

SENATOR BENJAMIN J.F. CRUZ, VICE SPEAKER
Chairman, Committee on General Government Operations
and Cultural Affairs
Web Address: www.senatorbjcruz.com



IMINA TRENTAI DOS NA LIHESLATURAN GUAHAN
The 32nd Guam Legislature • senator@senatorbjcruz.com
155 Hesler Place, Hagatna, Guam 96910
Telephone: (671) 477-25201 • Fax: (671) 477-2522

JAN 24 2014

The Honorable Judith T. Won Pat
Speaker
I Mina' Trentai Dos Na Liheslaturan Guahan
32nd Guam Legislature
155 Hesler Place
Hagatna, Guam 96910

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

RE: **Committee Report on Bill No. 237-32 (COR)**


Dear Speaker Won Pat:

Transmitted herewith is the Report of the Committee on General Government Operations and Cultural Affairs on Bill No. 237-32 (COR) - J.T. Won Pat, Ed.D. / A.A. Yamashita, Ph.D. - An act to amend subsection 12107(c)(4), subsection 12107(f) and subsection 12107(g) of Chapter 12, Title 17, Guam Code Annotated, relative to the Guam Academy Charter School Act of 2009.

Committee votes are as follows:

 1 TO DO PASS
 TO NOT PASS
 5 TO REPORT OUT ONLY
 TO ABSTAIN
 TO PLACE IN INACTIVE FILE

Sincerely,


BENJAMIN J.F. CRUZ
Chairperson

2014 JAN 24 PM 2:51 M



COMMITTEE REPORT

Bill No. 237-32 (COR)

**An act to amend subsection 12107(c)(4),
subsection 12107(f) and subsection
12107(g) of Chapter 12, Title 17, Guam
Code Annotated, relative to the Guam
Academy Charter School Act of 2009.**



JAN 23 2014

MEMORANDUM

TO: All Members

FROM: Vice Speaker Benjamin J.F. Cruz
Committee on General Government Operations and Cultural Affairs

SUBJECT: Committee Report on Bill No. 237-32 (COR)

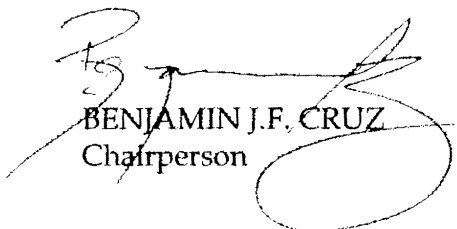
Transmitted herewith for your consideration is the Committee Report on Bill No. 237-32 (COR) - J.T. Won Pat, Ed.D. / A.A. Yamashita, Ph.D. - An act to amend subsection 12107(c)(4), subsection 12107(f) and subsection 12107(g) of Chapter 12, Title 17, Guam Code Annotated, relative to the Guam Academy Charter School Act of 2009.

This report includes the following:

- Committee Vote Sheet
- Committee Report Digest
- Bill No. 237-32 (COR), as Introduced
- Public Hearing Sign-in Sheet
- Copies of Submitted Testimony & Supporting Documents
- COR Referral of Bill No. 237-32 (COR)
- Fiscal Note Requirement
- Notices of Public Hearing
- Public Hearing Agenda
- Related News Reports

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.

Sincerely,


BENJAMIN J.F. CRUZ
Chairperson



COMMITTEE VOTING SHEET

Bill No. 237-32 (COR) - J.T. Won Pat, Ed.D. / A.A. Yamashita, Ph.D. - An act to amend subsection 12107(c)(4), subsection 12107(f) and subsection 12107(g) of Chapter 12, Title 17, Guam Code Annotated, relative to the Guam Academy Charter School Act of 2009.

| COMMITTEE MEMBERS | SIGNATURE | TO DO PASS | TO NOT PASS | TO REPORT OUT ONLY | TO ABSTAIN | TO PLACE IN INACTIVE FILE |
|---|-----------|--------------|-------------|--------------------|------------|---------------------------|
| CRUZ, BENJAMIN J.F. Chairperson | | | | ✓ | | |
| MUÑA BARNES, TINA ROSE Vice-Chairperson | | | | ✓ | | |
| WON PAT, JUDITH T. Speaker and Ex-Officio Member | | ✓ 1-29-14 | | | | |
| ADA, THOMAS C. Member | | | | | | |
| PANGELINAN, C. VICENTE Member | | | | | | |
| RESPICIO, RORY J. Member | | ✓ 1-24-14 | | | | |
| RODRIGUEZ, DENNIS G. JR. Member | | | | ✓ 1/23 | | |
| SAN NICOLAS, MICHAEL, F.Q. Member | | | | ✓ | | |
| AGUON, Jr., FRANK B. Member | | | | ✓ | | |
| ADA, V. ANTHONY Member | | | | | | |
| Morrison, Thomas Member | | | | | | |
| McCreadie, Brant Member | | | | | | |
| YAMASHITA, ALINE Member | | | | | | |



COMMITTEE REPORT DIGEST

I. OVERVIEW

Bill No. 237-32 (COR) was introduced by J.T. Won Pat, Ed.D. / A.A. Yamashita, Ph.D. on December 13, 2013, and subsequently referred to the Committee on General Government Operations and Cultural Affairs on December 16, 2013.

The **Committee on General Government Operations and Cultural Affairs** convened a public hearing on Thursday, December 26, 2013, at 10:30AM in the Public Hearing Room of *I Liheslatura*. Among the items on the agenda was Bill No. 237-32 (COR) - J.T. Won Pat, Ed.D. / A.A. Yamashita, Ph.D. - An act to amend subsection 12107(c)(4), subsection 12107(f) and subsection 12107(g) of Chapter 12, Title 17, Guam Code Annotated, relative to the Guam Academy Charter School Act of 2009.

The public hearing for Bill No. 237-32 (COR) began at 11:13AM and ended at 1:09PM.

Public Notice Requirements

All legal requirements for public notices were met, with requests for publication sent to all media and all Senators on December 18, 2013, and December 24, 2013, via email. Copies of the hearing notices are appended to the report.

Senators Present

Senator Tina R. Muña Barnes, *Acting Chairperson*
Senator Tommy Morrison, *Member*
Senator Rory J. Respicio, *Member*
Senator Frank A. Aguon, Jr., *Member*
Senator Thomas C. Ada, *Member*
Senator Michael F.Q. San Nicolas, *Member*
Senator V. Anthony Ada, *Member*
Senator Aline Y. Yamashita, Ed.D., *Member*
Senator Dennis G. Rodriguez, *Member*
Senator Michael Limtiaco, *Member*

Oral Testimony

Matthew Kane, Chairman, Board of Trustees, Guahan Academy Charter School (GACS)
Senator George Bamba, Secretary Treasurer, GACS
Rebecca Warfield, Parent of a GACS student
Joanne Messier, Parent of a GACS student
Daniel Sommerfleck, Legal Counsel, GACS
Phil Tydingco, Deputy Attorney General
Dr. Rose Salas Palomo, Chairwoman, GACS Council

Written Testimony

Matthew Kane, Chairman, Board of Trustees, Guahan Academy Charter School
Claudia S. Acfalle, Chief Procurement Officer, General Services Agency

II. TESTIMONY & DISCUSSION

Acting Chairwoman Tina R. Muña Barnes announced Bill No. 237-32 (COR) and acknowledged individuals who signed up to present oral testimony.

Senator Aline Y. Yamashita, Ed.D., the bill's co-sponsor, read **Speaker Judith T. Won Pat's** sponsor statement into the record:

"Håfa Adai Acting Chairperson Barnes. Thank you for hearing Bill No. 237-32 (COR). I apologize, because I am currently off-island and will not be able to attend the public hearing. Here is a brief statement about the intent behind Bill No. 237-32 (COR). Senator Yamashita and I introduced this bill to clarify the intent of the legislation that created the Guam Charter School Law. It was never the intention of the Legislature to render the government's procurement statute inapplicable to charter schools. Thus, we are disappointed in the Attorney General's recent interpretation that the procurement statute does not apply to charter schools. The AG is correct in stating that the charter school statute upholds the value of 'flexibility' for charter schools. However, that flexibility was never intended to allow such schools, which receive and use public funds, to circumvent the longstanding governmental policy regarding the expenditure of public monies. Rather, that flexibility was only intended to be applied to educational curricula and methodology. This means that charter schools on Guam enjoy the flexibility that marks all charter schools, which allows for innovation in the classroom. The AG's opinion stretches the statutory language too far by applying this flexibility to how charter schools spend public funds. The language in Section 12107(c)(4) does not explicitly express that charter schools are independent from the Government of Guam's procurement law. Since the original intent of the charter school law was misinterpreted, we are amending the law to clearly state that charter schools must follow the government's procurement statute. Thank you for your time and kind consideration. Senseramente, Judith T. Won Pat, Ed.D., Speaker, 32nd Guam Legislature."

Senator Yamashita continued with her comments as co-sponsor of the bill:

"Since then, since the bill has been measured, of course, the conversations continue. And we certainly do appreciate how [Daniel] Sommerfleck (legal counsel for Guahan Academy Charter School) raised what the current statute says and we certainly appreciate what the Office of the Attorney General had forwarded to us because it really does help us focus in on the issues and make statutes clear and more meaningful. I will also state that since then we have also come to the agreement, at the Speaker's office and the Families First office, that what we really want to do is have the charter school procurement process be on par with the process that the Guam Department of Education is expected to

adhere to. GDOE has their own procurement office, their own processes. So we will be looking toward deliberating on the floor with the other senators about giving charter schools that same type of rights and responsibilities. And we thank everyone for coming and we look forward to hearing your thoughts. Thank you, Madame [Chair].”

Chairwoman Barnes thanked Senator Yamashita and invited Deputy Attorney General Phil Tydingco, Office of the Attorney General, to present his oral testimony.

Attorney Phil Tydingco greeted the the Committee and began his testimony:

“As you can imagine some interpretations, we examined the law to see whether it provides the requirement of the issue that was asked of us. In the absence of the expressed restrictions, that’s how we came up with the opinion, especially in the context of how we understood the intent. Assuming that we were mistaken, that was not the intent. Our position on this proposed bill is this: it’s kind of a policy question of whether to include or not include the requirement that the charter schools be subjected to the procurement law is that even in the context of the intent to be flexible that if you are going to require the charter schools to be subject to procurement law – which is fine because you need to strike a balance between accountability and public funds as well as giving the independence and the flexibility for this curriculum to evolve and develop and help the children of those types of schools. We would respectfully urge you, if you decide to go this way, that you also add the [American Recovery and Reinvestment Act of 2009] expedited protest procurement procedure so that, you know as a single entity, unlike DOE which is a larger entity, they don’t get bogged down. As you know, our office has always advocated for the expedited protest procurement procedures. Even across the board, [in] fact, we actually advocate for... There shouldn’t even be a judicial process; just end it at the OPA level, because the government in the end gets bogged down by the litigation. It’s a protest-rich environment now for the last two to three years now. It’s much more frequent. Or you could again require without even subjecting the charter schools to... These are just suggestion to the procurement law, some stringent audit requirements. To present before their counsel as well as to this body if accountability of funds is your intent here. Again, we are not taking a position whether they should be subject to it; it’s just our understanding and the context of that. If we are mistaken, again it was done from a purely legal construction of it. We always look for some express authority or restriction. So that’s basically just our input here.”

Chairwoman Barnes thanked Mr. Tydingco and called on the next individual.

Matthew Kane introduced himself and read testimony on behalf of the Board of Trustees of the Guahan Academy Charter School (*letter is appended to this report*).

Chairwoman Barnes thanked Mr. Kane and called on George Bamba, former senator.

Senator George Bamba greeted the Committee and began his statement:

"Back when I was working with the Speaker Won Pat and developing this idea of the charter school, it would be the first one that would be established in Guam and hopefully be a model for public school systems throughout the islands, the different island entities or island current. They are looking to Guam to see how the first charter school in any territory is going to function, whether it would provide a different approach, which was what we had envisioned it to do, to the education of our children. We all share the same goal, and that's to give our children the best education possible that we could. After all, they're the future. It's not us. It's up to us to be able to give them the tools to ensure that their future is secure.

"In doing a lot of research prior to the introduction of the bill, I did a lot of research with respect to charter schools as they operated on the mainland, because it was clear that charter schools were making a difference in the Continental U.S., and there are now over 46,000 charter schools, and that federal funding for charter schools has almost tripled under the Obama administration. If it were failing the students in any way, then I don't think you would have those results. Here in Guam, it was a time when the Guam Department of Education was really crumbling.

"The superintendents was I think at one every...U.S. DOE September said, 'We are suspending your grant. You think you can get your act together?' You know DOE? Schools were falling apart, and they still are. Teachers, having to use their own funds to buy school supplies so that they can adequately teach the children that they're supposed to teach. What did that entail? What did that show? If there's anything, it showed a clear dysfunction in the system. Putting a charter school, which is an entirely different concept, although it is to educate public children that cannot get the kind of private education that is being offered here in Guam. Whether it's at Father Duenas, whether it's at Academy, whether it's at Notre Dame or Harvest or St. John's, they couldn't. But here we have the opportunity to make paradigm shift in the education of our children, at least to give them the opportunity to succeed in life, to have their own dreams come true.

"We knew that there were going to be challenges. This was a new concept for Guam and for the Department of Education. It's no longer going to be business as usual. For one, I would certainly oppose bringing the procurement activity of the charter school under DOE's procurement, especially in the light of what has been constantly occurring throughout the years. Just recently 100 computers were simply lost, and all they could say was, 'Oops.' It fell through the cracks. A charter school is supposed to be able to provide a learning and teaching experience to children and to students who are not only deserving of it, but are entitled to it."

Senator Yamashita interrupted:

"Madame Chair, may I, please? Thank you. Senator, I want to clarify, because I think it's already being misunderstood what I said. What I said is that we, in the bill that was introduced, we are looking to ensure that there's language that doesn't put you under DOE procurement, but allows you to have the same structure as DOE procurement currently. So we're not looking to put you under DOE procurement. [...] I, also, as we've been listening, there's nothing in this to take away from the charter school authority. I know we're having an oversight in January and I know that we'll go more into these issues. Again, you're all pointing at the bill that's introduced. We have since then been talking about the way it really needs to be focused. Thank you, Madame Chair."

Senator Bamba continued:

"Senator, with all due respect, even Section 2 [of Bill No. 237-32 (COR)], where you delete the word 'exclusive'. That's to be the law, current law, present law, should be a mandate to delete 'exclusive', which takes away the autonomy of a charter school. It leads me, begs the question as to why? We are following the procurement when we were still soliciting for location, there were bits that were..."

Senator Yamashita interjected:

"You see, Senator. The reason why we don't know that is because you chose not to speak to us the last time."

Senator Bamba apologized.

Chairwoman Barnes requested that Senator Bamba and Senator Yamashita limit their comments to the bill and its intent.

Senator Bamba continued his testimony:

"Okay, well first of all, it goes without saying that I'm opposed to the bill. That's all, and for the very reasons or examples that I stated. As far as the procurement, I am the Treasurer. As a trustee, I'm also the Secretary Treasurer. It's part of my judiciary duties to ensure that the procurement, any procurement, follows the procurement procedures even of the government of Guam. There will be bits of it. There is no, and it's been stated that aptly. I'm kind of puzzled as to why."

Senator Yamashita responded:

"Senator Bamba, when you were with us the first time, we wholeheartedly welcomed you. We are very glad you are with GACS, because we do know that you would be a huge asset to the success of charter school and its progress."

Chairwoman Barnes thanked Senator Bamba and called on Rebecca Warfield to speak.

Rebecca Warfield stood in front of the Committee, wrote the words "I want to help you, but..." on the easel pad, and began her testimony:

"This is what I have heard for the last few months as a parent: 'I want to help you, but...' The proposed changes that you want to make to the law, the loss of the word 'exclusive', the application or the striking through of the word 'statute' in G under section two [of Bill No. 237-32 (COR)], allowing the charter schools to exercise exclusive control leads to this. 'I want to help you, but...' This is a hurdle to the provision of services to children.

"My older son is special needs. He was at Untalan [Middle School], and for a year and a half I could not get assistive technology for him. I could not get assistive technology for him until I went to two sessions at a hotel sponsored by a non-profit group that educated me about the law and how I should handle the Individualized Education Program (IEP) meetings so that I could demand what his rights and my rights as a parent, so that I could get what was due him under the law, trying to get that from GDOE. I sat in an IEP, and the therapy provider told me, 'I will not agree to provide this therapy to your child. I will not agree to put this in his IEP, because if I put this in his IEP, I will be required to provide the service. I want to help you, but...'

"When my son went to Untalan, he was reading at his grade level. When my son left Untalan and went to the charter school, he was reading at a third grade reading level. He spent two years at Untalan and he went from what? A fifth grade reading level to a third grade reading level. That's what happened in two years.

"He went to the charter school, and he's been there since August. August, September, October, December. He has his assistive technology. He's reading at a seventh-grade reading level. He's in the eighth grade, but now he's reading at a seventh-grade reading level, so by the end of the school year he should be reading at an eighth-grade reading level. He's jumped fourth grade, fifth grade, sixth grade, seventh grade in a couple of months.

"The charter school did not tell me, 'I want to help you, but...' They got it done. They got that computer for him. They did a special program for him. They got him everything that they needed, and they did it chop chop. There was no, 'I want to help you, but...'

"Now, my other son is very advanced. He had gone to Bishop. Idle mind is the devil's workshop. I went in and I told them earlier in the year, 'You've got to watch out for this one.' He reads the books that I read for myself. Maybe two weeks ago I get this note from the teacher. 'Your son has lost all of his color cards for the week.' That's a bad thing. 'He is consistently talking and he's throwing paper at the other children.' I had had a talk with him earlier. 'Your education is your responsibility. If you're not being challenged, you need to let the teacher

know.' If the teacher doesn't respond, then it's time for me to step in. But I signed the paper. I wrote a note to the teacher letting her know, 'Idle mind is the devil's workshop.' I left my email and my phone number on the note.

"Teacher calls me the exact same day. 'Let's see what we can do.' She says, 'Why don't you and Price work out a reading list?' Price and I will go over that reading list, and we will pick books from that reading list that are appropriate for him. I will pull him out twice a week so that he can do special reports and stuff on this book. The book he's reading now is *Bourne Identity* or something like that, and Price is in the sixth grade. The school got those books for him. It wasn't, 'I want to help you, but...' It's, 'I'm going to help your child right now.' With the expenditure authority that they have, they're able to do it. They're able to do it right now. There is no, 'I want to help you, but...'

"When I first heard about this law and the proposals, I'm suspicious. I'm like, 'Whoa, whoa. Something must be going wrong at this school. There must be some malfeasance. They must be doing something funny with the money. There must be some misappropriation going on.' So I started digging. I started looking at the letters that the DOE was sending to the school. What are they asking for? I was like, 'What's the Senate asking for?' I looked at some of the stuff, and I'm, 'What are they asking for?' Any document or record. In legal terms, that's called arbitrary and capricious. Arbitrary and capricious, and that's not lawful. That's called a fishing expedition. That's what that's called under the law. If there were no allegations of malfeasance, there were no allegations of misappropriation.

"Then they said, 'We can come and look at everything you've got. Your emails, your text messages, your classroom, your employee records, and all we've got to do is give you two days' notice for that.' But there were no accusations of malfeasance. There were no accusations of misappropriation. I didn't understand that. Then I looked at the law. So I looked at the enacting statute. Then I looked at the charter. When I looked at the enacting statute for the charter school, I realized that the charter school held itself to a higher standard than the enacting statute did. The school holds itself to a higher standard than the Legislature does. So the school is policing itself more strictly than the Legislature requires, and there are no accusations of malfeasance or appropriation. The letters from the Department of Education are arbitrary and capricious, which are unlawful. I'm not really understanding what's going on here as a parent.

"In the middle of all of this we're going to get evicted from our facility. Okay. So what's the goal here? What's the goal of the charter school? Student goals. Executive branch goals. Legislative goals. Parent goals. Charter school concept goals. What's the goal? The goal is autonomous efficient ethical quality education. That's the goal. From what I've seen, those goals have not been compromised. Those goals have not been compromised.

“What this legislation is doing is putting more hands in the cookie jar. You’re putting the budgeting office hand in the cookie jar, DOE’s hand in the cookie jar, the Charter School Council hand in the cookie jar, the Legislature hand in the cookie jar, the AG hand in the cookie jar, the governor’s hand in the cookie jar. Where’s the charter school hand in the cookie jar? And nobody even knows what kind of cookies are in the cookie jar.

“Let me explain to you how I figured that out. During this lease process, during this lease process, no branch of government has been able to answer this one question. Excuse me, but we’ve been served with an eviction notice. The property on which this charter school sits, is that property covered under an existing lease that controls Untalan and the police department? Because if it controlled by that existing lease, our eviction notice is improper, or Untalan and the police department should be getting eviction notices also.

“No branch of government has been able to answer that question, and we’re almost to the 31st [of the month]. That is the mire. That is where you are moving this school when you take out those words ‘exclusivity’ and you slash through that word eliminating this school from the statute. That’s what it looks like. You’re taking away my son’s assistive technology when you slash through those words. You’re taking away my child’s ability to go from a third-grade reading level to a seventh-grade reading level in a few months. That’s what it looks like. That’s what you’re doing.

“It’s not about politics. It’s about people. You weren’t there at that emergency meeting watching grown men cry. When I met with the AG Lenny Rapadas, when we were in that hot sun and he sent two of his assistants down to meet with us and he asked for Mr. Taimanglo, the head of the PTO, and he asked for me, I said, ‘I’m not going without the rest of these parents. They’ve been standing in the hot sun for hours. I’m not going if they can’t go, because I’m not going to sell them a bill of goods. You need to see their faces. You need to see their tears.’

“Grown, burly men crying, not knowing what to tell their children. We went up there, and he had to look in their faces. We got to ask them questions. There were no answers. The only answer was this. ‘I want to help you, but...’ We spoke with the Governor’s office. ‘We’re supporters of you. We want to help you, but...’ The more hands that are in the cookie jar, the less happens for our children. That’s the problem with this legislation.

“Really, what you’ve carved out here is the beginning of a plan. What needs to happen here is the strengthening of the Charter School Council. Your legislation is incomplete in that manner. Now, once again, I’m a simple woman and I don’t know a whole lot about this stuff, so I go and I look at people and places that have done it. The way charter schools are held to task is by their charter school

contract; not by regulations and statutes and all that kind of stuff by other agencies. This is what controls. You have your Charter School Council look at this document, evaluate this document, and hold your school to task on this document. Part of the issue is your council hasn't issued any rules and regulations. They haven't promulgated any. What the charter school had to do was generate its own based on national standards and resource centers, because this school is mentored by the National Resource Center. They want to do it right.

"The stuff that's in here, their audit procedures, their software procedures, all that stuff, it's up to the national standard, because I looked to see, because these are my children. I don't want to trust my children to know fools. I'm foolish enough. They're up to the national standards, but your council is not. It's not politics, and that's the thing. You guys can't oversee it, because you're a legislative body. The AG can't do it, because it's a litigation body. They do legal opinions. That's not their job either. It's not the Department of Education's job to do it, because this is supposed to be separate. That's a conflict of interest. When you put them under DOE, that's a conflict of interest. They didn't even forward to you the full budget for the charter school.

"Our children are getting less per head than all the other children in the public schools. You see how we need to be separate for things to be ethical and complete and effective and swift. When you take out these words, you're literally affecting the ability of the school to perform.

"Now, I have something for you to look at here. Every jurisdiction does it a little different. If you're worried about accountability, transparency, consistency, reliability, I'm just going to walk past you guys with this. This is from Texas. This table of contents from how Texas does things, their rules and regulations, it governs everything from how a charter school is supposed to handle its debt, how it's supposed to enter into contracts, everything. Everything that a council should look at when it's evaluating that charter school contract.

"That's where your strengths should lie. Not in this dabbling with the litigation. It's the rules and regulations that are promulgated by your Charter School Council, because they're the hands on body that will ultimately govern all of your charter schools. Because right now you've got one, and it's functioning well. There's not malfeasance. There's no misappropriation. We see what's happening with all the hands in the cookie jar in this lease issue. That's just one issue.

"Regulation versus oversight. If you have proper regulation, you've got proper oversight. You don't do that by meddling with the legislation. All of our goals should be ethical autonomous outcome-based education, and that's derived from your service, your charter school service plan. Thank you for your time."

Chairwoman Barnes thanked Attorney Warfield and called on Joanne Messier.

Joanne Messier began her testimony:

"Senator Yamashita, you relayed to us that you weren't trying to get DOE involved. You were just trying to get a procurement procedure in place. What I wanted to say was, in the first part of it, subjecting us to Chapter 5, Title 5 of the GCA, we don't need that. You don't need to put that in the bill, because in section 12105 in Title 17, Chapter 12 GCA, it addresses that. So it's already addressed by saying that, 'A description of the proposed rules and policies for the operation of the proposed Academy Charter School needs to be submitted in the petition of the charter school.'

"It also says that, 'A description to conduct annual audits and everything need.' This is what you would find. This is what you would adjust. We don't have to regulate law. We don't have to change the statute.

"Then on Section (f), the Academy Charter School shall exercise, according to Chapter 5, Title 5, independent of the Guam DOE. Same thing. It's already addressed in that charter. The fact that it shall be exempt, I think nothing needs to change there, because that little caveat at the bottom: 'Except as otherwise provided in the Academy's charter or this Chapter.' That's sort of the regulation that will keep the charter school in line with following procurement procedures and make sure nobody's running away with the piggy bank or doing whatever they think. 'Oh, well no. I don't think kids should be educated this way. They should be educated this way. I'm going to go ahead and do it, and never mind if you guys don't agree with me.' There is the Charter School Council. So I oppose the bill, and I feel that there's really no need to revise it, that if anything you would look at the petition, and the Charter School Council would come to you.

"Just on a side note with the oversight hearing, I don't know if this is the right avenue, but if we had a stronger Charter School Council, you wouldn't have had to do the oversight. You could have got it from them, all the information you needed, because in the petition the charter school should submit everything to the council."

Senator Yamashita interjected again:

"Thank you. First of all, I really do appreciate you all making the time to be here. Madame Chair, I know I'm probably stepping out of line here, but I want to acknowledge the Charter School Council chairwoman who's been sitting very patiently and listening attentive. Rosa Palomo is here. Madame Chair, it needs to be stated that we have always acknowledged that we are here to help her review and strengthen that statute. We already know that the Charter School Council is in need of members. We're trying to process them. Everybody sitting [here] knows how challenging it is to find people to serve, and I'm wondering if

you would like to be on our Charter School Council. You. As representing a mom, I think you'd be great if you had some extra time for yourself. It's finding the people to do it.

"Then secondly, the Charter School Council members all have about two or three other jobs. So to find the time to promulgate the rules and regs, we are aware. I've always stated, Madam, speaking about state of the house, we need an executive director to help this council move forward. We also probably are premature in allowing GACS to operate without a solid stable Charter School Council who, we were right, could have been, should have been doing all of this stuff.

"But now that we're reviewing it, we're in our first charter school. This law was passed, I don't know, four years ago maybe, a few terms ago. It has been a learning process, and it does seem like it could be hurting the children, but believe me. I'm right there with you. What does my son need? I am right there with you. Right now he was just picked up because he has a horrible ear infection, and I'm torn because I should be there taking care of him. I hear you. I hear you.

"You're blessed because your son is now at an eighth-grade reading level. My son is at a third-grade reading level. I hear you. There's nothing that this legislature wants to do to take away learning opportunities so that all kids can excel. If we had this kind of dialog, you're right, we probably wouldn't even be here, but we did not, and it was our responsibility to proceed and to ask. So I am glad you're here and I'm glad you are speaking. That is very important."

"Rosa Palomo, thank you. We will proceed. We have already. Donna Dwiggins has given us... Senator Marilyn Manibusan is in the audience, has given us about 10 pages worth of possible amendments to strengthen. So we have been talking about all of this. I do not want the public to think that this has not been on the table, to think that we have not been supporting and helping, because we have been at all different ways that you can imagine.

"Perhaps we should have never allowed teaching to house you as an incubator. Perhaps that's one of the biggest mistakes I pushed for, because look where we're at, because all those papers weren't signed and delivered. You're right. You were in the hot sun. You chose to go see the AG. All of these efforts to help got us to a place where we didn't have a solid well-developed Charter School Council who does have the oversight, but today this legislature is trying to do what it can to learn, to solidify, and to keep it moving forward.

"All the conversation about we're not supporting and 'I want to help you, but...' that conjunction is not needed. We are helping you, and I ask you to consider that with all due respect. Again, I know I'm stepping out of line, Madame Chair,

but it's just when it becomes like this, you don't really see the whole picture. Thank you."

Chairwoman Barnes thanked Senator Yamashita and stated for the record that she is inviting Dr. Rosa Palomo to sit in the panel.

Dr. Rosa Palomo greeted each member of the Committee and began her testimony:

"I came here because I wanted to hear what others had to say, and I knew very well in my heart that, of course, the Guahan Academy Charter School will be here to provide testimony. I was right that it would be against the bill, and that is fine, because that's why we have these hearings. We need to, and especially you, the lawmakers, need to hear what the community has to say. I just want to list a couple of, maybe four, if I may call them bullets, references made to the charter school petition revision.

"Just for the record, that is not yet in effect. It was admitted on the first Monday of August of 2013, which is the deadline for submissions for new charter school applications, or petitions as we call them, and revisions as well. The council has yet to act on that simply because of that time. The more urgent issue was the budget and to ensure that the students at the Guahan Academy Charter School had a place to go to the day after September 30th. They have to go back to school.

"We moved forward with the budget, and then since then it's truly been very difficult to get a quorum. I would call for a meeting, but when there's no quorum, the Guahan Academy Charter School [knows full] well that there was one time a meeting was called. We didn't have a quorum, but I had invited them to please come and talk to us about the opening of the school year and any particular issues. They did show up, and we went ahead and heard them speak on what was going on, although it wasn't a meeting, and that was good. That's one thing. The Guahan Academy Charter School speaks to a revised application. That has not yet been approved, and there are some major changes in there, particularly with enrollment.

"The second thing that I would like to point out is that in the law, the current law states that the Charter School Council has monitoring responsibilities. Monitoring, at least as I know monitor, we can monitor, but there really are no consequences attached to if we discover that certain provisions are not being adhered to, whether it's in law or whether it's in their petition. All that we mostly can do as a council is say, 'Hello, we noticed this,' or 'This seems to be happening,' or 'Somebody has called in and said this is happening. What can you tell us about this or explain it?' They can explain it. What can we do short of withdrawing the approval of their charter? Believe me, no one in the Charter School Council wants to go that route. I believe that the group of us are all very adamant believers that we need to resolve the issues before we take that last leap,

which is usually the most detrimental for our students, because we do keep our students in mind.

"I believe it was Attorney Warfield who said that there was less dollars given to the charter school. I don't need to reiterate that with you because I believe you all know the budget goes before you. What you did receive was a letter, possibly a copy of a letter or a reiteration of the comment or the recommendation by the charter school in a letter transmitted from the Board of Education saying that this was the recommendation. No matter what figures we put in there, the legislature has the authority of identifying what figure to give per pupil. We simply recommend, because that is what we are charged to do. There are other things, but I think just your main to the bill, at least to me, and if not, please Madame Chair just tell me that I'm out of order and Ill reserve, but I do have another request after this, is this whole issue of oversight. I believe it's tied in with monitor.

"The council doesn't believe that it has oversight powers, because I think if you have oversight powers, you have teeth. You have definite consequences that can take place and that the council can do that right then and there. We fully recommend a budget. We don't approve a budget. Neither does the Guam Board of Education. It's only when it comes to you and you decide what that budget should be. We take the budget as is. Four or five times I said to the Guahan Academy Charter School, 'Please, this is the figure that we're going to work with.' In the end it didn't matter what the figure was, because we wanted to move it forward, and we did. I felt really bad about that, because I felt like our responsibilities as a council and particularly me as a chair, that I was passing the buck, and I'm not one to pass the buck. We need to nip it before it gets to the next stage, because in the business of education, and I don't believe it's just unique to education, we don't pass the buck. We try to resolve it. We try to nip the issue before we move it forward, because then we keep passing the blame and that's not proper to do.

"The request I want to make is that there are major issues that the council members believe need to be looked at in the law. We have been talking about this. We've mentioned this to the Attorney General's office. We have been in communication with Attorney Pat Mason and Attorney Hap irons. It's just that, and I appreciate the comment that some of us, we wear two or three hats and we don't have someone to work with us or for the council in terms of research. We do everything on our own in addition to all the other stuff that we do that earns us some money. We do need to sit down and look at some of these sections. Both Attorneys Mason and Rons have said to us it is much easier, feasible for them if we sat down and pointed out sections. But really, I think we need to look at the whole law. Instead of doing it piecemeal, which is what the council wishes for, to do a complete review and then go from there. I would really appreciate that, and thank you, Senator Aline [Yamashita].

"It's not going to take place in another month. It's not going to take place in another two months. It's going to take a while, but I believe that if we try and look at these issues, it may be that we just don't understand it or the way it is written. With that clarification from all sides of the table, including the Guahan Academy Charter School and perhaps other prospective applicants, that we might be able to have a document that is less inefficient, if I may use the word, but I use that in a nice way, than it is now so that we are here.

"I also understand that with laws, at least in the way that I have experienced what has been going on now, explicitness is probably far better than the possibility of language that have some possibilities for loopholes. I believe that these possibilities for loopholes are not necessarily intended. That's what I would like to believe. It's just that at that point in time this was the language that seemed most feasible and best, but some of our community members too, and that's what they're educated to do, is to look at these laws, and if there are loopholes, to use those. I certainly do not mind that, because that's how we know that there is a loophole there. Now the job, the next step is to how do we fix this, and explicitness has to be.

"I will end my talk now; I apologize that I did not come with a prepared speech, because I did not intend [to provide testimony]. I really wanted to listen, because that's more my style. I listen. But this particular piece of legislation is to make things more explicit. It does not say anything about the wrong things or the right things that have happened. It only says, because there are questions, and we as a council... My position on the board has been challenged because my term expired, and I had not yet gotten reappointment, but I also know that there was a law that was implemented that states that unless you have been explicitly told, you are no longer to sit on this board or commission, you are still a member of that board or commission, and that was what I used in one of the meetings where some of my other board members' membership into the council were challenged. I believe that this piece of legislation just wants to make things more, if not as explicit as possible for less questionable issues to come about."

Chairwoman Barnes thanked Dr. Palomo and called on Attorney Daniel Sommerfleck.

Attorney Daniel Sommerfleck began his testimony:

"The first thought I want to go over is I had no opportunity to raise anything to this legislative body. If something that was raised by me, I'm unaware of it. I've made no statements before this legislative body. In fact, this legislative body has not allowed me to speak. The last time I appeared I was sworn in and told I couldn't speak. So I haven't raised anything. What I believe is being referred to is a memo I wrote to the charter school, a legal memorandum that looked at the law and said, 'Looking at three or four different sections, it appears very clearly that the intent of the legislation is that charter schools are independent.' They

manage their own procurement subject to the rules and the regulations that they submitted and are approved by the Charter School Council. Very similar to most non-profits in the way they operate.

"I used to run Guam Legal Services for 11 years. I called up my predecessor, Hank Parker, and I said, 'Hey, do you guys still operate on that federal manual 101 that outlines all your procurement and everything?' 'No, we got rid of that.' The funding agency said, 'Look. We want it all in your policies and procedures. We want it inside of your own organization. We want to approve it, and then you go forward.' Exactly what has occurred here. This organization prepared its policies, its procedures. They go before the council. The council approves it. The organization operates under those policies and procedures. Now it's being put forward that the charter school should operate under the procurement rules, 5GCA, Chapter 5, Title 5, Guam Code Annotated. I don't think anyone who has any contact with the government of Guam doesn't dread that exact section. I don't know any agency that says, 'Yippee aye oh. Our procurement policy runs smooth, it runs smooth, and we're able to procure for our agency without difficulty.'

"I'd call your attention to the Department of Education. We have no security lines at our public schools right now because it didn't go through procurement right. We have a controversy right now, I believe, regarding the computer Internet service, that that procurement didn't go through right. How many procurements do we need to see fail? Air conditioning, that's another one. Xerox printers, that's another one. These are all the Department of Education. How does a Department of Education operate without a copy machine? How does any modern education program operate without Internet, without the faster Internet we can provide? It doesn't. That's what the procurement rules are doing currently to our Department of Education, crippling it. We are not able to function. Now, you've heard [from Deputy Attorney General Tydingco]. What he basically put forward to you all is this, 'Why? Why do we need this?' If we do this, let's make sure we do it so that they don't get bound up in court. Let's make sure that we give them the expedited processes. Let's make sure we do this so that we can squeeze through this quicker.

"The advantage and the reason that non-profits were put into play, and have been put into play in this government for a number of years: we can do it quicker, we can do it more economically, and we can provide the service oftentimes better. I've been around public education for 20 years now. I've gone through with both of my children. They've both graduated through the system. My wife, I just noticed is in the back here. She's a public school teacher. I can tell you that public schools, I support 100 percent. There's no grey area in my mind. But I have never attended a meeting at a public school like the one I attended at this charter school, where I heard parents talk about how well their children are doing.

"Yes, I did see burly guys breaking down in tears because of the concern they have for their children, the concern that their children's school, where they were seeing success after not having success, may not be there when this break is over. I've never seen that in a public school. Never. I've been on the PTO boards. I've been involved. I've gone to the meetings. I've never even seen the turnout that I saw at that meeting at a single meeting I've attended. Not a one. [...] Everyone was there. Everyone was there supporting this school.

"My first point to you all is if you put this charter school under the procurement, you've killed it, just like DOE is dying on the vine right now, not being able to procure what they need because of the procurement process. Second of all, you're exposing a non-profit into a governmental system. Who's liable at that point? If the procurement is conducted by DOE, through the procurement officer, and it's botched, who then goes to court? It's not going to be the AGs that are going to court, is it? I assume it's going to be someone working for the charter school paying to defend against the procurement mistake. Is that the intent that all the money goes into lawyers' hands like myself so that we can continue litigating? Now there's not even an AG's office available to defend. Maybe it is, but I can't tell by this legislation. It's not clear.

"Second point I think is very crucial is the academic charter school shall be exempt from the Department of Education. Cross out statutes. Policy rules, regulations, collective bargaining agreements. I would challenge you to look at our statutes on education. How are these going to apply? Most of them provide a general statement and then charge the Board of Education to develop rules and regulations. But if the rules and regulations don't apply, some of these policies, only thing that applies is the definitions. This is bad law. It needs to be clear, each section of this.

"When you talk about a statute, you have statutes in here. I started folding over corners, but I've got half the thing folded over now, because most of the statutes in here talk about a general principle, and then that the superintendent or the school board will develop rules and regulations in which to be administered from. If this applies, that means we're in litigation again, because the statute says, 'Develop these rules and regulations. Here's the general constraint.'

"But then it says, 'We don't have to follow the rules and regulations that are created.' It doesn't lock together. It creates a mess. It creates a tremendous mess. By the way, curriculum is statutory developed by the school board. If by statute it's developed by the school board, did we just lose our autonomy? Does the charter school have any more autonomy if its curriculum is developed?

"School days, developed by the board. What days are in school, what days aren't in school. Is that to be able to be decided by the charter school or, this is a public school, does the school board decide when the school year starts, when

the school year ends? That's why I would put forward to you, when you create legislations like this, cross out, add a word, cross out, add three or four words, you create more nightmares and more headaches and don't solve almost anything.

"If what the legislature is seeking is oversight over the charter school, do a three-sentence bill. The Guam legislature shall have oversight over the charter schools, each and every one of them. That way when you call us in for hearing, I can't get up. Well, I couldn't get up anyway, but if I could get up in front of you, I wouldn't be able to say, 'Laws of Guam don't apply to us,' because that's the way the law is currently written. The statutes don't apply except as it's put forward in the law itself for the charter school law.

"If that's what your concern is, then just make a one-page law that says, '[Charter schools] are subject to our oversight,' but by doing that realize that you've just gutted the law that was already in place, because really who does have oversight is the council. If they ask for a piece of paper and we don't provide it, they can bring us down. They can say, 'Hey, this is grounds.'

"I appreciate very much the position they're in. They don't want to be the ones to say, 'We're putting you on probation. We're now taking away your charter.' They want the charter school to succeed, but you haven't given them the tools to even do that, and this was brought forward.

"The Charter School Council has zero staff. They were put under the certification office. Certification office I don't believe has any ability to staff this, and I believe because of that and because of the generosity of another agency, and it's kind of that super agency under Joseph Cameron. I couldn't even try and name all of them, but if you look at his letterhead, it's really long right now with all of his agencies. But by his generosity they have the meetings there.

"Do they have staff? Do they have an executive director? Do they have the ability to say, 'Hey, I want you to schedule a meeting?' Even the simple administrative support staff, I don't think they have. So if you want someone to monitor the charter schools, give the council the power. Give them an attorney. Give them an administrative director. Give them an [Account Security Officer], someone who knows finance who can look at these things and say, 'Hey, we do have a question here,' but don't do something like this.

"Don't do these three or four words and put us into a system that you already know is failing. You've already got legislation out there to update it. You've already got new legislation that you're considering based upon the difficulties we've already encountered as a community based upon the procurement rules that are currently in place. Don't put that on an organization that needs to survive.

"Understand what [a charter school] is. It is a private non-profit corporation. The board members' accountability, who's more accountable? I would say in a non-profit, the board and the executive director are more accountable than any government of Guam agency. The laws are much more stringent on us. The responsibility is much greater. If something is misappropriated in this setting, there's a fiduciary duty to return it. The government of Guam, the duty is you stole. Here there's an obligation to give it back much stronger."

Chairwoman Barnes spoke affirmatively that Committee has had a long day.

Attorney Sommerfleck continued:

"I have gone very rapid fire on you. I hope I haven't made more confusion and that I've been clear in my thoughts. If not, I'm open to discuss further. But I would support that if we were looking at making any changes in the charter school legislation, we look at it from the ground up, and we look at making it function in a good clean way. Not only for this charter school, but for all the other charter schools that are hopefully going to be right behind this charter school. Thank you so much for your time and allowing me to speak."

Chairwoman Barnes provided general comments as a co-sponsor of Bill No. 237-32 (COR).

"Before I open the floor to my colleagues, it was not the intent of this policy-making body to stymie or throw in any more obstacles than needed to look for the successes. We want to make sure that this charter school and all the charter schools to come are successful, because it was the belief that if we did this charter school system that there would be opportunity for those who would work on the mission mandate of the specific charter school, that we would have successful students in our community, those that needed to be addressed. I do know that based on what was spoken regarding the IEP and the problems that we had within the educational department now that the individualized educational plan is also an important component, and we wanted to make sure that the successes of charter schools were there. It is our duty as policy makers to bring things out. We may introduce legislation, but that doesn't mean that we're [bound] by what's written. That's why public hearings are set and those who support can share their sentiments. Those who oppose can share their sentiments, but also provide testimony to speak and to add recommendations and solutions to either strengthen or to dismiss the bill. That's where we're at today, and we will continue to do that. As acting chair of this oversight, I want to share that the committee will go back if there needs to be a markup hearing. If all the players, the stakeholders, need to come back to the table to look at the concerns that the policy makers have, then we're going to go ahead and do that. But I want to applaud the efforts of both Dr. Yamashita and Speaker Won Pat for their efforts in making sure that this conversation is brought to the forefront.

"To Dr. Palomo, I know it's not easy, the labor of love that you provide as a council member. If there is even a little stipend that is received, I know it's nothing compared to what you guys put in. The only question I have for you is, are you meeting on a semi-monthly basis, and are you getting the quorums today?"

Dr. Palomo responded:

"Actually, when we first started we established to meet once a month, but there have been months when...We have not been able to meet since October. Well, we acted on the budget in August. We scheduled a meeting after that, but we didn't have a quorum. At this time it's just really difficult. I'm going to seek out the members again and see if we are able to meet in a week or two so that we can move forward with, we have a letter from Mr. Barry Mead that needs to be addressed that he submitted since August, and some issues, well, they're revised. I need the revised petition and one other piece of document, and then go from there. Plus, if I just may make this a public statement, the Guahan Academy Charter School needs to be informed, and if I may do it at this forum, that they need to prepare their 2014-15 budget for submission to the council. Thank you."

Chairwoman Barnes thanked Dr. Palomo and acknowledged that Senator Yamashita, who wanted to provide additional comments.

Senator Yamashita thanked Chairwoman Barnes and mentioned that Speaker Won Pat has scheduled an oversight in January upon her return. She added that she and Speaker are studying a number of amendments received from Senator Manibusan.

Senator Tom Ada provided his comments:

"I have sat here and listened to all of the discussions. First of all, in the bill I know that in two places it talks about the being subject to Chapter 5, the Guam Procurement Law. One of the testimonies described it as antiquated, and I think you described it as basically a sure recipe for failure. I guess I disagree with that, that it's not the Procurement Law itself that is really flawed, but the people who are trying to implement it. For example, DOE does not have an alarm system because the individual who made the award in the morning and then later in the evening that same day I guess notified everybody else, whereas actually the law says they got 14 days. So it was the individuals who are implementing this that's really messing things up. It seems given just that one example; I think that maybe what's missing in the bill is language to the effect that the authority to procure subject to the Guam Procurement Law shall really be delegated to the charter school.

"In other words, you guys put together your specs, and you issue the awards and all that. Then issue the bids and you issue the awards and all of that and not have to stand in line down at GSA with 52 other agencies. I think that's what's really needed here.

"You mentioned that in your charter you have your own procurement policy and rules and regulations. I would be interested in seeing that. It probably doesn't differ much from the Guam Procurement Law, because really the ultimate objective for the Guam Procurement Law is to obtain supplies and services at a competitive price. So I don't see that the Guam Procurement Law is really that detrimental.

"I think it's that shortfall of saying, if you're going to be subject to that, then you guys basically do the implementation. The same way that the delegation that was given to Guam Power Authority, Guam Waterworks. They don't have to go down and stand in line.

"I must say that I guess with the presentation that was given by Attorney Warfield, I guess I really would have to sit down and think more about really what is the implication of deleting that word 'exclusive' and deleting the word 'statutes'. I think there's a lot more to that than just a simple strikethrough. That is something that I certainly would like to have more discussion on.

"There was also discussion about don't put us under DOE. As I look through here on page 2 [of the bill], it talks about being independent of the Department of Education and being exempt from the Guam Department of Education. I think at first glance, at least from a layman's perspective, I didn't get the impression that they were trying to pigeonhole the charter school under DOE or trying to tie their hands, but I think we could probably put in some additional language to ensure the independence of this school."

Senator Rory J. Respicio provided his comments:

"I want to express my appreciation for all of you coming out to discuss a bill. My appreciation also to Speaker Won Pat and to her Vice Chair, Dr. Yamashita, for continuing this kind of discussion that our community must have with respect to how much we want to help the charter schools and to demonstrate evidence of helping the charter schools achieve all those goals.

"I support charter schools and I did from the very beginning, as Senator Barnes mentioned. At the time there was much resistance from our community from people within the public education system to say, 'You guys are crazy to have a charter school that would take public resources away from the Department of Education.'

"I support charter schools because it's forcing this kind of competitive environment that would motivate the public school system as well. Then these efforts are promoting the fundamental changes that need to take place in the public school system. At the time the whole F.Q. Sanchez issue came up. I was wanting really and asking, 'Why can't we budget on a cost per pupil basis across

the entire public school system so that you provide some kind of equity, fairness in how the budget is developed for the Department of Education?' because our budget does not reflect that.

"The \$5,500 cost per pupil does not take into account the facility lease as well as the maintenance of those facilities. Imagine if you have a public school principal or imagine the superintendent of education hearing this hearing of how envious they are of the whole charter school structure and how they would want the same for themselves, which I believe we should provide the same for themselves. Whatever model is used to determine, that should apply to the charter schools, because it's going to make the charter schools successful. I'm hoping that this committee on education will provide that same model to the entire public school system.

"So you budget for the cost per pupil, and then you track wherever that pupil is going to go. That school would get those resources. You don't include cost for facilities, leases or cost to maintain those leases, because this \$5,500 per pupil, in some cases, is higher in some schools, because some schools have maintenance contracts. To my good friend, Rebecca, in most cases I believe the budget per pupil is a lot lower than \$5,500 per student.

"When the whole issue of the lease was being discussed, I received several angry emails from parents saying that the legislature underfunded the charter schools and that was the first problem with the whole structure. So I responded that the legislature provided \$5,500 per pupil as the cost basis of what it costs to educate other people throughout the public education system.

"This hearing is extremely important, and I'm hoping that whatever this legislature decides as a policy for the charter schools, whether it be procurement or whether it be how we appropriate the money and fund the operations, that we really think outside the box and do the same for the entire DOE. Let each principal come down and say, 'I have an enrollment of this amount,' whatever the baseline of preparation per pupil is. 'Don't question me. Just give it to me. Then I'm going to develop my own procurement rules, and I'm going to be held accountable to that with all the fiduciary responsibilities that come as a result of that. I'm going to procure from my own goods and services.'

"Imagine if you had, Mrs. Sommerfleck, the authority to go out and procure supplies for your classroom where you don't have to go through this whole black hole we call the procurement process. But my point is this whole discussion that the Speaker and Senator Yamashita brought to our forefront, really I'm hoping we apply the same to the entire Department of Education, and then we finally make these fundamental changes that we need for our school system. We budget how we budget for you, and we provide a procurement structure for DOE as we would for you.

"You're already proof positive of how in the last four months there are success stories. This kind of passion that you're getting from the charter schools, you're certainly going to get that same passion from every single public school out there, because the parents know that, "My child is going to this charter school, and he or she is being funded to the tune of \$5,500." If that was the attitude that every parent was able to have and celebrate for their student or their child in another school system, I think you can see that kind of passion that you're seeing in the charter schools.

"This is only the beginning, but I certainly believe it's a means to an end. An end of just totally changing how DOE operates, and give them the support as well. Thank you, Madam Acting Speaker."

Senator Michael F.Q. San Nicolas thanked Madame Chair and gave his comments:

"When I was going through this bill, it's amazing how when you get more minds to the table, you can learn so much more from everybody who has their perspective to share. So I thank you all very much for making the time. Mr. Kane, that's an awesome testimony. I mean, just the diction and everything else and how you structured it. It's extremely well put together. I just wanted to recognize that, because as I was reading it, I haven't read a testimony this extensive and this well put together in a while, so it's a very good job that you do for the school.

"I kind of share Senator Ada's sentiment about procurement. We borrow from whoever else might be getting in between the layers of that. I think there's a balance we can strike between getting the Procurement Law applied and the benefits that come with that while at the same time streamlining the process for the school.

"I did want to answer your question, Ms. Warfield. You posed a question about the lease. That question popped into my mind, too. When that lease popped up and the eviction notice went out, I said, 'What on earth is going on here? Why would our government put our people in this kind of a situation?' It was a really confusing point in time for me, but then it all became clearer on Monday when it became apparent that the administration wants to go into a deal with Core Tech to acquire the properties. Then it all made sense to me, because I've seen it several times or in my short time here in the legislature. The administration creates a crisis that forces the government into making a deal. Unfortunately, in this instance we have the Guahan Academy Charter School being used as the victim to manipulate the government into going into a deal with Core Tech.

"What bothered me about that was when it became apparent that the Guam Economic Development Authority was negotiating this lease since August, but only now was able to get the best deal two weeks before the end of the lease,

which only made it more clear to me that obviously this has been game plan number one from the get-go, to hold the Guahan Academy Charter School hostage so that we can have to make a deal with Core Tech. For me, when I found that out on Monday, Christmas season, and it's been bothering me, because as a policy maker and as one of the many leaders on the island, I sit back and I say, 'How can we even do something about this?'

"We have Mr. Israel coming out and saying there's a better way. We have all these really, really smart people coming out and saying there's a better way for us to go out and build schools and invest in those kind of assets. I look at them like, 'Yeah, there probably is a better way, but at the same time we have you guys are held hostage.' For us to be put into that position again, my patience on it is really, really running thin. It really troubles me because I don't quite know what to do.

"I mean, \$239 million is a lot of money, but closing a school is an extremely devastating thing to do. I'm going to continue to pray about it, but I just wanted to answer your question. The question was why. The answer is that's why. I hope the administration is listening, because I'm going to continue calling them out on those kinds of things. That has to stop. You don't make grown men cry over their kid's education because you want to make a \$239 million deal. You don't do that.

"I thank you all for your testimony. I thank you all, the legislation. I think that, again, we can strike a balance on the procurement side, but we all want the charter school to succeed. I think that being able to get you guys to succeed will provide a really good apples-to-apples comparison with the shortcomings in our overall Department of Education and we'll be able to make the entire school system better for all of our kids."

Chairwoman Barnes thanked Senator San Nicolas and everyone who appeared before the Committee to provide testimony, noted that the Committee Record would be held open for ten days, and, on the account that there was no one else present to provide oral testimony, adjourned the public hearing for Bill No. 237-32 (COR).

III. FINDINGS AND RECOMMENDATIONS

The Committee on General Government Operations and Cultural Affairs to which was referred "Bill No. 237-32 (COR) - J.T. Won Pat, Ed.D. / A.A. Yamashita, Ph.D. - An act to amend subsection 12107(c)(4), subsection 12107(f) and subsection 12107(g) of Chapter 12, Title 17, Guam Code Annotated, relative to the Guam Academy Charter School Act of 2009" hereby submits these findings to *I Mina' Trentai Dos na Liheslaturan Guahan* and reports out Bill No. 237-32 (COR) with a recommendation TO REPORT OUT ONLY.

I MINA TRENTAI DOS NA LIHESLATURAN GUÅHAN
2013 (FIRST) Regular Session

Bill No. 257-32(CAR)

2013 DEC 13
PRP
Aline

Introduced by:

Judith T. Won Pat, Ed.D.
Aline A. Yamashita, Ph.D.

AN ACT TO AMEND SUBSECTION 12107(c)(4), SUBSECTION 12107(f) AND SUBSECTION 12107(g) OF CHAPTER 12, TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO THE GUAM ACADEMY CHARTER SCHOOL ACT OF 2009.

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

2 **Section 1.** Subsection 12107(c)(4) of Chapter 12, Title 17 Guam Code
3 Annotated is hereby amended to read as follows:

4 “(4) to secure appropriate insurance and to make contracts and leases,
5 including agreements to procure *or* purchase services, equipment, and supplies
6 subject to Chapter 5, Title 5 Guam Code Annotated;”

7 **Section 2.** Subsection 12107(f) of Chapter 12, Title 17 Guam Code
8 Annotated is hereby amended to read as follows:

9 “(f) An Academy Charter School shall exercise ~~exclusive~~ control over its
10 expenditures subject to Chapter 5, Title 5 Guam Code Annotated, and over
11 administration, personnel, and instructional methods independent of the Guam
12 Department of Education, within the limitations imposed in this Chapter.”

13 **Section 3.** Subsection 12107(g) of Chapter 12, Title 17 Guam Code
14 Annotated is hereby amended to read as follows:

1 “(g) An Academy Charter School *shall be exempt* from Guam Department of
2 Education ~~statutes~~, policies, rules, regulations, and collective bargaining
3 agreements ~~established for the Guam public schools~~, *except* as otherwise provided
4 in the Academy’s Charter or this Chapter.”

5 **Section 4. Effective Date.** The provisions outlined in this Act shall become
6 effective immediately upon enactment into public law.

7 **Section 5. Severability.** The provisions outlined in this Act are declared to
8 be separate and severable. The invalidity of any clause, sentence, paragraph,
9 subdivision, section or portion of this statute, or the invalidity of the application
10 thereof to any person or circumstance shall not affect the validity of the remainder
11 of this statute or the validity of its application to other persons or circumstances.



PUBLIC HEARING SIGN-IN SHEET
 Thursday, December 26, 2013 – 10:30AM
 I Liheslatura Public Hearing Room • Hagåtña, Guam

Bill No. 237-32 (COR) – J.T. Won Pat, Ed.D. / A.A. Yamashita, Ph.D. – An act to amend subsection 12107(c)(4), subsection 12107(f) and subsection 12107(g) of Chapter 12, Title 17, Guam Code Annotated, relative to the Guam Academy Charter School Act of 2009.

| NAME | AGENCY OR ORGANIZATION | POSITION | | TESTIMONY | | PHONE NO. | EMAIL ADDRESS |
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| | | SUPPORT | OPPOSE | WRITTEN | ORAL | | |
| * Matthew Kang | GACS | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | 787-1313 | MatthewKang7@gmail.com |
| * JORGE RAMBA | GACS | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | | |
| * Rebecca Warfield | GACS Parent | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 989-2326 | jjvmessier@gmail.com |
| * Joanne Messier | GACS Parent | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | | |
| Daniel Somersloch | self | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | 477-8020 | dss@teleguam.net |
| * Phil Tydings | AGU | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | | |
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SENATOR BENJAMIN J.F. CRUZ, VICE SPEAKER
 Chairman, Committee on General Government Operations
 and Cultural Affairs
 Web Address: www.senatorbjcruz.com



IMINA'TRENTA'DOS NA LIHESLATURAN'GUAHAN
 The 32nd Guam Legislature • senator@senatorbjcruz.com
 155 Hesler Place, Hagatna, Guam 96910
 Telephone: (671) 477-2520/1 • Fax: (671) 477-2522

PUBLIC HEARING SIGN-IN SHEET
 Thursday, December 26, 2013 – 10:30AM
 I Liheslatura Public Hearing Room • Hagatna, Guam

Bill No. 237-32 (COR) – J.T. Won Pat, Ed.D. / A.A. Yamashita, Ph.D. – An act to amend subsection 12107(c)(4), subsection 12107(f) and subsection 12107(g) of Chapter 12, Title 17, Guam Code Annotated, relative to the Guam Academy Charter School Act of 2009.

| NAME | AGENCY OR ORGANIZATION | POSITION | | TESTIMONY | | PHONE NO. | EMAIL ADDRESS |
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December 26, 2013

VIA HAND DELIVERY

The Honorable Benjamin J.F. Cruz
Vice-Speaker, 32nd Guam Legislature
155 Hesler Place
Hagåtña, GU 96910

Re: Written Commentary on Bill No. 237-32 (COR)

Good morning Vice-Speaker Cruz,

My name is Matthew Kane, and I am the Chairman of the Board of Trustees of Guahan Academy Charter School ("GACS"). I submit the following testimony on behalf of the GACS Board of Trustees.

Thank you for affording the GACS Board of Trustees the opportunity to present testimony on proposed changes advanced by Bill No. 237-32 (COR).

Bill No. 237-32 proposes vast changes to the structure and management of Guam's charter schools that are not in keeping with the intent of the original Charter School Law nor with the charter, governing documents, policies and mission of GACS, Guam's first charter school.

As a growing and evolving institution in our infantile stages, GACS is open to ways that we can strengthen and improve our mission and accountability, but only after careful deliberation. Bill No. 237-32 seeks to make hasty and broad changes to an institution that has not yet had the chance to operate and govern itself internally and in accordance with its established laws, policies, and procedures.

1) Guam's Charter Schools Must Maintain Their Independence from GDOE:

The new language proposed in Section 2 of Bill No. 224-32 wrests away from Guam charter schools their power to exercise exclusive self-control over their expenditures, and allows instead for the Guam Department of Education ("GDOE") and other agencies and instrumentalities of the Government of Guam to exercise control

over these expenditures. The independence of Guam's charter schools that remains intact by the bill's language concerns only "administration, personnel, and instructional methods," but not expenditures. Likewise, Section 3 of the Bill removes the exemption of Guam's charter schools from GDOE statutes.

When Governor Camacho signed Bill No. 248 (LS), which became Public Law 29-140, he recognized that despite the anticipated lack of funding, charter schools "will provide quality choices that our people deserve." He noted that he "look[s] forward to the continued efforts of our public officials to ensuring the success of charter schools in Guam." Providing better educational establishments for our children does not mean creating new schools under GDOE's control; it means employing innovation in the field of education and allowing nonprofit organizations to supplement the efforts of GDOE to equip our students with the tools and resources they need to be successful leaders in the highly competitive, globalized 21st century they currently confront and aim to shape.

The independent nature of charter schools is inscribed as part of their purposes outlined by existing law. Pursuant to Section 12102 of Chapter 12 of Title 17 Guam Code Annotated ("GCA"), the Guam Academy Charter School Act of 2009 was enacted "to provide opportunities for teachers, parents, guardians, students and community members to establish and maintain schools that operate *independently* from the Department of Education"

This independent nature is also reflected in the GACS First Amended and Restated Articles of Incorporation:

Article III. Purpose.

This non-profit corporation is established for the purpose of operating an academy charter school which *operates independently from the Guam Public School System* for the purposes specifically set forth in 17 GCA § 12102.

President Barack Obama has long recognized the importance of charter schools, their effective management and their autonomy. As early as 1998, Obama expressed his approval of charter schools where *independent* groups receive local authorization and funding to establish new schools. In May 2012, as part of the National Charter Schools Week Proclamation, he explained that charter schools serve as "incubators of innovation" and that they have the "unique flexibility" to give educators the "freedom to cultivate new teaching models and develop creative methods to meet students' needs."

In fact, during their 2008 third presidential debate, President Obama and Senator John McCain agreed that charter schools provide "the kind of competitions that have upgraded both types of schools." Charter schools provide the independent choice not otherwise afforded to the children of Guam who do not come from families with incomes who can support expensive private school education. The

choice is not simply “another GDOE school,” but a unique school, independent from GDOE. That independence, in turn, helps foment innovation and brings healthy competition, which serves to improve both GDOE schools and other charter schools on Guam. That is a win-win for education.

Recently, President Obama reaffirmed this stance on the mutualistic relationship that can develop between charter schools and traditional public schools, when he stated the following in his 2013 National Charter Schools Week Proclamation: “[W]here charter schools demonstrate success and exceed expectations, we should share what they learn with other public schools and replicate those that produce dramatic results.”

In his piece called “Drive: The Surprising Truth about What Motivates Us,” Daniel H. Pink expounded on the value of autonomy: “Control leads to compliance; autonomy leads to engagement . . . only engagement can produce mastery.” To be successful, GACS and other charter schools on Guam must be dedicated to mastering their charter while remaining accountable to the taxpayers of Guam who supply our local funding. This requires a careful balancing act between autonomy and accountability.

Existing law provides several specified avenues for GACS to manage its own affairs autonomously while still being responsible and accountable to the taxpayers. These established conduits ensure that management directives flow through the proper channels, as opposed to forcing Guam’s charter schools into incompatible entanglements and conflicting mandates and policies.

Specifically, the Charter School Council, when fully and properly constituted, can be an effective check and balance on Guam’s charter schools without equivocating charter schools with other public schools under GDOE’s control.

When the Council accepted our charter pursuant to 17 GCA § 12105, they reviewed, as part of the contents of our Petition, the mission and goals of GACS. In accordance with 17 GCA § 12107(c), a charter school on Guam must include “Academy Charter School” in its name to distinguish itself from GDOE public schools. Pursuant to 17 GCA § 12108(c), it is the Board of Trustees who *shall* set overall policy for the school, and who shall make final decisions on matters related to the operation of the school as its fiduciaries.

Notwithstanding the independence of GACS as an institution, and the powers conferred upon the Board of Trustees, the Charter School Council is tasked with overseeing the operations and management of GACS to ensure accountability and compliance with governing law.

Under Title 17 GCA § 12111, the Guam Academy Charter School Council is to be comprised of eight (8) voting members, none of whom are required to be GDOE Board members. Pursuant to 17 GCA § 12112, the Council is tasked with, among

enumerated duties, monitoring the operations of each charter school, monitoring compliance with applicable laws and the provisions of their respective charters, and monitoring compliance with annual reporting requirements, including submission of audited financial statements.

Recently, GDOE has been demanding via written letters certain information from GACS directly in order for GACS to draw down its monthly allotment from the Department of Administration. Some of these demands may encroach upon the responsibilities of the Charter School Council to oversee and receive reports from GACS. Of greatest significance, Title 17 GCA § 12112(b) empowers the Charter School Council to “produce *any book, record, paper, or document*” as deemed necessary for the Council to carry out its duties, including the aforementioned duties of monitoring. GACS feels that it is best to utilize the Council to ensure that GACS is spending taxpayer monies prudently and in accordance with its mission.

The Council is likewise empowered to place charter schools on probation, or even revoke charters as necessary, for reasons including fiscal mismanagement and non-adherence to generally accepted accounting principles (“GAAP”), which gives teeth to the Council to ensure compliance with applicable laws, and which further obviates the need for GDOE or other instrumentalities or agencies of the Government of Guam to exercise control over GACS and other prospective charter schools on Guam. The Council has yet to meet its obligation to promulgate Administrative Rules and Regulations as required by Title 17 GCA § 12114(b), but when it does, it should solve many of these issues and instate the propriety of a process that ensures both autonomy and accountability, not one at the expense of the other.

Otherwise, GACS has too many bosses, including a GDOE boss, which is not what was envisioned when GACS embarked on its mission to charter new territory on the island of Guam, a unique mission independent of GDOE and its mandate. This dualism has also created undue burdens on the Board—and I can personally attest to that—occupying time that could be spent furthering the mission of the school and working on improving internal governance. It also has resulted in undue and duplicative expense and submission to discretionary, coercive, and potentially political approaches to a ministerial, legal function.

Moreover, it has always been a part of GACS’ charter to maintain accountability and transparency in its management and operations. In its original charter, page 55, GACS committed to accountability:

The financial management controls and accounting procedures used will align staff and authority *with the program responsibilities to be carried out, improving both effectiveness and accountability.* Procedures followed will include management accountability focused on quality and timeliness of program performance, increasing productivity, controlling costs and mitigating adverse aspects of

school operations, and *assuring that programs are managed with integrity and in compliance with applicable law.*

Provisions were also made in the original charter for auditing, to be performed in accordance with the requirements of a non-profit organization, and GACS has already sought arrangements to contract with a licensed accounting firm to conduct a financial audit upon review of the open accounting books and records of our school operations.

Our dedication to transparency and accountability is also reflected in our statutory mandate. Pursuant to 17 GCA § 12107(n), GACS is required to submit an Annual Report to the Legislature which details, among other things, annual financial audits. To ensure open accountability and transparency, the law requires that GACS “shall permit the public to review any such report upon request.” Our audit will reflect that we have properly managed our finances and have even been able to carry over a balance from local funding due to our federal funding efforts, which have provided nearly 50% of our total funding.

With the foregoing in mind, the Board is perplexed by the sudden and immediate proposed changes to existing policies and structures. What prompted this change, this substantial departure from the intent and purposes outlined in the charter school law when it was written and approved after consideration by fourteen (14) members of the Legislature?

Title 17 GCA § 12116(c), as emphasized below, is edifying with respect to the need to allow GACS to operate independently from the control of GDOE:

(c) Following the appropriation of the Department of Education’s operating budget for the fiscal year, the amount approved by the Legislature for the operation of each Academy Charter School shall be available for expenditure by the Trustees of such Charter School for any lawful purpose *without further approval by the Superintendent of Education or the Board.*

As discussed in more detail below, we hope that we continue to be afforded the opportunity to manage ourselves within the checks and balances created by existing law and mandate, rather than changing up the whole structure *in medias res* in a manner that is antithetical, and in fact, inimical, to our mission and purpose. With the support of the Charter School Council, and with the breathing room to operate and grow, GACS is optimistic that it can bring positive changes to the island of Guam that harmonize and in fact bolster similar efforts being made at GDOE, but that can only be maintained through bright-line demarcations that protect against overt paternalism.

2) Guam's Charter Schools Should Not Be Required to Follow Guam's Outdated Procurement Laws

The other major change proposed by Bill No. 224-32 is to subject Guam's charter schools to the antiquated Chapter 5 of Title 5 GCA, which constitutes Guam's procurement laws. Sections 1, 2, and 3 of the Bill curtail GACS' ability to procure goods and services in accordance with its own established governing policies and procedures.

There are several reasons why the GACS Board of Trustees is opposed to this proposed modification of law.

First, revision of Guam's procurement laws is currently undergoing serious consideration by the Legislature vis-à-vis Bill No. 224-32 (COR). Section 4 of the Bill at bar provides that the proposed changes to our enabling legislation, to include subjecting GACS to Guam's procurement law, would take effect immediately, while Guam's procurement law remains outmoded and in need of great repair. GACS does not want to be thrown into a system that the Legislature, itself, has recognized warrants substantial reform.

Second, this proposed change further erodes the autonomy of the Board of GACS to design, implement, and report its existing procurement policies, which can easily lead charter schools down a slippery slope and set bad precedent for future charter schools.

In our revised Charter, GACS explained on Page 62 that the Board of Trustees adopted a Fiscal Handbook, to include a Procurement Policy and Procedures living document, and that we must take a holistic approach to our procurement:

The charter school's growth in student population, acquisition and management of assets and the record inventory and maintenance of the school's assets, plus building a well-structured strategic sourcing process require and necessitate a holistic policy on procurement. The policy is presented as a general guidance to establishing procedures to facilitate the acquisition of goods and services based strictly on the merits of supplier and contractor proposals and applicable related considerations which may include, but not limited to, price, quality, availability, timelines, reputation and prior dealings and to guard against favoritism, improvidence, extravagance, fraud and corruption.

With our unique needs in mind, we have devised, implemented, and resolved to continue following a Procurement Policy and Procedures that seeks to secure procurement contracts based strictly on merit, which was designed to follow GAAP, budgeting, and annual report requirements, to "assure the prudent and economical use of public monies in the best interest of the taxpayers" while getting the best

quality for the best price, and to guard against favoritism, improvidence, extravagance, fraud and corruption while pursuing an overarching effort to “be above suspicion of unethical behavior at all times” and “avoid actual conflict of interest.”

Again, after putting into place and making diligent efforts to scrupulously follow our internal procedures, which are open to auditing and the oversight of the Charter School Council, we are perplexed why GACS will suddenly be forced to comply with Guam’s procurement laws, and how that will benefit GACS and the community in a way that our existing policies and procedures would not. We feel that this effort to fit a square peg in a round hole indifferently and categorically ignores the unique and independent nature of charter schools and improperly conflates the means with the ends of public accountability.

Third, GACS has already found success under a procurement model that stands apart from Guam’s procurement laws, a model that is tailored to the unique position and needs of charter schools. We have not received any procurement protests to date and our procedures have led to competitive practices. GACS is striving to improve each and every day, within our budgetary constraints, and the Board of Trustees is dedicated to positive amelioration. The Board of Trustees, in accordance with GACS’ mission as provided in its revised charter, has created three ad hoc committees to address various issues currently confronting our school, including internal governance, and to ensure that we are addressing our issues through the proper channels.

One of these committees, the committee on Board Governance and Policies, is charged with looking at our Articles, Bylaws, policies, and other governing documents with the goal of improving and strengthening them. As the Board strives to improve our internal governance, it is crucial for our functionality that we adopt reforms with a certain respected level of independence so that we do not operate under conflicting mandates, especially where distinct alternatives, such as the collection of Guam’s existing procurement laws, would lead us into a morass of confusion that would merely hamper our ability to conduct business under our unique circumstances and fulfill our responsibility to our primary stakeholders, the students of GACS and their parents and the faculty and staff who are driving our engine of progress and change. Placing us under Guam’s procurement laws does not facilitate innovation and amounts to a step backwards for the mission of charter schools.

Finally, GACS is not a public agency. We are a nonprofit organization and we should be treated as such. The fact that we receive public monies means that we should be held accountable and everyone should see how we spend money. However, that does not mean that we need to follow the antediluvian procurement law practices that have led to protracted litigation, inefficient operations, and complex procedures that have not met the best interests of the Territory of Guam

and its stakeholders. We seek to be treated separately, and this Bill proposes to eviscerate our individual and independent identity. To that end, we stand opposed to the Bill as written.

3) The Enabling Statute of Guam's Charter Schools Should Not Be Modified in the Middle of the Fiscal and School Years, Let Alone Immediately.

If you would kindly indulge a simile, the Charter School is like a child growing up into an adolescent, who gradually needs to make smart choices independently to exercise responsibility and guide itself on the right path, while still paying due respect and providing accountability to our parental gurus (the governmental, non-governmental and non-profit unified community) and the Territory of Guam writ large. These "parents" have a responsibility to society to oversee the spending of taxes and ensure that the "child" is not running awry or otherwise acting irresponsibly, but over time that responsibility must be exercised with less external control and micromanaging, lest the organization will never grow to realize its potential and fulfill the dreams of its supporters through strengthening its internal unshakeable and non-negotiable core, its negative heuristic if you will. As it has been said, we implore the Legislature to "[l]isten to the desires of your children. Encourage them and then give them the autonomy to make their own decision."

It is truly refreshing that there are others who are working to strengthen the Charter School law and that they have the best intentions to assist GACS in cultivating and catalyzing their incubation and development on Guam for years to come. Our intention is to be a part of the discourse and work collaboratively with you to discover ways that the law as written can achieve the goals of the Legislature and the People of Guam, in harmony with the Charter School's goals, as part of an unwavering effort to improve the quality of education for our children and provide choice in education.

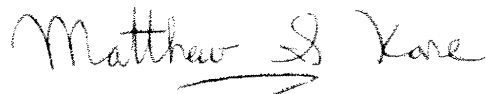
But we feel that in order to achieve these lofty yet attainable goals, we must strengthen the Charter School Council and clearly demarcate our position on Guam from GDOE in order to effectively manage our organization and move forward with the innovative changes that charter schools bring to bear. Some of the changes needed to support these goals take time and patience. We do not feel that changing our enabling statute at this juncture is the approach that will help us to attain those goals. Nothing in this ill-timed Bill serves to strengthen GACS and other charter schools on Guam, and instead the changes proposed by this Bill would have the unfortunate, deleterious, and contrapositive effect of weakening our organization just as we are starting to show extensive promise and resoluteness.

The timing of this Bill and hearing thereupon preclude meaningful review from our stakeholders and other interested parties. We are in the middle of the school year and the fiscal year, and we believe the timing of this bill will lead to

confusion and undue burden, and will also derail positive progress that it being made at our level, without any explanation or legislative intent provided to account for the shift in policy and structure and encroachment upon our independence.

In closing, I humbly thank you for the opportunity to present testimony on Bill No. 237-32 on behalf of the GACS Board of Trustees. I respectfully submit that this bill should not be enacted as written.

Sincerely,


Matthew S. Kane

Eddie Baza Calvo
Governor



GENERAL SERVICES AGENCY

(Ahensian Setbision Hinirat)
Department of Administration

148 Route 1 Marine Drive, Piti, Guam 96915
Tel: (671) 475-1707 Fax Nos: (671) 475-1727 / 472-4217

Ray Tenorio
Lieutenant Governor

Benita A. Manglona
Director

Anthony C. Blaz
Deputy Director

December 24, 2013

Memorandum

The Honorable Benjamin JF. Cruz
Vice-Speaker 32st Guam Legislature
Chairman of the Committee General Governmental
Operations, Procurement and Cultural Affairs
155 Hesler Street
Hagatna, Guam 96910

received
12/27/2013 9:45AM
#32-201 ETW

Re: Bill 237-32

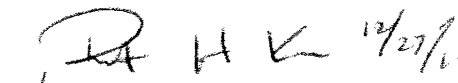
Dear Vice-Speaker:

Thank you for the opportunity to comment on Bill 237-32 "An Act to Amend Subsection 12107(c)(4) , Subsection 12107(f) and Subsection 12107(g) of Chapter 12, Title 17 Guam Code Annotated Relative to the Guam Academy Charter School Act of 2009. We have the following comments:

In Section 2, it states that in subsection 12107(f), that it proposes that "...the Academy Charter School shall exercise control over its expenditures subject to Chapter 5, Title 5, Guam Code Annotated..." It is the intent that the Charter School do its own procurement or have the General Services Agency do its procurement? If it is the intent of the Legislature to have the Charter School do its own procurement, but follow Chapter 5, we recommend that you instead amend this provision as it relates to procurement to instead state that Section 5001(f) of 5 GCA is amended to include the Charter Schools. This will allow the provisions of 5 GCA Chapter 5 to be followed and the authority to rest with the Charter School.

If the intent is to have the General Services Agency handle the Charter School's procurement, then this law is an unfunded mandate and the Guam Legislature should provide for funding to the General Services for this function.

Thank you for allowing us to comment on Bill 237-32.


CLAUDIA S. ACFALLE
Chief Procurement Officer



COMMITTEE ON RULES

I Mina'trentai Dos na Liheslaturan Guåhan • The 32nd Guam Legislature

155 Hesler Place, Hagåtña, Guam 96910 • www.guamlegislature.com

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

Senator
Rory J. Respicio
CHAIRPERSON
MAJORITY LEADER

January 13, 2014

Senator
Thomas C. Ada
VICE CHAIRPERSON
ASSISTANT MAJORITY LEADER

Memorandum

To: Rennae Meno
Clerk of the Legislature

Senator
Vicente (Ben) C. Pangelinan
Member

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

Speaker
Judith T.P. Won Pat, Ed.D.
Member

Subject: Fiscal Notes /Waivers

Senator
Dennis G. Rodriguez, Jr.
Member

Hafa Adai!

Vice-Speaker
Benjamin J.F. Cruz
Member

Attached please find the fiscal notes, or waivers for the bill numbers listed below.

Please note that the fiscal notes, or waivers, are issued on the bills as introduced.

Legislative Secretary
Tina Rose Muña Barnes
Member

FISCAL NOTES:

Bill Nos. 235-32 (COR), 236-32 (COR), 237-32 (COR); 239-32 (COR), 240-32 (COR), 241-32 (COR), and 242-32 (COR)

Senator
Frank Blas Aguon, Jr.
Member

WAIVER:

Bill No. 245-32 (COR)

Senator
Michael F.Q. San Nicolas
Member

Senator
V. Anthony Ada
Member
MINORITY LEADER

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

Senator
Aline Yamashita
Member

Si Yu'os ma'åse'!

2014 JAN 13 PM 2:38

**Bureau of Budget & Management Research
Fiscal Note of Bill No. 237-32 (COR)**

AN ACT TO AMEND SUBSECTION 12107 (c)(4), SUBSECTION 12107(f) AND SUBSECTION 1210 (g) OF CHAPTER 12, TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO THE GUAM ACADAMEY CHARTER SCHOOL ACT OF 2009.

| Department/Agency Appropriation Information | |
|---|---|
| Dept./Agency Affected: Administration | Dept./Agency Head: Benita Mangolona, Director |
| Department's General Fund (GF) appropriation(s) to date: | 38,681,615 |
| Department's Other Fund (Specify) appropriation(s) to date: | 9,167,434 |
| Total Department/Agency Appropriation(s) to date: | \$47,849,049 |

| Fund Source Information of Proposed Appropriation | | | |
|---|-----------------|-------------------------|-----------------|
| | General Fund: | (Specify Special Fund): | Total: |
| FY 2013 Unreserved Fund Balance | | \$0 | \$0 |
| FY 2014 Adopted Revenues | \$591,087,815 | \$0 | \$591,087,815 |
| FY 2014 Appr. (Bill No. 1(4-S)) | (\$591,049,932) | \$0 | (\$591,049,932) |
| Sub-total: | \$37,883 | \$0 | \$37,883 |
| Less appropriation in Bill | \$0 | \$0 | \$0 |
| Total: | \$37,883 | \$0 | \$37,883 |

| Estimated Fiscal Impact of Bill | | | | | | |
|---------------------------------|----------------------|--|------------|------------|------------|------------|
| | One Full Fiscal Year | For Remainder of FY 2014 (if applicable) | FY 2015 | FY 2016 | FY 2017 | FY 2018 |
| 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 /x/ No
If Yes, see attachment
- Is amount appropriated adequate to fund the intent of the appropriation? /x/ N/A / / Yes / / No
If no, what is the additional amount required? \$ _____ /x/ N/A
- Does the Bill establish a new program/agency? / / Yes /x/ No
If yes, will the program duplicate existing programs/agencies? /x/ N/A / / Yes / / No
Is there a federal mandate to establish the program/agency? / / Yes /x/ No
- Will the enactment of this Bill require new physical facilities? / / Yes /x/ No
- Was Fiscal Note coordinated with the affected dept/agency? If no, indicate reason: /x/ Yes / / No
/ / Requested agency comments not received by due date / / Other:

Analyst: John AB Pangelinan Date: 1/13/14 Director: John A. Rios Date: JAN 10 2014
John AB Pangelinan, Supervisor John A. Rios, Director

Footnotes:
Please see attached comment sheet.



COMMITTEE ON RULES

I Mina'trentai Dos na Liheslaturan Guåhan • The 32nd Guam Legislature
155 Hesler Place, Hagåtña, Guam 96910 • www.guamlegislature.com
E-mail: roryforguam@gmail.com • Tel: (671)472-7679 • Fax: (671)472-3547

Senator
Rory J. Respicio
CHAIRPERSON
MAJORITY LEADER

Senator
Thomas C. Ada
VICE CHAIRPERSON
ASSISTANT MAJORITY LEADER

Senator
Vicente (Ben) C. Pangelinan
Member

Speaker
Judith T.P. Won Pat, Ed.D.
Member

Senator
Dennis G. Rodriguez, Jr.
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Vice-Speaker
Benjamin J.F. Cruz
Member

Legislative Secretary
Tina Rose Muña Barnes
Member

Senator
Frank Blas Aguon, Jr.
Member

Senator
Michael F.Q. San Nicolas
Member

Senator
V. Anthony Ada
Member
MINORITY LEADER

Senator
Aline Yamashita
Member

December 16, 2013

VIA E-MAIL
john.rios@bbmr.guam.gov

John A. Rios
Director
Bureau of Budget & Management Research
P.O. Box 2950
Hagåtña, Guam 96910

RE: Request for Fiscal Notes– Bill Nos. 236-32 (COR), 237-32(COR), 238-32 (COR), 239-32 (COR) and 240-32 (COR)

Hafa Adai Mr. Rios:

Transmitted herewith is a listing of *I Mina'trentai Dos na Liheslaturan Guåhan's* most recently introduced bills. Pursuant to 2 GCA §9103, I respectfully request the preparation of fiscal notes for the referenced bills.

Si Yu'os ma'åse' for your attention to this matter.

Very Truly Yours,

Senator Rory J. Respicio
Chairperson of the Committee on Rules

Attachment (1)

Cc: Clerk of the Legislature

| Bill Nos. | Sponsor | Title |
|-----------------|---|---|
| 236-32 (COR) | Aline A. Yamashita, Ph.D. T.C. Ada | AN ACT TO ADD NEW SECTION 3102.5 AND SECTION 3102.6 THROUGH SECTION 3102.8 TO CHAPTER 3 OF TITLE 16, GUAM CODE ANNOTATED RELATIVE TO AUTHORIZING THE DEPARTMENT OF REVENUE AND TAXATION TO OUTSOURCE THE DRIVER TESTING REQUIREMENT FOR CERTAIN COMMERCIAL DRIVER'S LICENSES, AND TO THE RECIPROCATATION OF COMMERCIAL DRIVER'S LICENSES. |
| 237-32 (COR) | Judith T. Won Pat, Ed.D. Aline A. Yamashita, Ph.D. | AN ACT TO AMEND SUBSECTION 12107(c)(4), SUBSECTION 12107(f) AND SUBSECTION 12107(g) OF CHAPTER 12, TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO THE GUAM ACADEMY CHARTER SCHOOL ACT OF 2009. |
| 238-32 (COR) | T.A. Morrison V. Anthony Ada Chris Duenas | AN ACT TO AMEND §1001 OF 1GCA RELATIVE TO REESTABLISHING GUAM DISCOVERY DAY AS A LEGAL HOLIDAY OF THE GOVERNMENT OF GUAM. |
| 239-32 (COR) | Dennis G. Rodriguez, Jr. Michael F.Q. San Nicolas | AN ACT TO ESTABLISH AN EXPEDITED JUDICIAL PROCESS TO ADDRESS CLAIMS RELATIVE TO PROPERTY EXPROPRIATED FOR PUBLIC PURPOSES BY THE GOVERNMENT OF GUAM WITHOUT JUST COMPENSATION. |
| 240-32 (COR) | T.R. MUÑA BARNES | AN ACT TO REZONE LOT NO. 54NEW-R1, BLOCK NO. 3, MUNICIPALITY OF TAMUNING, GUAM FROM SINGLE-FAMILY DWELLING ZONE (R-1) TO COMMERCIAL ZONE (C). |



COMMITTEE ON RULES

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Senator
Michael F.Q. San Nicolas
Member

Senator
V. Anthony Ada
Member
MINORITY LEADER

Senator
Aline Yamashita
Member

December 16, 2013

MEMORANDUM

To: **Rennae Meno**
Clerk of the Legislature

Attorney Therese M. Terlaje
Legislative Legal Counsel

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

Subject: **Referral of Bill Nos. 236-32(COR) through 240-32(COR)**

As the Chairperson of the Committee on Rules, I am forwarding my referral of **Bill Nos. 236-32(COR) through 240-32(COR)**.

Please ensure that the subject bills are 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 Dos na Liheslaturan Guåhan*.

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

Si Yu'os Ma'åse!

Attachment



Invitation for Testimony, Bill 237: Guam Academy Charter School Act of 2009.

Carlo Branch <carlo.branch@senatorbjcruz.com>

Mon, Dec 23, 2013 at 3:12 PM

To: kailee.rosapalomo@gmail.com, jonfernandez@gdoe.net, theislandsadvocate@gmail.com,

ddwiggins@guahanacademy.org

Cc: Tessa Weidenbacher <tessa@senatorbjcruz.com>, Victoria Leon Guerrero <veonguerrero@judiwonpat.com>

Dear All:

The Committee on *General Government Operations* would like to notify each of you of its next *Public Hearing* scheduled for the 26th of December at 10:30a.m. The hearing will be at the *Guam Legislature's Public Hearing Room*. Of particular note is:

- **Bill No. 237-32 (COR) – J.T. Won Pat, Ed.D. / A.A. Yamashita, Ph.D. – An act to amend subsection 12107(c)(4), subsection 12107(f) and subsection 12107(g) of Chapter 12, Title 17, Guam Code Annotated, relative to the Guam Academy Charter School Act of 2009.**

As always, any testimony you may provide will be greatly beneficial to the Committee. I can be reached at 477-2521 or 687-7567.

~Carlo

Agenda

- **Bill No. 234-32 (COR) – M.F.Q. San Nicolas – An act to require that the office of technology establish a protocol to back-up critical electronic data necessary for the efficient operation of agencies by adding a new subsection (l) to §20204.1 of Article 2, Chapter 20, Title 5, Guam Code Annotated.**
- **Bill No. 237-32 (COR) – J.T. Won Pat, Ed.D. / A.A. Yamashita, Ph.D. – An act to amend subsection 12107(c)(4), subsection 12107(f) and subsection 12107(g) of Chapter 12, Title 17, Guam Code Annotated, relative to the Guam Academy Charter School Act of 2009.**
- **Bill No. 239-32 (COR) – D.G. Rodriguez, Jr. / M.F.Q. San Nicolas – An act to establish an Expedited Judicial Process to address claims relative to property expropriated for public purposes by the Government of Guam without just compensation**



FIRST NOTICE of Public Hearing – December 26, 2013

Tessa Weidenbacher <tessa@senatorbjcruz.com>
To: phnotice@guamlegislature.org
Cc: cor@guamlegislature.org, mis <mis@guamlegislature.org>

Wed, Dec 18, 2013 at 10:01 AM

December 18, 2013

MEMORANDUM

To: All Members/All Senators
From: Senator Tina R. Muña Barnes, Acting Chairperson
Re: FIRST NOTICE of Public Hearing – December 26, 2013

Håfa Adai! The Committee on General Government Operations and Cultural Affairs will conduct a Public Hearing of Bills beginning at 10:30AM on Thursday, December 26, 2013, in the / *Liheslatura* Public Hearing Room with the following agenda:

10:30AM – Public Hearing of Bills

- **Bill No. 234-32 (COR)** – M.F.Q. San Nicolas – An act to require that the office of technology establish a protocol to back-up critical electronic data necessary for the efficient operation of agencies by adding a new subsection (l) to §20204.1 of Article 2, Chapter 20, Title 5, Guam Code Annotated.
- **Bill No. 237-32 (COR)** – J.T. Won Pat, Ed.D. / A.A. Yamashita, Ph.D. – An act to amend subsection 12107(c)(4), subsection 12107(f) and subsection 12107(g) of Chapter 12, Title 17, Guam Code Annotated, relative to the Guam Academy Charter School Act of 2009.
- **Bill No. 239-32 (COR)** – D.G. Rodriguez, Jr. / M.F.Q. San Nicolas – An act to establish an Expedited Judicial Process to address claims relative to property expropriated for public purposes by the Government of Guam without just compensation.

Testimonies may be submitted via hand delivery to the Office of Vice Speaker Benjamin J.F Cruz at the Guam Legislature; via postal mail to 155 Hesler Street, Hagåtña Guam 96910; via facsimile to 477-2522; or via e-mail to senator@senatorbjcruz.com. Please submit testimonies at least one day prior to the date of the hearing.

All government activities, programs, and services are accessible for people with disabilities in compliance with Title II of the Americans with Disabilities Act (ADA). Should you or interested parties require assistance or special accommodations to fully participate in this public hearing, please contact Mr. Carlo J. Branch at the Office of the Vice Speaker at 477-2521 or via e-mail at carlo.branch@senatorbjcruz.com.

We look forward to your attendance and participation.

cc: COR
MIS
Media

–
Tessa Weidenbacher
/senior research analyst/

Vice Speaker Benjamin J.F. Cruz
/ Minatrentai Dos Na Liheslaturan Guáhan
Phone: (671) 477-2520/1 | Fax: (671) 477-2522
<http://www.senatorbjcruz.com>

2 attachments



1st Notice PR PH 12262013.pdf

190K



1st Notice PH 12262013.pdf

211K



SECOND NOTICE of Public Hearing – December 26, 2013

Tessa Weidenbacher <tessa@senatorbjcruz.com>
To: phnotice@guamlegislature.org
Cc: cor@guamlegislature.org, mis <mis@guamlegislature.org>

Tue, Dec 24, 2013 at 10:00 AM

December 24, 2013

MEMORANDUM

To: All Members/All Senator
From: Senator Tina R. Muña Barnes, Acting Chairman
Re: SECOND NOTICE of Public Hearing – December 26, 2013

Håfa Adai! The Committee on General Government Operations and Cultural Affairs will conduct a Public Hearing of Bills beginning at **10:30AM** on **Thursday, December 26, 2013**, in the / *Liheslatura* Public Hearing Room with the following agenda:

10:30AM - Public Hearing of Bills

- **Bill No. 234-32 (COR)** – M.F.Q. San Nicolas – An act to require that the office of technology establish a protocol to back-up critical electronic data necessary for the efficient operation of agencies by adding a new subsection (l) to §20204.1 of Article 2, Chapter 20, Title 5, Guam Code Annotated.
- **Bill No. 237-32 (COR)** – J.T. Won Pat, Ed.D. / A.A. Yamashita, Ph.D. – An act to amend subsection 12107(c)(4), subsection 12107(f) and subsection 12107(g) of Chapter 12, Title 17, Guam Code Annotated, relative to the Guam Academy Charter School Act of 2009.
- **Bill No. 239-32 (COR)** – D.G. Rodriguez, Jr. / M.F.Q. San Nicolas – An act to establish an Expedited Judicial Process to address claims relative to property expropriated for public purposes by the Government of Guam without just compensation.

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We look forward to your attendance and participation.

cc: COR
MIS
Media

n.b. Links for agenda items direct to pertinent document (e.g Bill as Introduced).

--
Tessa Weidenbacher

/senior research analyst/

Vice Speaker Benjamin J.F. Cruz

I Mina'trentai Dos Na Liheslaturan Guåhan

Phone: (671) 477-2520/1 | Fax: (671) 477-2522

<http://www.senatorbjcruz.com>

2 attachments



2nd Notice PR PH 12262013.pdf

178K



2nd Notice PH 12262013.pdf

199K

**Listserv: phnotice@guamlegislature.org
As of December 17, 2013**

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| aalladi@guampdn.com |
| action@weareguahan.com |
| admin@frankaguonjr.com |
| admin@guamrealtors.com |
| admin@leapguam.com |
| admin@weareguahan.com |
| agnes@judiwonpat.com |
| aguon4guam@gmail.com |
| ahernandez@guamlegislature.org |
| ajuan@kijifm104.com |
| alerta.jermaine@gmail.com |
| aline4families@gmail.com |
| am800guam@gmail.com |
| amanda@toduguam.com |
| amanda@judiwonpat.com |
| amier@mvguam.com |
| ang.duenas@gmail.com |
| aokada@guamlegislature.org |
| ataligba@gmail.com |
| av@guamlegislature.org |
| avillaverde@guamlegislature.org |
| avon.guam@gmail.com |
| baza.matthew@gmail.com |
| bbautista@spbg Guam.com |
| bdydasco@yahoo.com |
| berthaduenas@guamlegislature.org |
| betsy@spbg Guam.com |
| bmkelman@guampdn.com |
| brantforguam@gmail.com |
| breanna.lai@mail.house.gov |
| bruce.lloyd.media@gmail.com |
| carlos.pangelinan@senatorbjcruz.com |
| carlsonc@pstripes.osd.mil |
| ccastro@guamchamber.com.gu |
| ccharfauros@guamag.org |
| ccruz.duenas@gmail.com |
| charissa.tenorio@senatorbjcruz.com |
| chechsantos@gmail.com |
| cheerfulcatunao@yahoo.com |
| cherbert.senatordrodriguez@gmail.com |
| chris.budasi@guamlegislature.org |
| christine.quinata@takecareasia.com |
| cipo@guamlegislature.org |
| clerks@guamlegislature.org |
| clifton@toduguam.com |
| clynt@spbg Guam.com |
| colleenw@guamlegislature.org |
| committee@frankaguonjr.com |
| communications@guam.gov |
| conedera@mikelimtiaco.com |
| cor@guamlegislature.org |
| coy@senatorada.org |
| cyrus@senatorada.org |
| dcrisost@guam.gannett.com |
| desori623@hotmail.com |
| dledddy@guamchamber.com.gu |
| dmgeorge@guampdn.com |

| |
|--------------------------------------|
| dtamondong@guampdn.com |
| duenasenator@gmail.com |
| ed@tonyada.com |
| edelynn1130@hotmail.com |
| editor@mvguam.com |
| editor@saipantribune.com |
| edpocaigne@judiwonpat.com |
| elaine@tinamunabarnes.com |
| emqcho@gmail.com |
| ewinstoni@yahoo.com |
| eo@guamrealtors.com |
| etajalle@guamlegislature.org |
| evelyn4families@gmail.com |
| fbtorres@judiwonpat.com |
| floterlaje@gmail.com |
| frank@judiwonpat.com |
| frank@mvguam.com |
| gdumat-ol@guampdn.com |
| gerry@mvguam.com |
| gerrypartido@gmail.com |
| gina@mvguam.com |
| gktv23@hotmail.com |
| guam@pstripes.osd.mil |
| guamnativesun@yahoo.com |
| gusaflague@senatormorrison.com |
| hana@guam-shinbun.com |
| hill.bruce@abc.net.au |
| hottips@kuam.com |
| info@chinesetimesguam.com |
| janela@mvguam.com |
| jason@judiwonpat.com |
| jason@kuam.com |
| jean@tinamunabarnes.com |
| jennifer.lj.dulla@gmail.com |
| jennifer@mvguam.com |
| jimespaldon@yahoo.com |
| jmesngon.senatordrodriguez@gmail.com |
| joan@kuam.com |
| joe@toduguam.com |
| joesa@guamlegislature.org |
| john.calvo@noaa.gov |
| john@kuam.com |
| jon.calvo@mail.house.gov |
| jpmanuel@gmail.com |
| jtenorio@guamcourts.org |
| jtyquiengco@spbg Guam.com |
| julian.c.janssen@gmail.com |
| juliette@senatorada.org |
| kai@spbg Guam.com |
| karenc@guamlegislature.org |
| kcn.kelly@gmail.com |
| keepinginformed.671@gmail.com |
| kelly.toves@mail.house.gov |
| kenq@kuam.com |
| kevin@spbg Guam.com |
| khmg@hbcguam.net |
| koreannews@guam.net |

**Listserv: phnotice@guamlegislature.org
As of December 17, 2013**

| |
|-------------------------------|
| koreatv@kuentos.guam.net |
| kstokish@gmail.com |
| kstonews@ite.net |
| law@guamag.org |
| life@guampdn.com |
| ljalcairo@gmail.com |
| llmatthews@guampdn.com |
| lou4families@gmail.com |
| louella@mvguam.com |
| louise@tonyada.com |
| m.salaila@yahoo.com |
| mabuhaynews@yahoo.com |
| mahoquinene@guam.net |
| malainse@gmail.com |
| maria.pangelinan@gec.guam.gov |
| maryfejeran@gmail.com |
| mary@roryforguam.com |
| mbordallo.duenas@gmail.com |
| mcarlson@guamlegislature.org |
| mcpherson.kathryn@abc.net.au |
| media@frankaguonjr.com |
| menchu@toduguam.com |
| mike.lidia@senatorbjcruz.com |
| mike@mikelimtiaco.com |
| mindy@kuam.com |
| mis@guamlegislature.org |
| miseke@mcvguam.com |
| mlwheeler2000@yahoo.com |
| mmafнас@guamlegislature.org |
| monty.mcdowell@amiguam.com |
| mspeps4873@gmail.com |
| mvariety@pticom.com |
| mwatanabe@guampdn.com |
| news@guampdn.com |
| news@spbguam.com |
| nick@kuam.com |
| norman.aguilar@guamcc.edu |
| nsantos@guamlegislature.org |
| odngirairikl@guampdn.com |
| office@senatorada.org |
| oliviampalacios@gmail.com |
| onlyonguam@acubedink.com |
| pacificjournalist@gmail.com |
| parroyo@k57.com |
| pdkprg@gmail.com |
| pete@tonyada.com |
| phillipsguam@gmail.com |
| policy@frankaguonjr.com |
| publisher@glimpsesofiguam.com |
| qduenas_8@yahoo.com |
| rennae@guamlegislature.org |
| responsibleguam@gmail.com |
| rfteehan@yahoo.com |

| |
|------------------------------------|
| rgibson@k57.com |
| richdevera@gmail.com |
| ricknauta@hitradio100.com |
| rlimtiaco@guampdn.com |
| rob@judiwonpat.com |
| rolly@ktkb.com |
| roryforguam@gmail.com |
| ryanjames@senatormorrison.com |
| santos.duenas@gmail.com |
| smendiola@guamlegislature.org |
| senator@senatorbjcruz.com |
| senatorbrantmccreadie@gmail.com |
| senator@tinamunabarnes.com |
| senatorrodriguez@gmail.com |
| senatorsannicolas@gmail.com |
| senatortonyada@guamlegislature.org |
| senbenp@guam.net |
| sgflores@tinamunabarnes.com |
| sgtarms@guamlegislature.org |
| sitarose2@yahoo.com |
| slimtiaco@guampdn.com |
| sonedera-salas@guamlegislature.org |
| speaker@judiwonpat.com |
| staff@frankaguonjr.com |
| tanya4families@gmail.com |
| tasigirl@gmail.com |
| tcastro@guam.net |
| telo.taitague@guam.gov |
| tessa@senatorbjcruz.com |
| thebigshow@guamcell.net |
| thebigshow@k57.com |
| therese.hart.writer@gmail.com |
| therese@judiwonpat.com |
| tinamunabarnes@gmail.com |
| tjtaitano@cs.com |
| tom@senatorada.org |
| tommy@senatormorrison.com |
| tony@tonyada.com |
| trittent@pstripes.osd.mil |
| tterlaje@guam.net |
| val@tonyada.com |
| vincent@tinamunabarnes.com |
| vleonguerrero@judiwonpat.com |
| wil@judiwonpat.com |
| will@senatorada.org |
| xiosormd@gmail.com |
| xiosormd@yahoo.com |
| ylec2@guam.gannett.com |
| zita@mvguam.com |
| zpalomo@guamag.org |



PUBLIC HEARING AGENDA
Thursday, December 26, 2013
I Liheslatura Public Hearing Room • Hagatña, Guam

Public Hearing of Bills – 10:30AM

Bill No. 234-32 (COR) – M.F.Q. San Nicolas – An act to require that the office of technology establish a protocol to back-up critical electronic data necessary for the efficient operation of agencies by adding a new subsection (l) to §20204.1 of Article 2, Chapter 20, Title 5, Guam Code Annotated.

Bill No. 237-32 (COR) – J.T. Won Pat, Ed.D. / A.A. Yamashita, Ph.D. – An act to amend subsection 12107(c)(4), subsection 12107(f) and subsection 12107(g) of Chapter 12, Title 17, Guam Code Annotated, relative to the Guam Academy Charter School Act of 2009.

Bill No. 239-32 (COR) – D.G. Rodriguez, Jr. / M.F.Q. San Nicolas – An act to establish an Expedited Judicial Process to address claims relative to property expropriated for public purposes by the Government of Guam without just compensation.