’t see how that is possible. Does this language actually mean that the lease payments are to come from the existing DOE appropriation levels, and not increase them?

6. Overall, this bill has the same problem as the one we encountered with JFK, and that is the possibility of a procurement protest that would disrupt the financing process, and could even occur after the sale and/or issuance of the bonds. For that reason, we need language similar to that amended into this bill:

“Contracts and other instruments entered into by the government, the Education Agency, GEDA, DPW and the contractor pursuant to and in accordance with this Chapter shall be valid and binding obligations of the government, GEDA, DPW and the Education Agency, as applicable, enforceable in accordance with their respective terms, and there shall be no power to terminate or declare null and void any such agreement for procurement violations or any other reason or reasons.”

That concludes our testimony. Thank you for the opportunity to present testimony on Bill No. 448-31(COR).
Senseramente.

Si Yu'os Ma'ase,



Karl A. Pangelinan
GEDA Administrator

Subject: Fwd: Mark-up Meeting for Bill 437-31(COR)
From: Clifton Herbert (cherbert.senatorrodriguez@gmail.com)
To: rfteehan@yahoo.com; jamesngon.senatorrodriguez@gmail.com;
Date: Friday, May 11, 2012 9:55 AM

----- Forwarded message -----

From: Tom Ada <tom@senatorada.org>
Date: Fri, May 11, 2012 at 9:12 AM
Subject: Re: Mark-up Meeting for Bill 437-31(COR)
To: Clifton Herbert <cherbert.senatorrodriguez@gmail.com>

Please find attached an amendment to Section 7 of Bill 437-31.

Tom Ada

On Thu, May 10, 2012 at 7:34 AM, Clifton Herbert <cherbert.senatorrodriguez@gmail.com> wrote:

--

Ufisinan Todu Guam
SENATOR DENNIS G. RODRIGUEZ, Jr.
I Mina'trentai Unu Na Liheslaturan Guåhan
CHAIRMAN, COMMITTEE ON HEALTH & HUMAN SERVICES,
ECONOMIC DEVELOPMENT, SENIOR CITIZENS AND ELECTION REFORM

May 10, 2012

Memorandum:

To: All Senators

From: Senator Dennis Rodriguez, Jr.

Dear Senators,

Buenas yan Hafa Adai!

The Committee on Economic Development has scheduled a mark-up meeting on Bill 437-31

(COR) introduced by Senator Judi Guthertz, DPA

We are respectfully requesting your attendance and participation in this mark-up meeting as discussion of this legislation will enable the committee to move forward with addressing the needs of our islands schools.

The meeting will take place Friday May 11, 2012 at 10:30a.m. in my office.

Should you have any questions or concerns, kindly contact my office immediately. I look forward to your presence and participation.

Si Yu'os Ma'ase!

Senseramente,

Dennis G. Rodriguez, Jr.

Clifton Herbert

176 Serenu Avenue Suite 107 Tamuning, Guam 96931

Telephone: 671.649.8638

Email: Cherbert.senatorrodriguez@gmail.com

Website: www.toduguan.com

This e-mail may contain data that is confidential, proprietary or non-public personal information, as that term is defined in the Gramm-Leach-Bliley Act (collectively, Confidential Information). The Confidential Information is disclosed conditioned upon your agreement that you will treat it confidentially and in accordance with applicable law, ensure that such data isn't used or disclosed except for the limited purpose for which it's being provided and will notify and cooperate with us regarding any requested or unauthorized disclosure or use of any Confidential Information. By accepting and reviewing the Confidential information, you agree to indemnify us against any losses or expenses, including attorney's fees that we may incur as a result of any unauthorized use or disclosure of this data due to your acts or omissions. If a party other than the intended recipient receives this e-mail, he or she is requested to instantly notify us of the erroneous delivery and return to us all data so delivered.

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I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN
FLOOR AMENDMENTS/CHANGES
Bill No. 437-31

Senator Tom Ada
Senator Proposing Amendment

Line _____ Page _____ of the Bill/Resolution:

Add a new Section 7 as follows and renumber the existing Section 7 as Section 8:

“Section 7. School Bus Procurement and Ancillary Facility Repair and Renovation.

In lieu of cash payment from the Government of Guam, the government is authorized to issue tax credits and alternative financing ~~{subject to the approval of the Legislature}~~, for the Multi-Year procurement of up to fifty (50) new school buses from the same manufacturer, complete with the diagnostic tools and equipment, and preventative maintenance services for the first year that the buses are placed into service.

Procurement of buses shall be accomplished in accordance with §5237, Chapter 5, 5 GCA, and 2 GAR, Division 4 §3121 and that preventative maintenance services after the first year shall be bid on a competitive basis, of which the DPW Maintenance Division shall be allowed to submit a bid. Said procurement shall also include the and repair and renovation of school bus ancillary facilities.”

(Below only for Clerk of Legislature's use and processing)

Date: _____ Floor Amendment No. _____

AMENDMENT PASSED: _____ Votes For: _____ Votes Against: _____ Failed: _____ Withdrawn: _____

APPROVED AS TO FORM PASSED _____ Concur (*initial*) _____
AUTHOR OF AMENDMENT Clerk of Legislature

____ Engrossment Staff



SENATOR DENNIS G. RODRIGUEZ, JR.

Chairman,
Committee on
Health & Human
Services,
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Economic
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Member,
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Works,
& Veterans Affairs

Assistant Majority Whip

May 9, 2012

Senator Judith P. Guthertz, DPA
31st Guam Legislature
155 Hesler St.
Hagatna, Guam

Dear Senator Guthertz:

Buenas yan Håfa Adai!

The Committee on Economic Development has scheduled a mark-up meeting on Bill 437-31(COR).

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Senseramente,

Dennis G. Rodriguez, Jr.

Ufisinan Todu Guam • 31st Guam Legislature

176 Serenu Avenue, Suite 107, Tamuning, Guam 96931 / Telephone: 671-649-TODU (8638) / Facsimile: 671-649-0520
E-mail: senatordrodriguez@gmail.com



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Assistant Majority Whip

May 9, 2012

Benita Manglona
Director
Department of Administration
Hagatna, Guam
Email: benita.manglona@doa.guam.gov

Dear Ms. Manglona:

Buenas yan Håfa Adai!

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Assistant Majority Whip

May 9, 2012

Vince Leon Guerrero
Chairman
Education Learning Task Force
Hagatna, Guam

Dear Mr. Leon Guerrero:

Buenas yan Håfa Adai!

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Dennis G. Rodriguez, Jr.

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Assistant Majority Whip

May 9, 2012

Henry Taitano
Governor's Assistant on Economic Affairs
Office of the Governor
Hagatna, Guam
Email: henry.taitano@guam.gov

Dear Mr. Taitano:

Buenas yan Håfa Adai!

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Assistant Majority Whip

May 9, 2012

Taling Taitano
Interim Superintendent
Guam Department of Education
Hagatna, Guam
Email: tmtaitano@gdoe.net

Dear Ms. Taitano:

Buenas yan Hâfa Adai!

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Assistant Majority Whip

May 9, 2012

Karl Pangelinan
Administrator
Guam Economic Development Authority
Tamuning, Guam
Email: kpangelinan@guameda.net

Dear Mr. Pangelinan:

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Assistant Majority Whip

May 9, 2012

Phil Tydingco
Chief Deputy Attorney General
Office of the Attorney General
Hagatna, Guam
Email: philtydingco@hotmail.com

Dear Mr. Tydingco:

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E-mail: senatordrodriguez@gmail.com

Subject: Mark-up Meeting for Bill 437-31(COR)

From: Clifton Herbert (cherbert.senatorrodriguez@gmail.com)

To: senator@senatorpalacios.com; aline4families@gmail.com; senbenp@guam.net; senadotbjcruz@gmail.com; duenasenator@gmail.com; senatorrodriguez@gmail.com; senatorsam@senatormabini.com; frank.blasjr@gmail.com; judiguthertz@pticom.com; speaker@judiwonpat.com; senatormana@gmail.com; roryforguam@gmail.com; tinamunabarnes@gmail.com; tom@senatorada.org; senatortonyada@guamlegislature.org;

Bcc: rfteehan@yahoo.com;

Date: Thursday, May 10, 2012 7:34 AM

--

Ufisinan Todu Guam
SENATOR DENNIS G. RODRIGUEZ, Jr.
I Mina'trentai Unu Na Liheslaturan Guåhan
CHAIRMAN, COMMITTEE ON HEALTH & HUMAN SERVICES,
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May 10, 2012

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Clifton Herbert <cherbert.senatorrodriguez@gmail.com>

Mark-up Meeting for Bill 437-31(COR)

4 messages

Clifton Herbert <cherbert.senatorrodriguez@gmail.com>

Thu, May 10, 2012 at 7:34 AM

To: "Adolpho B. Palacios" <senator@senatorpalacios.com>, Aline Yamashita <aline4families@gmail.com>, Ben Pangelinan <senbenp@guam.net>, Benjamin JF Cruz <senadotbjcruz@gmail.com>, Chris Duenas <duenasenator@gmail.com>, "Dennis Rodriguez Jr." <senatorrodriguez@gmail.com>, "Dr. Sam Mabini" <senatorsam@senatormabini.com>, "Frank Blas Jr." <frank.blasjr@gmail.com>, Judi Guthertz <judiguthertz@pticom.com>, Judi Won Pat <speaker@judiwonpat.com>, Mana Silva Taijeron <senatormana@gmail.com>, "Rory J. Respicio" <roryforguam@gmail.com>, Tina Muna Barnes <tinamunabarnes@gmail.com>, Tom Ada <tom@senatorada.org>, Tony Ada <senatorTonyada@guamlegislature.org>

Bcc: Joseph Mesngon <jmesngon.senatorrodriguez@gmail.com>, ron teeahan <rteeahan@yahoo.com>

--

Ufsinan Todu Guam
SENATOR DENNIS G. RODRIGUEZ, Jr.
I Mina'trentai Unu Na Liheslaturan Guåhan
CHAIRMAN, COMMITTEE ON HEALTH & HUMAN SERVICES,
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Clifton Herbert

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Tom Ada <tom@senatorada.org>
To: Clifton Herbert <cherbert.senatordrodriguez@gmail.com>

Fri, May 11, 2012 at 9:12 AM

Please find attached an amendment to Section 7 of Bill 437-31.

Tom Ada

[Quoted text hidden]

 **SBill 437-31-Amndmt.doc**
29K

Clifton Herbert <cherbert.senatorrodriguez@gmail.com>
To: Tom Ada <tom@senatorada.org>

Fri, May 11, 2012 at 9:54 AM

Senator Ada,

Amendment has been received.

Best Regards,
Clifton
[Quoted text hidden]

Clifton Herbert <cherbert.senatorrodriguez@gmail.com>
To: ron teeahan <rteeahan@yahoo.com>, Joseph Mesngon <jmesngon.senatorrodriguez@gmail.com>

Fri, May 11, 2012 at 9:55 AM

[Quoted text hidden]

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2012 JUL 17 11:04 AM

I MINA'TRENTAI UNU NA LIHESLATURAN GUAHAN
2012 (SECOND) Regular Session

Bill No. 437 -31 (COR)

Introduced by:

J.P. Guthertz, DPA
Aline A. Yamashita, Ph.D. *ay*
Rory J. Respicio *rr*

J. Mabini

A. B. Alarcos, Sr. ~~AB~~
C. M. Duenas, Sr.

AN ACT TO AUTHORIZE TAX CREDITS TO THE
AWARDEE OF A CONTRACT FOR REHABILITATION
AND RENOVATION OF PUBLIC SCHOOLS.

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 **Section 1. Legislative Findings and Intent.** The present condition of
3 the Guam public schools is in a deplorable condition which creates an un-
4 conducive environment that hinders learning and the work and production
5 of the teachers and the students.

6 The government has available certain funds from the American
7 Reinvestment and Recovery Act ("ARRA"), which is approximately
8 \$60,000,000.00. The Department of Education estimates the cost of the
9 renovation, rebuilding and rehabilitation of the Guam public schools to be

1 about \$139,000,000.00. This leaves a government shortfall of approximately
2 \$79,000,000.00.

3 *I Liheslaturan Guahan* finds that the government of Guam is
4 financially strapped and obligated to provide essential services for all the
5 people of Guam. The government is unlikely to afford payments for
6 renovation and rehabilitation of the schools. It is therefore the intent of *I*
7 *Liheslaturan Guahan* to leverage and utilize the government's ability to issue
8 tax credits, tax rebates, and tax offsets to an Awardee of a contract willing
9 to provide financing for the renovation and rehabilitation work on the
10 schools.

11 **Section 2. Definitions.** The following definitions shall be used for
12 the purposes of this act.

13 (a) "*Government of Guam*" shall mean the government of Guam, its
14 agencies, departments, divisions, and departments.

15 (c) "*Awardee*" shall mean the party who will be selected by the Guam
16 Economic Development Authority to provide financing and to perform
17 renovation and rehabilitation.

18 **Section 3. Lease/Lease-back.** To take advantage of alternative
19 financing under the Internal Revenue Code, the government shall have the
20 option and right to lease the schools to the Awardee and lease-back the
21 schools from the Awardee. The terms and conditions of the lease/lease-

1 back shall be negotiated between the parties, which may include
2 maintenance of the schools.

3 **Section 3. Payment of Expenses.** In lieu of any cash payment from
4 the Government of Guam to the Awardee for financing, renovation,
5 rehabilitation, and maintenance expenses, the government is authorized to
6 issue tax credits, and alternative financing. The tax credits authorized
7 under this Act shall be subject to bond counsel approval. The tax credit
8 permitted shall be as follows:

9 (a) The Awardee may utilize tax credits for the payments due to
10 the Awardee from the Government. The tax credits shall be applied
11 against taxes due under the Business Privilege Tax Law (namely, 11 GCA
12 Chapter 26, which shall include business privilege tax, alcoholic beverage
13 tax, liquid fuel tax, automotive surcharges, and tobacco tax), the excise tax
14 on transient lodging and occupants as found in 11 GCA Chapter 30, and all
15 real property taxes.

16 (b) The authorization of the Awardee to off-set or credit may be
17 applied by the Awardee against any amount owed to the government of
18 Guam.

19 (c) The parties or persons entitled to use the rights of off-set and
20 credits as set forth in this law shall be as follows:

21 i. If the Awardee is a corporation, then the Awardee and

1 any shareholder owning or holding a minimum of five percent
2 (5%) in the corporation shall also have the right to use the
3 rights of off-set and credits.

4 ii. If the Awardee is a partnership, then all the partners
5 shall have the right to use the rights of off-set and credits. If a
6 partner is a corporation, then the rights as set forth above
7 concerning corporations shall apply to the corporation and its
8 shareholders.

9 iii. If the Awardee is a person or persons, then such rights
10 shall apply to a person or persons.

11 (d) The tax credit authorized herein shall be freely assignable and
12 transferable, in whole or in part, to any party, company, partnership or
13 corporation. The assignment and transfer may be by gift or may be for
14 legal consideration. Any assignment and/or transfer shall be in writing,
15 notarized, and an original thereof shall be filed with GEDA, with a copy to
16 the Department of Revenue and Taxation.

17
18 Section 4. Existing Bids/Offers/RFP's. All existing bids, offers or
19 request for proposals for the financing, renovation, rehabilitation, and
20 maintenance expenses of the Guam public schools which involve the use of
21 ARRA funds are hereby terminated and cancelled. GEDA shall start a new

1 procurement process providing payments by tax credits to the Awardee.

2

3 **Section 5. Procedure for GEDA.** GEDA shall immediately proceed
4 with the procurement processes necessary to accomplish the financing,
5 rehabilitation, renovation and maintenance of Guam's public schools using
6 ARRA funds and payments to the Awardee by tax credits. GEDA shall:

7 (a) Consolidate and use the remaining funds from the American
8 Recovery and Reinvestment Act (ARRA) and the financing by the
9 Awardee to accomplish said renovation, rehabilitation and
10 maintenance.

11 (b) Within fifteen (15) days of the enactment of this Act, issue a
12 Request for Proposals (RFP) relative to the needed financing,
13 rehabilitation, renovation and maintenance of the Guam public
14 schools.

15 i. Any proposal submitted by offeror(s) must be received
16 by GEDA by no later than fifteen (15) calendar days
17 after the announcement and publication of the Request
18 for Proposals, whereupon the process must be closed.

19 ii. The proposal must allow financing of the work and
20 costs of the Awardee over a period of 30 years.
21 Payments of the principal and interest due to the

1 Awardee shall be annually.

2 iii. The review, selection and award of contract process
3 shall be completed within fifteen (15) calendar days.

4 **Section 6. Report.** The Guam Economic Development Agency
5 (GEDA) shall submit an annual report to I Liheslaturan Guahan detailing
6 the impact of this Act on the various taxes, until the amount of the tax
7 credit is fully exhausted

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