



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 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


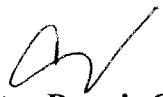
Dear Speaker Won Pat:

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



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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					4/27/12	
ALINE A. YAMASHITA, Ph.D.						
SAM MABINI, Ph.D.					4/24/12	
MANA SILVA TAIJERON					4/24/12	
CHRISTOPHER M. DUENAS					4/24/12	



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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 Augustin 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 it's 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 it's 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 it's 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 it's 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 FEB 7 10:14

Bill No. 437 -31 (COR)

Introduced by:

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

J. Malsini

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.

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.

-0-



SENATOR DENNIS G. RODRIGUEZ, Jr., Chairman
COMMITTEE ON HEALTH & HUMAN SERVICES, ECONOMIC DEVELOPMENT,
SENIOR CITIZENS AND ELECTION REFORM
Mina'trentai Unu Na Liheslaturan Guåhan • 31st Guam Legislature

PUBLIC HEARING DATE / TIME: Tuesday, March 27, 2012

1:30pm

- **AGENDA ITEM:** 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*)

PRINT NAME	SIGNATURE	AGENCY or ORGANIZATION	ORAL TESTIMONY	WRITTEN TESTIMONY	IN FAVOR	OPPOSE	CONTACT NUMBERS
Karl Pangolinan		GEDA	✓	✓	✓		647-4332
Phil Tydingco		AG'S OFFICE	✓				475-3324
<i>None follows</i>							



EDDIE BAZA CALVO
GOVERNOR
MARA LAHEN GUAHAN
PAY TENGROG
DEPUTY GOVERNOR
I SEGUNDO NA MARA LAHEN 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>; <rftteehan@yahoo.com>; <mtorres@gmail.com>

Cc: Lenny Rapadas<lrapadas@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 ⁴³¹431, 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 Liheslaturan 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
Wan

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 96932EDDIE BAZA CALVO
GOVERNORRAY TENORIO
LIEUTENANT GOVERNORJOHN A. RIOS
DIRECTORSTEPHEN 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: _____

Handwritten initials/signature

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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Senator
Rory J. Respicio
CHAIRPERSON
MAJORITY LEADER

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Judith P. Guthertz
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MAJORITY MEMBERS:

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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.

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

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 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)

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 2:44 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

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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


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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 Guahan's* Public Hearing Room in Hagåtña, on the following:

1:30PM

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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 Tajeron <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,

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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

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2 attachments

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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
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

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1:30PM

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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**
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Clifton Herbert <cherbert.senatorrodriguez@gmail.com>

Thu, Mar 22, 2012 at 10:24
AM

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Bcc: jmesngon.senatorrodriguez@gmail.com

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

Hafa Adai Newsrooms!

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Sincerely,

[Quoted text hidden]

2 attachments

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SENATOR DENNIS G. RODRIGUEZ, JR.

Chairman,
Committee on
Health & Human
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Member,
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Appropriations,
Taxation,
Public Debt, Banking,
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)*
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III. Adjournment / Recess

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