



Territory of Guam
Territorio Guam

OFFICE OF THE GOVERNOR
U'FISINAN I MAGA'LAHI
AGANA, GUAM 96910 U.S.A.



Records Secy

April 13, 1989

The Honorable Joe T. San Agustin
Speaker, Twentieth Guam Legislature
Post Office Box CB-1
Agana, Guam 96910

Dear Mr. Speaker:

Transmitted herewith is Bill No. 457, which has been designated as Public Law 20-4.

Sincerely yours,

Joseph F. Ada
JOSEPH F. ADA
Governor

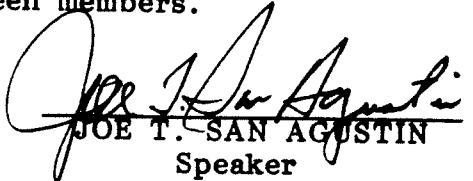
Enclosure

200193


TWENTIETH GUAM LEGISLATURE
1989 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Substitute Bill No. 457, "AN ACT TO REPEAL SUBPARAGRAPHS (b), (c) AND (d) OF §8130, TO ADD NEW SUBPARAGRAPHS (b) AND (c) THERETO, TO AMEND §§8111, 8112, AND 8113.1, SUBPARAGRAPHS (j) AND (q) OF §8104, ALL OF TITLE 4, GUAM CODE ANNOTATED, AND TO AMEND SECTION 31 OF PUBLIC LAW 19-34, TO EXTEND RETIREMENT CREDIT TO EMPLOYEES REJOINING GOVERNMENT SERVICE UPON REPAYMENT OF REFUNDS, AND TO RESTRICT SUCH CREDIT FOR FORMER FEDERAL EMPLOYEES TO THOSE EMPLOYED BY JUNE 1, 1989", returned to the Legislature without the approval of the Governor was, in accordance with the Organic Act of Guam, reconsidered by the Legislature and after such reconsideration, the Legislature did, on the 10th day of April, 1989, agree to pass said bill notwithstanding the objections of the Governor by a vote of two-thirds of all members thereof, to wit: by a vote of fourteen members.


JOE T. SAN AGUSTIN
Speaker

Attested:


PILAR C. LUJAN
Senator and Legislative Secretary

This Act was received by the Governor this 12th day of April
1989, at 12:04 o'clock p.m.


Assistant Staff Officer
Governor's Office

Public Law No. 20-4

TWENTIETH GUAM LEGISLATURE
1989 (FIRST) Regular Session

Bill No. 457
Substituted on the Floor
3/17/89

Introduced by:

C. T. C. Gutierrez
T. S. Nelson
J. P. Aguon

J. G. Bamba
H. D. Dierking
E. M. Espaldon
M. D. A. Manibusan
D. Parkinson
F. J. A. Quitugua
M. C. Ruth

AN ACT TO REPEAL AND REENACT
SUBPARAGRAPHS (b) AND (c) AND TO
AMEND SUBPARAGRAPH (d) OF §8130, TO
REPEAL AND REENACT SUBITEM (4) OF
SUBPARAGRAPH (a) OF §8136, TO AMEND
§§8111, 8112, AND 8113.1, AND
SUBPARAGRAPHS (j) AND (q) OF §8104, ALL
OF TITLE 4, GUAM CODE ANNOTATED, AND
TO AMEND SECTION 31 OF PUBLIC LAW
19-34, TO EXTEND RETIREMENT CREDIT TO
EMPLOYEES REJOINING GOVERNMENT
SERVICE UPON REPAYMENT OF REFUNDS,
AND TO RESTRICT SUCH CREDIT FOR
FORMER FEDERAL EMPLOYEES AND FOR
THOSE WHO FURTHERED THEIR EDUCATION
TO THOSE EMPLOYED BY JUNE 1, 1989.

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

2 Section 1. Subparagraphs (b) and (c) of §8130 of Title 4, Guam Code
3 Annotated are hereby repealed and reenacted to read:

4 "(b) Any member who has received a refund shall be considered
5 a member upon subsequent reemployment if such person qualifies for
6 membership under the provisions hereof. Such member shall have the
7 right to make a repayment to the Fund of the amount previously
8 received as a refund, including regular interest from the date of
9 refund to the date of repayment. Upon such repayment, such
10 member's account shall have credited to it all prior service represented

1 by the repaid refund. The repayment of refund by a member
2 pursuant hereto shall include all refunds received by the member prior
3 to the date of such member's last withdrawal from service and shall be
4 made in a single sum or in installments under rules prescribed by the
5 Board, which may pro-rate payments, except that in the event of
6 installment payment, the member seeking reinstatement of prior service
7 may provide, under rules prescribed by the Board, a credit life
8 insurance policy on such member's life wherein the Fund is beneficiary
9 for the amount still due to be repaid to the Fund, the premiums on
10 such policy of insurance to be paid by the member. In the event of
11 the member's death before the refund has been repaid without such
12 credit life insurance having been obtained, then the annuity payable to
13 the survivor or survivors shall be reduced pro rata. In the event of
14 repayment in either a lump sum or in installments, accumulated sick or
15 annual leave which may be credited pursuant to §8116 of this Title
16 shall be credited as a portion of all the refunds received by a member
17 prior to such member's last withdrawal from service for purposes of
18 computing the amount of the refund to be repaid.

19 (c) Any prior member who has withdrawn his or her retirement
20 contribution from the Fund who later has paid back such amounts or
21 who is paying back such amounts pursuant to a repayment agreement
22 or promissory note and who subsequently becomes a member (whether
23 or not vested) shall be deemed to have re-entered the Retirement Fund
24 on the terms and conditions in effect on the date he or she originally
25 became a member of the Fund, subject, however, to the provisions,
26 conditions, and restrictions of this Title.

27 Section 2. Subparagraph (d) of §8130 of Title 4, Guam Code
28 Annotated is hereby amended to read:

29 "(d) Prior members who withdrew their contributions and are no
30 longer members may pay back their contributions upon such terms and
31 conditions and within such time limits as may be set by rules of the
32 Board, provided, that the reentry into the retirement system shall be
33 on the following terms:

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- (1) The prior member may not retire or count the time for which the withdrawal was made for any purpose until the prior member actually, subsequently, works for the government of Guam, its agencies or instrumentalities, as a full time employee and member of the Fund for whatever period of time is otherwise required by law for vesting, and
- (2) The prior employee must be otherwise eligible to reenter the government service as a full time employee, and
- (3) The prior employee pays regular interest on the amount withdrawn.

Any prior member who does not claim such retirement credit for prior employment before re-entering government service or within such time after reemployment by the government of Guam as may be established by rules or regulations of the Board, shall be deemed to have waived and forfeited the right to do so."

Section 3. Subitem (4) of Subparagraph (a) of §8136 of Title 4, Guam Code Annotated, is hereby repealed and reenacted to read:

"(4) At the written option of the member, eight and one-half percent (8.5%) of the following non-base pay of such members: Overtime, bonuses, hazardous duty pay, night differential pay, lump sum annual leave, summer school pay, extra teaching assignments pay, and other salary for services rendered paid to members by the government. A new member shall exercise in writing his or her option to contribute for such non-base pay within sixty (60) days of joining the Fund, failing which such member shall be deemed to have permanently waived the right to exercise such option. All current members shall have until May 15, 1989 to exercise such option. After a member exercises such option the contribution of such member shall be based on such member's base and non-base pay. To complete a current member's exercise of such option, such a member shall pay into the Fund such member's share, plus regular interest to the date such deposit is completed, of the total contribution required for such non-base pay for such period for which such member wishes to make a

1 retroactive contribution up to the effective date of this subitem, but
2 not to exceed any period prior to October 1, 1983. In addition, any
3 annual leave for which a member has received a lump sum payment
4 (lump sum annual leave) and for which the member makes a
5 contribution as herein provided shall be credited to the member in the
6 same manner as unused accumulated annual leave is treated by §8116 of
7 this Title. The Board shall report to the Legislature by July 1, 1989,
8 (i) the number of members who have exercised the option to contribute
9 for their non-base pay, (ii) the amounts paid by such members as
10 their contribution, and (iii) sums necessary to constitute the
11 employer's share of such contribution so as to maintain the integrity of
12 the Fund so that the necessary amount shall be appropriated,
13 authorization for which is given. A current member exercising his or
14 her option shall have up to forty-eight (48) months in which to pay
15 the contribution required for the non-base pay for which retroactive
16 credit is sought, at regular interest, under such rules as to such
17 extended payments plans as are promulgated by the Board; provided,
18 however, that all such contributions shall be paid in by a member
19 before such a member's retirement."

20 Section 4. Notwithstanding any other law or regulation, members and
21 prior members who paid or executed promissory notes for repayment of
22 withdrawn contributions or for educational or military credit or for non-base
23 pay contributions shall have the interest on their repayment calculated anew
24 at regular interest and shall have payments reduced or the repayment
25 period shortened accordingly.

26 Section 5. §§8111 and 8112 of Title 4, Guam Code Annotated, are
27 amended to read:

28 "8111. Same: Credit for Educational Training Service.

29 Any person who was employed by the government of Guam prior
30 to June 1, 1989, who takes leave of absence without pay or terminates
31 from such employment in order to further his education may, when
32 returning to employment with the government of Guam, claim retirement
33 credit for such time so spent in furthering his education by paying to
34 the Fund the contributions which he would have paid had such time so

1 spent on education not been excluded by virtue of his leave of absence
2 without pay or termination, together with regular interest thereon,
3 from the date on which such contributions would have been made, had
4 such time so spent not been excluded, to the date of actual payment;
5 provided, however, that this Section shall apply only to those persons
6 who resume employment in the government of Guam within two (2)
7 years after completing their studies.

8 §8112. Same: Credit for Subsequent Civil Service.

9 Any person who was a member of the Civil Service of the United
10 States of America after May 1, 1951 and who prior to June 1, 1989 was
11 employed by the government of Guam, shall be entitled to credit for
12 services rendered the United States Government after May 1, 1951, not
13 to exceed five (5) years. In the case of any such person who was a
14 member of the Retirement Fund of the United States government,
15 credit shall be granted only when he:

16 (1) definitely and finally terminates his membership in such
17 Fund;

18 (2) definitely and finally renounces any future benefits due
19 him thereunder;

20 (3) receives a refund of his accumulated contributions
21 therefrom; and

22 (4) makes a payment to the Fund of the equivalent of the
23 amount paid to the federal fund by him and his employer during
24 the last five (5) years of his employment in the Civil Service or
25 during the period ending with the termination of said employment
26 which is equivalent to the period for which he seeks credit if less
27 than five (5) years, including regular interest from the date of
28 such termination to the date of payment."

29 Section 6. §8113.1 of Title 4, Guam Code Annotated, is amended to
30 read:

31 "§8113.1. Extension of Eligibility for Educational Credits.

32 (a) Any person who is a current member of the Fund or is a
33 person who has retired on a service retirement annuity, who first
34 joined the Fund as a new member on or before January 31, 1987, and

1 who received his or her graduate or undergraduate degree from an
2 accredited institution offering college or university degrees based upon
3 classroom instruction which is:

4 I. an institution accredited in the United States which is
5 recognized by the University of Guam or, the Department of
6 Education; or

7 II. an institution in a foreign country which is

8 (A) accredited with the Ministry of Education or its
9 equivalent in the foreign country;

10 (B) a member of the International Association of
11 Universities; or

12 (C) recognized by the United Nations as a bona fide
13 institution of higher learning; or

14 (D) recognized by the Department of Education, the
15 University of Guam or the Guam Community College;

16 and was employed by the government of Guam while or after obtain-
17 such degree, may claim retirement credit equal to the period of time,
18 including vacations, that a full-time student would normally take to
19 complete the program leading to the degree he or she received, or any
20 lesser period he or she may elect to claim, by paying to the Fund the
21 appropriate member's and employer's shares based on the period of
22 credit sought to be obtained and calculated at the average of the
23 salary received when such employee first began employment with the
24 government of Guam and the salary that such employee received from
25 the government of Guam after obtaining such degree, or \$15,000,
26 whichever is greater; provided, however, that:

27 (1) the person is a vested member of the Fund on or
28 before October 1, 1988; provided, that if the member
29 divested through withdrawal of such member's contribution
30 such member's repayment, including repayment by
31 promissory note, to restore credit for the service for which
32 the withdrawal was made, shall revert such member in the
33 Fund, but such repayment must be made by May 15, 1989

1 either in cash or by a promissory note on terms approved by
2 the Board.

3 (2) the member exercises his or her option to pay in
4 for such educational service on or before May 15, 1989 by
5 paying such amount, or signing a promissory note payable
6 for a period for up to five (5) years for such amount, or
7 filing an application to do the same. The application shall
8 be fully processed within ninety (90) days of May 15, 1988,
9 which processing time may be extended by the Board.

10 (3) payment of the appropriate member's and
11 employer's shares for the period of credit sought to be
12 obtained on or before January 31, 1987 shall include regular
13 interest.

14 (4) any member who has earned a graduate or
15 undergraduate degree while working for the government of
16 Guam or while on paid leave for education purposes shall
17 receive retirement credit for that part of his or
18 education which was paid for by the government of Guam or
19 which was obtained during a period of paid leave for
20 educational purposes.

21 (5) any member who qualifies for the provisions of this
22 section on the basis of obtaining a graduate or
23 undergraduate degree while working for the government of
24 Guam, shall have until thirty (30) days after May 15, 1989
25 to apply for his or her retirement credit, as herein
26 provided.

27 (6) any member who has not claimed his or her
28 retirement credit for education within thirty (30) days of
29 May 15, 1989 shall forfeit the right to take such educational
30 credit.

31 (b) When a person already receiving a service retirement annuity
32 claims educational credit pursuant to Subsection (a) of this Section
33 8113.1 the annuity shall be adjusted accordingly and the increase in
34 such annuity shall be effective on the date on which the person makes

1 full payment of the appropriate member's and employer's shares for the
2 period of credit sought to be obtained, including interest that may be
3 due."

4 Section 7. Subparagraph (j) of §8104, Title 4, Guam Code Annotated,
5 is hereby amended to read:

6 "(j) "Average annual salary" shall mean the average of the three
7 (3) highest annual salaries received by a member during his years of
8 credited service or Six Thousand Dollars (\$6,000) whichever is
9 greater. The term 'average annual salary' shall include contributions
10 paid under §8112 of this Title for employees who joined the Fund
11 before June 1, 1989."

12 Section 8. Subparagraph (q) of §8104, Title 4, Guam Code Annotated,
13 is hereby repealed and reenacted to read:

14 "(q) "Join the Fund" means the act of the employee in making
15 his or her first contribution to the Fund. If such employee separates
16 from the government and withdraws his or her contribution, is later
17 rehired by the government and repays his or her withdrawn
18 contribution in the manner prescribed by this Title, "join the Fund"
19 still means the original act of such employee in making his or her first
20 contribution to the Fund when first hired."

21 Section 9. Section 31 of Public Law 19-34 is hereby amended to read:

22 "Section 31. Supplemental retirement payments. The
23 supplemental retirement payments funded by Section 13, Chapter X,
24 Public Law 19-10, are hereby extended to all retirees and survivors
25 eligible to receive benefits. Two Million Dollars (\$2,000,000) are
26 hereby appropriated from the General Fund to the Government of Guam
27 Retirement Fund for such payments."

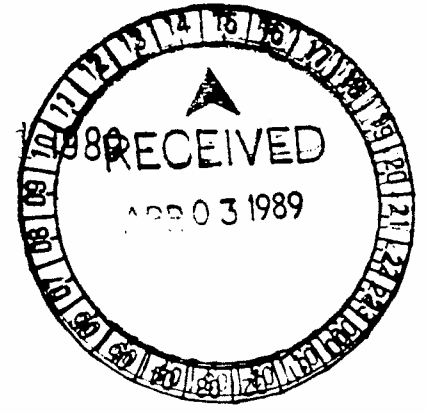


*Territory of Guam
Territorio de Guam*

OFFICE OF THE GOVERNOR
FINAN UMAGA LAHI
AGANA, GUAM 96910 USA

*Rec'd by File: Lopez
April 1, 1989
9:50 A.M.
Legislative Bdgy.*

APR 1 1989



The Honorable Joe T. San Agustin
Speaker, Twentieth Guam Legislature
Post Office Box CB-1
Agana, Guam 96910

Dear Mr. Speaker:

Returned herewith is Bill 457 which I have vetoed in its entirety.

Although I do not object to the initial provisions of this Bill, there are riders which create inequities among various government employees. Once again, the Legislature has jeopardized good legislation by including other provisions without the benefit of a public hearing. I am confident that had these provisions received the benefit of public input, senators would have seen the inequities caused by these measures and would have reconsidered their actions.

I draw your attention to Section 3 of this measure. Under the present law, lumps sum annual leave payments are credited for retirement purposes only upon retirement. The deletion of the phrase "paid upon retirement" in 4 GCA Section 8136 (a) creates an unfair advantage for employees of the legislature, including senators.

As you know, legislative employees accrue annual leave at the rate of 8 hours per pay period regardless of time in service. At the end of every two years each employee may accumulate as much as 416 hours of annual leave. At the end of the term each legislative employee is paid for his or her accumulated leave.

On the other hand, an executive or judicial branch employee receives a lump sum payment only upon termination of employment and is subject to a maximum accumulation throughout service of 480 hours.

Thus, if you compare a legislative employee, which includes

The Honorable Joe T. San Agustin
Page Two

senators, and a judicial or executive branch employee, the following results:

	LEGISLATIVE EMPLOYEE	EXECUTIVE/JUDICIAL EMPLOYEE
Time in Service:	20 years	20 years
Total accumulated annual leave	4,160 hours (208 X 20)	480 hours maximum accumulated
Difference:	3,680 hours more or 1 year, 9 months service credit	

Thus, not only does the legislative employee receive payment every two years for accumulated leave, he or she may accumulate 1 year 9 months credit for retirement more than an executive or judicial branch employee may accumulate. This provision is fundamentally unfair.

The Attorney General has advised that if Section 3 is enacted into law the Board of Trustees must file a declaratory action in the Superior Court to declare this Section and Sections 6 and 7 void, as unconstitutional as violative of equal protection and an infringement upon the Board of Trustee's fiduciary obligation to the Fund.

The objections to Sections 6 and 7 are caused by creating inequities in treatment of employees. Section 6 reopens the application deadline for obtaining educational credit under different terms and conditions than those previously obtaining credit. The law has provided that persons pay for educational credit at the salary level when he or she began employment with the government. Section 6 proposes that for persons applying for credit pay for educational credit at his or her initial salary level or \$15,000 whichever is greater. Further the interest rate is reduced from one point under the prime rate to "regular interest" of 4 1/2 percent.

An attempt is made in Section 4 of this measure to reduce the interest rate across the board but the Attorney General has advised that it is unlikely that Section 4 may be applied retroactively. Because of the Board's fiduciary responsibility to the Fund it must seek guidance on how to implement the interest provisions. My concern arises regarding the many who have already paid for the educational

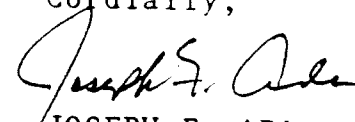
The Honorable Joe T. San Agustin
Page Three

credit. They have paid what they must consider a fair amount to receive the credit. If it is necessary to reopen the deadline for educational credit then it should be done under the same terms and conditions that others have met.

Finally, Section 7 gives an advantage to those employees who were former federal civil servants. For computation of benefits, their salaries in the federal government may be included in determining their highest salaries. This creates an unfair advantage for them.

In order to preserve fair treatment for all of our government employees, the provisions of this measure must be reconsidered and revised accordingly.

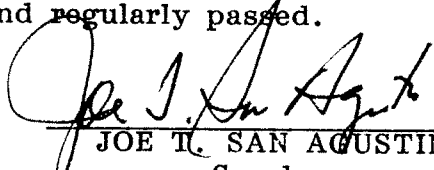
Cordially,


JOSEPH F. ADA
Governor

TWENTIETH GUAM LEGISLATURE
1989 (FIRST) Regular Session

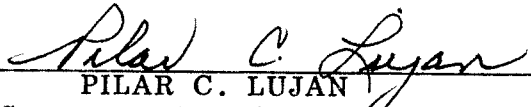
CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Substitute Bill No. 457, "AN ACT TO REPEAL AND REENACT SUBPARAGRAPHS (b) AND (c) AND TO AMEND SUBPARAGRAPH (d) OF §8130, TO REPEAL AND REENACT SUBITEM (4) OF SUBPARAGRAPH (a) OF §8136, TO AMEND §§8111, 8113 AND 8113.1, AND SUBPARAGRAPHS (j) AND (q) OF §8104, ALL OF TITLE 4, GUAM CODE ANNOTATED, AND TO AMEND SECTION 31 OF PUBLIC LAW 19-34, TO EXTEND RETIREMENT CREDIT TO EMPLOYEES REJOINING GOVERNMENT SERVICE UPON REPAYMENT OF REFUNDS, AND TO RESTRICT SUCH CREDIT FOR FORMER FEDERAL EMPLOYEES AND FOR THOSE WHO FURTHERED THEIR EDUCATION TO THOSE EMPLOYED BY JUNE 1, 1989," was on the 17th day of March, 1989, duly and regularly passed.



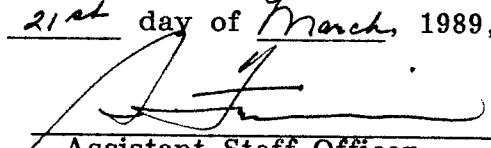
JOE T. SAN AGUSTIN
Speaker

Attested:

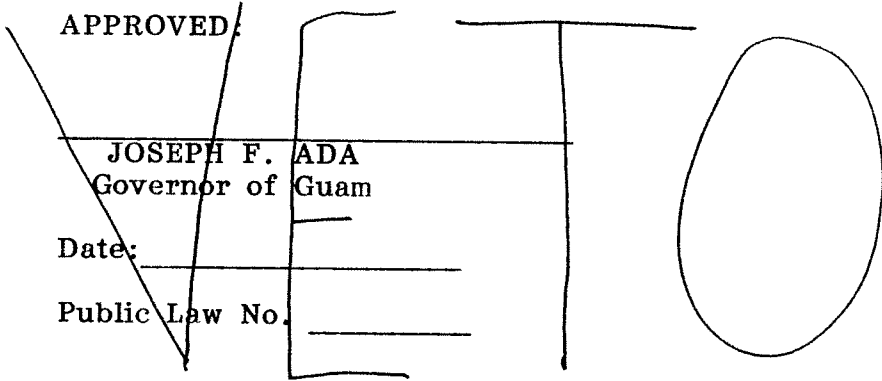


PILAR C. LUJAN
Senator and Legislative Secretary

This Act was received by the Governor this 21st day of March, 1989,
at 11:40 o'clock A.m.



Assistant Staff Officer
Governor's Office

APPROVED: 

JOSEPH F. ADA
Governor of Guam

Date: _____

Public Law No. _____

TWENTIETH GUAM LEGISLATURE
1989 (FIRST) Regular Session

Bill No. 457
Substituted on the Floor
3/17/89

Introduced by:

C. T. C. Gutierrez
T. S. Nelson
J. P. Aguon

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AN ACT TO REPEAL AND REENACT
SUBPARAGRAPHS (b) AND (c) AND TO
AMEND SUBPARAGRAPH (d) OF §8130, TO
REPEAL AND REENACT SUBITEM (4) OF
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§§8111, 8112, AND 8113.1, AND
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OF TITLE 4, GUAM CODE ANNOTATED, AND
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EMPLOYEES REJOINING GOVERNMENT
SERVICE UPON REPAYMENT OF REFUNDS,
AND TO RESTRICT SUCH CREDIT FOR
FORMER FEDERAL EMPLOYEES AND FOR
THOSE WHO FURTHERED THEIR EDUCATION
TO THOSE EMPLOYED BY JUNE 1, 1989.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:
2 Section 1. Subparagraphs (b) and (c) of §8130 of Title 4, Guam Code
3 Annotated are hereby repealed and reenacted to read:

4 "(b) Any member who has received a refund shall be considered
5 a member upon subsequent reemployment if such person qualifies for
6 membership under the provisions hereof. Such member shall have the
7 right to make a repayment to the Fund of the amount previously
8 received as a refund, including regular interest from the date of
9 refund to the date of repayment. Upon such repayment, such
10 member's account shall have credited to it all prior service represented

1 by the repaid refund. The repayment of refund by a member
2 pursuant hereto shall include all refunds received by the member prior
3 to the date of such member's last withdrawal from service and shall be
4 made in a single sum or in installments under rules prescribed by the
5 Board, which may pro-rate payments, except that in the event of
6 installment payment, the member seeking reinstatement of prior service
7 may provide, under rules prescribed by the Board, a credit life
8 insurance policy on such member's life wherein the Fund is beneficiary
9 for the amount still due to be repaid to the Fund, the premiums on
10 such policy of insurance to be paid by the member. In the event of
11 the member's death before the refund has been repaid without such
12 credit life insurance having been obtained, then the annuity payable to
13 the survivor or survivors shall be reduced pro rata. In the event of
14 repayment in either a lump sum or in installments, accumulated sick or
15 annual leave which may be credited pursuant to §8116 of this Title
16 shall be credited as a portion of all the refunds received by a memt
17 prior to such member's last withdrawal from service for purposes of
18 computing the amount of the refund to be repaid.

19 (c) Any prior member who has withdrawn his or her retirement
20 contribution from the Fund who later has paid back such amounts or
21 who is paying back such amounts pursuant to a repayment agreement
22 or promissory note and who subsequently becomes a member (whether
23 or not vested) shall be deemed to have re-entered the Retirement Fund
24 on the terms and conditions in effect on the date he or she originally
25 became a member of the Fund, subject, however, to the provisions,
26 conditions, and restrictions of this Title.

27 Section 2. Subparagraph (d) of §8130 of Title 4, Guam Code
28 Annotated is hereby amended to read:

29 "(d) Prior members who withdrew their contributions and are no
30 longer members may pay back their contributions upon such terms and
31 conditions and within such time limits as may be set by rules of the
32 Board, provided, that the reentry into the retirement system shall be
33 on the following terms:

- 1 (1) The prior member may not retire or count the time for
- 2 which the withdrawal was made for any purpose until
- 3 the prior member actually, subsequently, works for the
- 4 government of Guam, its agencies or instrumentalities,
- 5 as a full time employee and member of the Fund for
- 6 whatever period of time is otherwise required by law
- 7 for vesting, and
- 8 (2) The prior employee must be otherwise eligible to reenter
- 9 the government service as a full time employee, and
- 10 (3) The prior employee pays regular interest on the amount
- 11 withdrawn.

12 Any prior member who does not claim such retirement credit for
13 prior employment before re-entering government service or within such
14 time after reemployment by the government of Guam as may be
15 established by rules or regulations of the Board, shall be deemed to
16 have waived and forfeited the right to do so."

17 Section 3. Subitem (4) of Subparagraph (a) of §8136 of Title 4, Guam
18 Code Annotated, is hereby repealed and reenacted to read:

19 "(4) At the written option of the member, eight and one-half
20 percent (8.5%) of the following non-base pay of such members:
21 Overtime, bonuses, hazardous duty pay, night differential pay, lump
22 sum annual leave, summer school pay, extra teaching assignments pay,
23 and other salary for services rendered paid to members by the
24 government. A new member shall exercise in writing his or her option
25 to contribute for such non-base pay within sixty (60) days of joining
26 the Fund, failing which such member shall be deemed to have
27 permanently waived the right to exercise such option. All current
28 members shall have until May 15, 1989 to exercise such option. After
29 a member exercises such option the contribution of such member shall
30 be based on such member's base and non-base pay. To complete a
31 current member's exercise of such option, such a member shall pay
32 into the Fund such member's share, plus regular interest to the date
33 such deposit is completed, of the total contribution required for such
34 non-base pay for such period for which such member wishes to make a

1 retroactive contribution up to the effective date of this subitem, but
2 not to exceed any period prior to October 1, 1983. In addition, any
3 annual leave for which a member has received a lump sum payment
4 (lump sum annual leave) and for which the member makes a
5 contribution as herein provided shall be credited to the member in the
6 same manner as unused accumulated annual leave is treated by §8116 of
7 this Title. The Board shall report to the Legislature by July 1, 1989,
8 (i) the number of members who have exercised the option to contribute
9 for their non-base pay, (ii) the amounts paid by such members as
10 their contribution, and (iii) sums necessary to constitute the
11 employer's share of such contribution so as to maintain the integrity of
12 the Fund so that the necessary amount shall be appropriated,
13 authorization for which is given. A current member exercising his or
14 her option shall have up to forty-eight (48) months in which to pay
15 the contribution required for the non-base pay for which retroactive
16 credit is sought, at regular interest, under such rules as to such
17 extended payments plans as are promulgated by the Board; provided,
18 however, that all such contributions shall be paid in by a member
19 before such a member's retirement."

20 Section 4. Notwithstanding any other law or regulation, members and
21 prior members who paid or executed promissory notes for repayment of
22 withdrawn contributions or for educational or military credit or for non-base
23 pay contributions shall have the interest on their repayment calculated anew
24 at regular interest and shall have payments reduced or the repayment
25 period shortened accordingly.

26 Section 5. §§8111 and 8112 of Title 4, Guam Code Annotated, are
27 amended to read:

28 "8111. Same: Credit for Educational Training Service.

29 Any person who was employed by the government of Guam prior
30 to June 1, 1989, who takes leave of absence without pay or terminates
31 from such employment in order to further his education may, when
32 returning to employment with the government of Guam, claim retirement
33 credit for such time so spent in furthering his education by paying to
34 the Fund the contributions which he would have paid had such time so

1 spent on education not been excluded by virtue of his leave of absence
2 without pay or termination, together with regular interest thereon,
3 from the date on which such contributions would have been made, had
4 such time so spent not been excluded, to the date of actual payment;
5 provided, however, that this Section shall apply only to those persons
6 who resume employment in the government of Guam within two (2)
7 years after completing their studies.

8 §8112. Same: Credit for Subsequent Civil Service.

9 Any person who was a member of the Civil Service of the United
10 States of America after May 1, 1951 and who prior to June 1, 1989 was
11 employed by the government of Guam, shall be entitled to credit for
12 services rendered the United States Government after May 1, 1951, not
13 to exceed five (5) years. In the case of any such person who was a
14 member of the Retirement Fund of the United States government,
15 credit shall be granted only when he:

16 (1) definitely and finally terminates his membership in such
17 Fund;

18 (2) definitely and finally renounces any future benefits due
19 him thereunder;

20 (3) receives a refund of his accumulated contributions
21 therefrom; and

22 (4) makes a payment to the Fund of the equivalent of the
23 amount paid to the federal fund by him and his employer during
24 the last five (5) years of his employment in the Civil Service or
25 during the period ending with the termination of said employment
26 which is equivalent to the period for which he seeks credit if less
27 than five (5) years, including regular interest from the date of
28 such termination to the date of payment."

29 Section 6. §8113.1 of Title 4, Guam Code Annotated, is amended to
30 read:

31 "§8113.1. Extension of Eligibility for Educational Credits.

32 (a) Any person who is a current member of the Fund or is a
33 person who has retired on a service retirement annuity, who first
34 joined the Fund as a new member on or before January 31, 1987, and

1 who received his or her graduate or undergraduate degree from an
2 accredited institution offering college or university degrees based upon
3 classroom instruction which is:

4 I. an institution accredited in the United States which is
5 recognized by the University of Guam or, the Department of
6 Education; or

7 II. an institution in a foreign country which is

8 (A) accredited with the Ministry of Education or its
9 equivalent in the foreign country;

10 (B) a member of the International Association of
11 Universities; or

12 (C) recognized by the United Nations as a bona fide
13 institution of higher learning; or

14 (D) recognized by the Department of Education, the
15 University of Guam or the Guam Community College;

16 and was employed by the government of Guam while or after obtain-
17 such degree, may claim retirement credit equal to the period of time,
18 including vacations, that a full-time student would normally take to
19 complete the program leading to the degree he or she received, or any
20 lesser period he or she may elect to claim, by paying to the Fund the
21 appropriate member's and employer's shares based on the period of
22 credit sought to be obtained and calculated at the average of the
23 salary received when such employee first began employment with the
24 government of Guam and the salary that such employee received from
25 the government of Guam after obtaining such degree, or \$15,000,
26 whichever is greater; provided, however, that:

27 (1) the person is a vested member of the Fund on or
28 before October 1, 1988; provided, that if the member
29 divested through withdrawal of such member's contribution
30 such member's repayment, including repayment by
31 promissory note, to restore credit for the service for which
32 the withdrawal was made, shall re-vest such member in the
33 Fund, but such repayment must be made by May 15, 1989

1 either in cash or by a promissory note on terms approved by
2 the Board.

3 (2) the member exercises his or her option to pay in
4 for such educational service on or before May 15, 1989 by
5 paying such amount, or signing a promissory note payable
6 for a period for up to five (5) years for such amount, or
7 filing an application to do the same. The application shall
8 be fully processed within ninety (90) days of May 15, 1988,
9 which processing time may be extended by the Board.

10 (3) payment of the appropriate member's and
11 employer's shares for the period of credit sought to be
12 obtained on or before January 31, 1987 shall include regular
13 interest.

14 (4) any member who has earned a graduate or
15 undergraduate degree while working for the government of
16 Guam or while on paid leave for education purposes shall
17 receive retirement credit for that part of his or
18 education which was paid for by the government of Guam or
19 which was obtained during a period of paid leave for
20 educational purposes.

21 (5) any member who qualifies for the provisions of this
22 section on the basis of obtaining a graduate or
23 undergraduate degree while working for the government of
24 Guam, shall have until thirty (30) days after May 15, 1989
25 to apply for his or her retirement credit, as herein
26 provided.

27 (6) any member who has not claimed his or her
28 retirement credit for education within thirty (30) days of
29 May 15, 1989 shall forfeit the right to take such educational
30 credit.

31 (b) When a person already receiving a service retirement annuity
32 claims educational credit pursuant to Subsection (a) of this Section
33 8113.1 the annuity shall be adjusted accordingly and the increase in
34 such annuity shall be effective on the date on which the person makes

1 full payment of the appropriate member's and employer's shares for the
2 period of credit sought to be obtained, including interest that may be
3 due."

4 Section 7. Subparagraph (j) of §8104, Title 4, Guam Code Annotated,
5 is hereby amended to read:

6 "(j) "Average annual salary" shall mean the average of the three
7 (3) highest annual salaries received by a member during his years of
8 credited service or Six Thousand Dollars (\$6,000) whichever is
9 greater. The term 'average annual salary' shall include contributions
10 paid under §8112 of this Title for employees who joined the Fund
11 before June 1, 1989."

12 Section 8. Subparagraph (q) of §8104, Title 4, Guam Code Annotated,
13 is hereby repealed and reenacted to read:

14 "(q) "Join the Fund" means the act of the employee in making
15 his or her first contribution to the Fund. If such employee separates
16 from the government and withdraws his or her contribution, is later
17 rehired by the government and repays his or her withdrawn
18 contribution in the manner prescribed by this Title, "join the Fund"
19 still means the original act of such employee in making his or her first
20 contribution to the Fund when first hired."

21 Section 9. Section 31 of Public Law 19-34 is hereby amended to read:

22 "Section 31. Supplemental retirement payments. The
23 supplemental retirement payments funded by Section 13, Chapter X,
24 Public Law 19-10, are hereby extended to all retirees and survivors
25 eligible to receive benefits. Two Million Dollars (\$2,000,000) are
26 hereby appropriated from the General Fund to the Government of Guam
27 Retirement Fund for such payments."

Twentieth Guam Legislature



163 Chalan Santo Papa St.
Agana, Guam U.S.A. 96910
(671) 472-3407/8/9/10

Chairman, Committee
on Ways & Means
Vice-Chairman, Committee
on Tourism & Transportation

CARL T. C. GUTIERREZ
Senator

March 15, 1989

Speaker Joe T. San Agustin
20th Guam Legislature
163 Chalan Santo Papa St.
Agana, Guam 96910

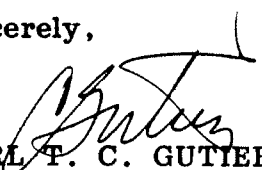
Dear Mr. Speaker:

The Committee on Ways & Means to which was referred Bill 457, An act to repeal subparagraphs (b), (c) and (d) of §8130, to add new subparagraphs (b) and (c) thereto, to amend §§8111, 8112, and 8113.1, subparagraphs (j) and (q) of §8104 and subparagraph (b) of §8108, all of Title 4, Guam Code Annotated, and to amend Section 31 of Public Law 19-34 to extend retirement credit to employees rejoining government service upon repayment of refunds, and to restrict such credit for former federal employees to those employed by June 1, 1989, wishes to report back to the Legislature the substitute bill with its recommendation to do pass. The voting record is as follows:

TO PASS	<u>11</u>
NOT TO PASS	<u>1</u>
TO REPORT OUT ONLY	<u>0</u>
TO PLACE IN INACTIVE FILE	<u>0</u>

Copies of the Committee Report and other pertinent documents are attached for your information.

Sincerely,


CARL T. C. GUTIERREZ

Carl T. C. Gutierrez

Twentieth Guam Legislature
Committee on Ways & Means
Voting Sheet

Bill No. 457

AN ACT TO REPEAL SUBPARAGRAPHS (b), (c) AND (d) OF §8130, TO ADD NEW SUBPARAGRAPHS (b) AND (c) THERETO, TO AMEND §§8111, 8112, AND 8113.1, SUBPARAGRAPHS (j) AND (q) OF §8104 AND SUBPARAGRAPH (b) OF §8108, ALL OF TITLE 4, GUAM CODE ANNOTATED, AND TO AMEND SECTION 31 OF PUBLIC LAW 19-34 TO EXTEND RETIREMENT CREDIT TO EMPLOYEES REJOINING GOVERNMENT SERVICE UPON REPAYMENT OF REFUNDS, AND TO RESTRICT SUCH CREDIT FOR FORMER FEDERAL EMPLOYEES TO THOSE EMPLOYED BY JUNE 1, 1989.

	<u>TO PASS</u>	<u>NOT TO PASS</u>	<u>TO REPORT OUT ONLY</u>	<u>TO PLACE IN INACTIVE FILE</u>
Senator Carl T. C. GUTIERREZ Chairman	<u><i>CG</i></u>	<u> </u>	<u> </u>	<u> </u>
Senator Herminia D. DIERKING Vice-Chairman	<u><i>D</i></u>	<u> </u>	<u> </u>	<u> </u>
Senator John P. AGUON Member	<u><i>JA</i></u>	<u> </u>	<u> </u>	<u> </u>
Senator George BAMBA Member	<u><i>JB</i></u>	<u> </u>	<u> </u>	<u> </u>
Senator Doris BROOKS Member	<u><i>DB</i></u>	<u> </u>	<u> </u>	<u> </u>
Senator Ernesto - ESPALDON Member	<u><i>EE</i></u>	<u> </u>	<u> </u>	<u> </u>
Senator Marilyn MANIBUSAN Member	<u><i>MM</i></u>	<u> </u>	<u> </u>	<u> </u>
Senator Ted S. NELSON Member	<u><i>TN</i></u>	<u> </u>	<u> </u>	<u> </u>
Senator Don PARKINSON Member	<u><i>D</i></u>	<u><i>✓</i></u>	<u> </u>	<u> </u>
Senator Franklin J. A. QUINTUGUA Member	<u><i>FJA</i></u>	<u><i>FJA</i></u>	<u> </u>	<u> </u>
Senator Martha C. RUTH Member	<u><i>MR</i></u>	<u> </u>	<u> </u>	<u> </u>
Speaker Joe T. SAN AGUSTIN Ex-Officio Member	<u><i>JS</i></u>	<u> </u>	<u> </u>	<u> </u>

TWENTIETH GUAM LEGISLATURE
1989 (FIRST) Regular Session

Bill No. 457
Substituted by Committee on
Ways & Means

Introduced by:

C. T. C. Gutierrez
T. S. Nelson
J. P. Aguon

J. G. Bamba
D. F. Brooks
H. D. Dierking
E. M. Espaldon
M. D. A. Manibusan
D. Parkinson
F. J. A. Quitugua
M. C. Ruth

AN ACT TO REPEAL SUBPARAGRAPHS (b),
(c) AND (d) OF §8130, TO ADD NEW
SUBPARAGRAPHS (b) AND (c) THERETO, TO
AMEND §§8111, 8112, AND 8113.1,
SUBPARAGRAPHS (j) AND (q) OF §8104, ALL
OF TITLE 4, GUAM CODE ANNOTATED, AND
TO AMEND SECTION 31 OF PUBLIC LAW
19-34, TO EXTEND RETIREMENT CREDIT TO
EMPLOYEES REJOINING GOVERNMENT
SERVICE UPON REPAYMENT OF REFUNDS,
AND TO RESTRICT SUCH CREDIT FOR
FORMER FEDERAL EMPLOYEES TO THOSE
EMPLOYED BY JUNE 1, 1989.

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

2 Section 1. Subparagraphs (b), (c) and (d) of §8130 of Title 4, Guam
3 Code Annotated are hereby repealed. New subparagraphs (b) and (c) are
4 hereby added to §8130, Title 4, Guam Code Annotated, to read:

5 "(b) Any member who has received a refund shall be considered
6 a new member upon subsequent re-employment if such person qualifies
7 for membership under the provisions hereof. Such member shall have
8 the right to make a repayment to the Fund of the amount previously
9 received as a refund, including regular interest from the date of
10 refund to the date of repayment. Upon such repayment, such
11 member's account shall have credited to it all prior service represented

1 by the repaid refund. The repayment of refund by a member
2 pursuant hereto shall include all refunds received by the member prior
3 to the date of such member's last withdrawal from service and shall be
4 made in a single sum or in installments under rules prescribed by the
5 Board, which may pro-rate payments, except that in the event of
6 installment payment, the member seeking reinstatement of prior service
7 may provide, under rules prescribed by the Board, a credit life
8 insurance policy on such member's life wherein the Fund is beneficiary
9 for the amount still due to be repaid to the Fund, the premiums on
10 such policy of insurance to be paid by the member. In the event of
11 the member's death before the refund has been repaid without such
12 credit life insurance having been obtained, then the annuity payable to
13 the survivor or survivors shall be reduced pro rata. In the event of
14 repayment in either a lump sum or in installments, accumulated sick or
15 annual leave which may be credited pursuant to §8116 of this Title
16 shall be credited as a portion of all the refunds received by a member
17 prior to such member's last withdrawal from service for purposes of
18 computing the amount of the refund to be repaid.

19 (c) The Board shall establish by regulation the time period
20 within which members returning to government employment must initiate
21 a repayment agreement in order to obtain previous service credit."

22 Section 2. Notwithstanding any other law or regulation, members and
23 prior members who paid or executed promissory notes for repayment of
24 withdrawn contributions between August 22, 1988, and February 18, 1989,
25 shall have the interest on their repayment calculated anew at the regular
26 interest rate and shall have payments reduced or the repayment period
27 shortened accordingly.

28 Section 3. §§8111 and 8112 of Title 4, Guam Code Annotated, are
29 amended to read:

30 "8111. Same: Credit for Educational Training Service.

31 Any person who was [is] employed by the government of Guam
32 prior to June 1, 1989, who takes leave of absence without pay or
33 terminates from such employment in order to further his education
34 may, when returning to employment with the government of Guam,

1 claim retirement credit for such time so spent in furthering his
2 education by paying to the Fund the contributions which he would
3 have paid had such time so spent on education not been excluded by
4 virtue of his leave of absence without pay or termination, together
5 with regular interest thereon, from the date on which such
6 contributions would have been made, had such time so spent not been
7 excluded, to the date of actual payment; provided, however, that this
8 Section shall apply only to those persons who resume employment in
9 the government of Guam within two (2) years after completing their
10 studies.

11 §8112. Same: Credit for Subsequent Civil Service.

12 "Any person who [is] was a member of the Civil Service of the
13 United States of America after May 1, 1951 and who prior to June 1,
14 1989 was [subsequently] employed by the government of Guam, shall
15 be entitled to credit for services rendered the United States
16 Government after [that date] May 1, 1951, not to exceed five (5)
17 years. In the case of any such person who was a member of the
18 Retirement Fund of the United States government, credit shall be
19 granted only when he:

20 (1) definitely and finally terminates his membership in such
21 Fund;

22 (2) definitely and finally renounces any future benefits due
23 him thereunder;

24 (3) receives a refund of his accumulated contributions
25 therefrom; and

26 (4) makes a payment to the Fund of the equivalent of the
27 amount paid to the federal fund by him and his employer during
28 the last five (5) years of his employment in the Civil Service or
29 during the period ending with the termination of said employment
30 which is equivalent to the period for which he seeks credit if less
31 than five (5) years, including regular interest from the date of
32 such termination to the date of payment."

1 Section 4. §8113.1 of Title 4, Guam Code Annotated, is amended to
2 read:

3 "8113.1. Extension of Eligibility for Educational Credits.

4 (a) Any person who is a current member of the Retirement Fund
5 or is a person who has retired on a service retirement annuity, who
6 first joined the Fund as a new member on or before January 31, 1987,
7 and who received his or her graduate or undergraduate degree from
8 an accredited institution offering college or university degrees based
9 upon classroom instruction which is:

10 I. [1.] an institution accredited in the United States which is
11 recognized by the University of Guam or, the Department of
12 Education; or

13 II. [2.] an institution in a foreign country which is

14 (A) [a.] accredited with the Ministry of Education or its
15 equivalent in the foreign country;

16 (B) [b.] a member of the International Association of
17 Universities; or

18 (C) [c.] recognized by the United Nations as a bona fide
19 institution of higher learning; or

20 (D) [d.] recognized by the Department of Education, the
21 University of Guam or the Guam Community College;

22 and was employed by the government of Guam while or after obtaining
23 such degree, may claim retirement credit equal to the period of time,
24 including vacations, that a full-time student would normally take to
25 complete the program leading to the degree he or she received, or any
26 lesser period he or she may elect to claim, by paying to the Fund the
27 appropriate member's and employer's shares based on the period of
28 credit sought to be obtained and calculated at the average of [his] the
29 salary received when [he] such employee began employment with the
30 government of Guam and the salary received when such employee was
31 rehired by the government of Guam after obtaining such degree, or
32 \$15,000, whichever is greater; provided, however, that:

33 (1) the person is a vested member of the Fund on or
34 before October 1, 1988 [the effective date of this Act];

1 provided, that if the member divested through withdrawal of
2 such member's service credit, such member's repayment,
3 including repayment by promissory note, to restore credit
4 for the service for which the withdrawal was made, shall
5 revest such member in the Fund, but such repayment must
6 be made by June 1, 1989 or at such later date as is
7 approved by the Board.

8 (2) the member exercises his or her option to pay in
9 for such educational service [within 30 days of the effective
10 date of this Act] on or before October 1, 1988 by paying
11 such amount, or signing a promissory note payable for a
12 period for up to five (5) years for such amount, or filing an
13 application to do the same. The application shall be fully
14 processed within 90 days of October 1, 1988 [the effective
15 date of this Act], which processing time may be extended by
16 the Board [of Directors of the Retirement Fund if necessary
17 for an additional 90 days].

18 (3) payment of the appropriate member's and
19 employer's shares for the period of credit sought to be
20 obtained on or before January 31, 1987 shall include interest
21 at a rate which is one (1) point under the prevailing prime
22 rate charged on Guam on the date the promissory note is
23 signed.

24 (4) any member who has earned a graduate or
25 undergraduate degree while working for the government of
26 Guam or while on paid leave for education purposes shall not
27 receive retirement credit for that part of his or her
28 education which was paid for by the government of Guam or
29 which was obtained during a period of paid leave for
30 educational purposes.

31 (5) any member who qualifies for the provisions of this
32 section on the basis of obtaining a graduate or
33 undergraduate degree while working for the government of

1 Guam, shall have until 30 days after October 1, 1988 to
2 apply for his or her retirement credit, as herein provided.

3 (6) any member who has not claimed his or her
4 retirement credit for education within 30 days of [the
5 effective date of this Act] October 1, 1988 shall forfeit the
6 right to take such educational credit.

7 (b) When a person already receiving a service retirement annuity
8 claims educational credit pursuant to Subsection (a) of this Section
9 8113.1 the annuity shall be adjusted accordingly and the increase in
10 such annuity shall be effective on the date on which the person makes
11 full payment of the appropriate member's and employer's shares for the
12 period of credit sought to be obtained, including interest that may be
13 due."

14 Section 5. Subparagraph (j) of §8104 is hereby amended to read:

15 "(j) "Average annual salary" shall mean the average of the three
16 (3) highest annual salaries received by a member during his years of
17 credited service or Six Thousand Dollars (\$6,000) whichever is greater
18 [This Subsection shall be effective August 31, 1974. The Term
19 'average annual salary' shall include contributions paid under 4 GCA
20 §8112]."

21 Section 6. Subparagraph (q) of §8104, Title 4, Guam Code Annotated,
22 is hereby amended to read:

23 "(q) "Join the Fund" means the act of the employee in making
24 his or her first contribution to the Fund regardless of whether he or
25 she later separates from the Government [as long as he or she does
26 not] and withdraws his or her contribution. If a member withdraws
27 his or her contribution after separation from government service then
28 "join the Fund" means his or her act of making a contribution after
29 being rehired."

30 Section 7. Section 31 of Public Law 19-34 is hereby amended to read:

31 "Section 31. Supplemental retirement payments. The
32 supplemental retirement payments funded by Section 13, Chapter X,
33 Public Law 19-10, are hereby extended to all retirees and survivors
34 eligible to receive benefits [as of October 1, 1988]. Two Million

1 Dollars (\$2,000,000) are hereby appropriated from the General Fund to
2 the Government of Guam Retirement Fund for such payments."

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BILL 457

COMMITTEE ON WAYS & MEANS COMMITTEE REPORT

**Bill 457: "An Act to amend Section 8130 of
4 GCA regarding repayment of withdrawn
contributions to the Retirement Fund."**

The Committee on Ways & Means conducted a public hearing on Wednesday, February 22, 1989, beginning at 9:00 a.m. to hear public testimony on Bill 457. Senator Carl T.C. Gutierrez, Chair of the Committee, conducted the hearing. Members present were Senators John Aguon, George Bamba, Doris Brooks, and Martha Ruth.

BACKGROUND

Public Law 19-19, enacted August 22, 1988, was a legislative response to policies and decisions of the Guam Retirement Fund in the aftermath of Bunyan v. Guam Retirement Fund. The decision in that case compelled equity in recognizing time spent getting educational degrees as service credit toward retirement for Government of Guam employees. In an effort to stabilize the fund and protect it from withdrawals and late refunding, Section 8130 of Title 4 GCA was amended. The amendments included provisions which (1) set a deadline for the repayment of monies previously withdrawn; (2) made it impossible to repay monies subsequently withdrawn; and (3) set conditions on the repayment, including an increase in the interest charged on such repayment and the period for installment payments. Also, the provisions for claiming educational service credit were clarified for incumbents and eliminated for future claim.

In the time since P.L.19-19 was enacted, the impact of the increase in interest rate and the setting of deadlines has been found to work great hardship on employees. While money had been withdrawn under certain conditions, the conditions for repayment were greatly changed by the new law. In addition, some employees previously eligible for educational service credit in honest consonance with the intent of the law, were found to be technically ineligible at the present time due to the requirement they be vested.

Bill 457 was introduced to correct the problematic implementation of P.L. 19-19.

TESTIMONY

Mr. Atanacio Gutierrez and Mr. Jose Okada, Director and Deputy Director of the Retirement Fund, submitted written and oral testimony (see Exhibit A). They were accompanied by Board of Trustees member Conrad Stinson. Basically, their position was in support of Bill 457, but felt there were other problem areas for the Fund that should also be addressed. They reiterated their opposition to P.L. 19-19 as it took away the authority of the Board of Trustees to determine the interest rates and to have flexibility in determining the payment structure for repayments.

They testified: "During the period August 22, 1988 thru February 18, 1989, a total of 669 members applied for credit for previous service(s). A little over a third did not pursue processing past submission of application, due to their inability to repay at the rate and term set by P.L. 19-19. Under the current statute, approximately 224 career government employees who have expressed the desire to restore their service credit, forfeited this credit because of the restrictive provisions of P.L. 19-19. There are undoubtedly many more affected that we have yet to identify."

There was no objection to reversing the interest rate to 4 1/2% as had been set by the Retirement Board of Trustees. Some concern was expressed regarding opening up the fund to former members who are not current members of the Fund. The superiority of the old Section 8130 (prior to amendment in P.L. 19-19) was explained. It was pointed out that it has not been effective in reducing the withdrawals as \$1.3 million was refunded between August and January to 311 people who were told they could never repay the money nor re-claim the service credit.

It was also pointed out that payment of amounts due for other types of service credit (military credit, federal civil service credit, etc.) are still at "regular" interest which has been set by the Board at 4 1/2% while actual service periods which had been refunded and were subject to repayment at 10 1/2% at the present time. Trustee Stinson described this rate as a "usurious rate that was imposed on our people."

Senator Gutierrez asked the Retirement Fund representatives about their position in removing the October 1, 1988, cutoff on retirees' COLA adjustment passed in P.L. 19-34. The response was that, since that particular COLA is funded by the General Fund, there would be no objection.

Former Commissioner Cecilia Morrison testified that she supports Bill 457 as the conditions set on repayment to the Fund are

too onerous. The time is not long enough and former employees should also be allowed to make installment payments.

Dr. Jennean Sablan testified that she, too, favors Bill 457 as it fulfills the implied agreement for repayment that was in effect when she obtained her refund (see Exhibit B).

Dr. Laura Torres Souder appeared to testify in favor of Bill 457 with amendments (see Exhibit C). The amendments she requested were to correct the problem of individuals who have been denied education credit because they did not meet the vesting requirement of P.L. 19-19. She pointed out that most of these persons were born on Guam, went to Guam schools, interrupted their services to obtain higher education degrees and return home to serve Guam. The concept of education credit was initially devised to encourage our own people to return after receiving their degrees, but the recent amendments have served to disqualify these very people from the credit.

Mr. Frederick Quinene, Merizo resident, gave impassioned testimony to explain the situation of his wife and the hardship the high interest rate has imposed upon their family (see Exhibit D). He pointed out that it was his father, the late former Senator Jesus R. Quinene, who introduced the bill creating the Retirement Fund and he knew that the intent was not to generate money for the government which seems to be a result of the current law. He called for prompt action in passing Bill 457 to reduce the interest rate.

Mr. Thomas Duke expressed his enthusiastic support of Bill 457 and presented petitions signed by over 300 persons also supporting the Bill (see Exhibit E). He also gave the example of one individual who had \$1,415 refunded and whose repayment under the present law will cost \$29,924 in interest! He thanked the Bill's sponsors, Senator Gutierrez and Senator Nelson, and wished to thank any other senators in support of it.

Written testimony in favor of Bill 457 was received from Dr. Jeffrey Shafer (see Exhibit F); by Mr. Gene Bruce, who asked that an amendment be included to allow those who served in the Peace Corps to be allowed to credit that service (see Exhibit G); and Ms. Mary Roth, who asked (see Exhibit H) that the requirement for education credit be changed to recognize degree equivalency (36 hours of graduate credit was the equivalent of a Master's degree according to the classification and pay system of the Department of Education).

ANALYSIS

In regards to Section 8130, evidence indicates that the intent of the new section to discourage the withdrawal of money from the Fund is not resulting and that reinstatement of the original section as requested by the Retirement Fund would be appropriate. When this is done, there is a need to add a provision that any returning employee shall have such time as shall be promulgated by regulation of the Board to initiate a repayment agreement. Then employees who leave employment with a refund and subsequently are again employed by the government could not wait until the day before retirement to repay the refund. There is also need to clarify that repayments made or repayment agreements made subject to the terms of P.L. 19-19 will be recalculated under the regular interest rate of 4 1/2% (see Exhibit I for comparison). Also, to keep the intent of P.L. 19-19 that the conditions in effect at the original hiring would remain when repayment is made, Section 8104 q. should be amended and slight clarifying changes made in the wording of the "old" Section 8130.

In regards to amendments proposed to the education credit section, the wording proposed by Dr. Souder is clear and justified, with a slight change to allow the Board of Trustees to consider instances where a deadline is missed due to extraordinary circumstances. In the recent application period, 249 who applied were denied due to non-vesting, with 83 of those being recipients of refunds which had not been repaid. Due to poor numbering of this section in P.L. 19-19 and a clarification needed regarding the salary base upon which the purchase of education credit will be calculated, Legal Counsel advised re-enactment of a corrected Section 8113.1. The concern regarding Peace Corps service is currently under review by the Retirement Fund counsel and there have been conflicting opinions from past Attorneys General. More study is needed to determine if local law can correct the federal determination that the same period cannot be credited for Social Security and other retirement plans. The question of recognizing degree equivalence has many ramifications and broad applicability. Further study will be needed in this instance.

The Retirement Fund testimony noted that some provisions of the law need to be amended due to "ambiguity, legal deficiency, inequity, and lack of adequate funding." Some of the specific sections of law being questioned were named during staff review subsequent to the public hearing. Therefore, the substitute bill should include repeal of Section 8111 (Credit for Educational Training Service) for those who join the Fund after June 1, 1989; repeal of 8112 (Credit for

*No
Exhibit I
attached
7/24/89
Wags + Moore
says I never
att. which as
was never
rec'd from
Retirement*

Subsequent Civil Service) for those who join the Fund after June 1, 1989; repeal of Section 59 of P.L. 19-19; and an amendment clarifying the salary base to be used in computing the purchase of education credit as the average between initial salary and salary following degree attainment, to be no less than \$15,000.

RECOMMENDATIONS

The Committee on Ways & Means recommends that Substitute Bill 457 be passed by the Twentieth Guam Legislature as quickly as possible.



GOVERNMENT OF GUAM RETIREMENT FUND
P.O. BOX 3-C
AGANA, GUAM 96910
Telephone No. 477-9290

FEB 22 1989

Honorable Carl T.C. Gutierrez
Chairman, Committee on Ways & Means
Twentieth Guam Legislature
163 Chalan Santo Papa Street
Agana, Guam 96910

Dear Mr. Chairman:

We are pleased to have the opportunity to testify before your committee and to speak on Bill No. 457.

Section 1 of Bill No. 457 proposes to amend §8130, 4 GCA, as repealed and reenacted by P.L. 19-19 on August 22, 1988. The proposal would roll back the interest rate on repayment of withdrawn contributions, extends to former members the benefit of installment payment and opens the application period for an additional 60 days.

Section 2 provides that members and former members who have paid or signed a promissory note under P.L. 19-19, shall have the interest on their repayment recalculated at the new rate and shall have money refunded or payment reduced accordingly.

Section 8130 was radically changed when it was repealed and reenacted by P.L. 19-19. Under the old law, a member who has received a refund was considered a new member upon subsequent reemployment, and as such he had a right to make a repayment to the system of the amount(s) withdrawn, including regular interest. Repayments could be made in a single lump-sum or on installments under rules prescribed by the Board.

Under P.L. 19-19, members who withdraw after August 22, 1988, lose all service credit and may not thereafter receive credit for such time and may not repurchase or pay in for retirement credit for the time withdrawn. Withdrawals made prior to August 22 can be restored provided that it is made within 180 days from August 22, 1988 and at the prevailing prime interest rate, but not less than the rate charged by the IRS for delinquent taxes. Failure to pay or sign a promissory note by February 18, 1989 resulted in forfeiture of service credits. The P.L. 19-19 version of §8130 also restored to employees who were members on the effective date of the act, the benefits provisions in existence on their original membership date. Moreover, it allows former members to restore their services by paying in the amount(s) withdrawn with the proviso that they must subsequently work for the Government of Guam for the minimum period required for vesting.

When P.L. 19-19 was enacted by a veto override by the 19th Guam Legislature, it took away the Board's authority to set the interest rate on repayment of refunded contributions. Section 8104(k) defines regular interest to mean such rate as shall be fixed by the Board. The Legislature further mandated a maximum five year installment plan. Under the old statute, installment payments are governed under rules prescribed by the Board. This takes into consideration the member's financial situation, their repayment ability, time remaining before eligibility for retirement, etc.

The retirement related provisions of Bill No. 296 enacted as P.L. 19-19 were previously a part of Bills No. 268, 240 and 833. All were vetoed by the Governor based on the premises of ambiguity, legal deficiency, inequity, and lack of adequate funding, etc.

Honorable Carl T.C. Gutierrez
Chairman, Committee On Ways & Means
Page Two

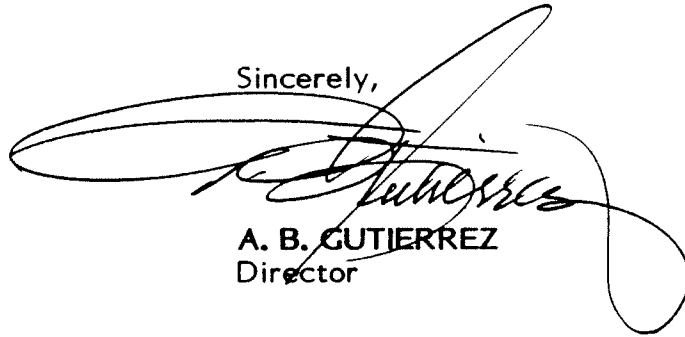
Equity: The statutes governing the system continues to recognize military service and federal service covered under the US Civil Service Retirement System. These provisions are liberal and relatively inexpensive, however, to recredit actual Government of Guam service, the member has to pay dearly and in other situations, suffers complete forfeiture of actual Government of Guam service.

Legal deficiency: Members who have refunded for previous services, when they returned to service in effect had a binding contractual agreement that they can restore their services at the regular interest rate and at a term prescribed by the Board. P.L. 19-19 impaired the benefit expectation of these members by mandating a rate and term, that most if not all can not afford.

Inadequate Funding: Bill No. 457 does not provide for or recognize any funding requirements. Although P.L. 19-19 did include a 1% additional government contribution, this is still substantially under the 19% that the Actuary had recommended.

During the period August 22, 1988 thru February 18, 1989, a total of 669 members applied for credit for previous service(s). A little over a third did not pursue processing past submission of application, due to their inability to repay at the rate and term set by P.L. 19-19. Under the current statute, approximately 224 career government employees who have expressed the desire to restore their service credit, forfeited this credit because of the restrictive provisions of P.L. 19-19. There are undoubtedly many more affected that we have yet to identify.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read 'A. B. Gutierrez', is written over the typed name and title. The signature is fluid and cursive, with a large loop at the end.

A. B. GUTIERREZ
Director

Feb. 22, 1989

JENNEAN SABLAN, employee with government of Guam since 1963.

I withdrew 8 thousand dollars in 1981. I wanted to repay this, but was unable until August when I completed work on my degree.

When I went in to arrange repayment I was informed that Public Law 19-19 had increased the interest rate. This did not come as a surprise, since I had been warned the previous May that there was a law being written to include such an increase.

When I was informed that the increase went all the way back to 1981 I was shocked. I didn't think repayment terms could be changed after they were given. I thought the law would increase the interest rate from the date the law was enacted to the date when full repayment was made.

In my opinion the section of P.L. 19-19 that retroactively increased interest was an error. It threatens my retirement.


The financial aspect of my own case is this: In July of 1988 I owed 11 thousand dollars (8 thousand principal and 3 thousand interest), but in August of 1988 I was informed that the new law passed and I owed 17 thousand dollars. THAT LAW ADDED 6 THOUSAND DOLLARS TO MY RETIREMENT FUND DEBT. Since I do not have the 17 thousand dollars to pay, I have to either forfeit 13 years of my retirement or make payments over a five year period. At the planned rate of payment, the total collected by retirement would be 27 thousand dollars. In terms of payments, that is \$ 526 per month.

I believe retirement fund abuses have been adequately resolved by the portion of the law which ends capricious membership withdrawal and reentry.

The proposed change would rectify the burdensome interest rate and protect years I earned with labor for the government of Guam.

Since there is no other way to reclaim those years, I have begun to make heavy payments hoping that you would understand the unexpected ramifications of the law and act to reinstate the original terms and conditions to which I agreed.

Sincerely,


← Jennean Sablan

Testimony on Bill 457
to the 20th Guam Legislature
Committee on Ways and Means
February 22, 1989

by

Dr. Laura M. Torres Souder
Gov Guam Employee

Hafa Adai Senator Gutierrez and members of the Committee on Ways and Means:

I am Laura M. Torres Souder, a Government of Guam employee. **I appear today to testify in favor of Bill 457** relative to amending the code regarding repayment of withdrawn contributions to the retirement fund.

Bill 457 will allow Gov Guam employees, who could not afford to pay back their withdrawn contributions under the 10.5 % interest rate stipulated as a result of P.L. 19-19, to re-vest themselves of their previous service at a reasonable and just rate. This action on the part of the legislature amply demonstrates a continuing sensitivity and willingness to correct injustices that unintentionally occur in the passage of laws meant to protect the rights of public employees.

In this regard, I would like to call your attention to the fact that approximately 105 known Gov Guam employees have been unjustly cut out of that section of the law which would allow for educational credit. These employees, myself included, who because we did not meet vesting requirements under P.L. 19-19 were deemed unqualified for educational credit. It is more than ironic that these persons, almost without exception, -- who were born on Guam, went to Guam schools, interrupted their service to obtain higher education degrees, and returned home to serve Guam -- have been cut out of a benefit that was established to encourage our own people to return after receiving educational degrees and work for the government.

I appeal to you Mr. Chairman, and esteemed members to correct this injustice by amending Section 52. 4 GCA Section 8113.1 [College Education Credits] as repealed and reenacted by P.L. 19-19 as follows:

8113.1

(a) delete **"who first joined the fund as a new member on or before January 31, 1987."**

(1) amend to add **"or who on the effective date of this Act is a member provided that if the member divested through withdrawal of his/her service credit, the act of repayment or initiation of a promisory note within 30 days of this amendment to restore service for which the withdrawal was made shall be deemed to have re-vested."**

(2) amend to read **"which processing time may be extended by the Board of Directors of the Retirement Fund if necessary for an additional 180 days"**

Exhibit C

TESTIMONY ON
BILL 457

"AN ACT TO AMEND SECTION 8130 OF 4 GCA REGARDING REPAYMENTS OF WITHDRAWN CONTRIBUTIONS TO THE RETIREMENT FUND."

Honorable Chairman and members of the Committee on Ways and Means, I salute you.

For the record, I am Frederick B. Quinene, a citizen and life-long resident of Guam. My home is in Merizo.

I appear before you in gratitude for allowing me this opportunity to testify in favor of passage of Bill 457 -- An act to amend Section 8130 of 4 GCA regarding repayments of withdrawn contributions to the Retirement Fund.

On January 23, 1989, my wife, Cecilia U. Quinene, an employee of the Department of Education, received a letter of notification from Mr. A. E. Gutierrez, Director, Government of Guam Retirement Fund, explaining the required provisions for the repositing of withdrawn contributions to reobtain service credits for retirement purposes under the provisions of Public Law 19-19.

I am testifying not only on behalf of my wife but also on behalf of myself and our children.

While we expect, and have always expected, to reposit her withdrawn contributions so that my wife can reobtain her service credits, we never, in our wildest dream, think that it will be at a rate equal to (at least per the time that Public Law 19-19 became effective) the nation's prime rate for interest.

I firmly believe too, that my very dear departed father, the late Jesus Reyes Quinene, a former member of this August body who introduced the creation of the Government of Guam Retirement Program during his term in the First Guam Legislature, ever intended for the retirement program to be used as a vehicle to generate revenue at the expense of her members.

At this point and time, I still do not know if this provision under Public Law 19-19 was ever made known to all concerned, either through a Public Hearing or through the printed or electronic media before it became law.

I say this because I am very surprise that no one has publicly, to my knowledge, ever presented a dissenting opinion regarding raising the interest from % to 10.50% as stated under the provisions of Public Law 19-19.

Exhibit D

That provision, honorable members, would not only negatively affect my family but I am sure most of the other employees and their families who will want to re-deposit to re-obtain service credits.

On my wife's case alone, even when choosing the least of the most painful deduction, which is the five (5) year, 130 deduction plan, it would almost certainly create a severe strain on our financial ability to have a viable existence. Under this provision per Public Law 19-19, my family would be forced to drastically cut down on the purchase of even the bare necessities. It will drive us from drinkers of Foremost and Carnation milks to drinkers of coconut milk. If this happens -- God forbids that we will have another catastrophe that will kill all or most of the coconut trees in our beautiful island.

I know that you the honorable members of this committee and the 20th Guam Legislature can appreciate the hardships that unplanned deductions can create on an individual and especially to a family. I also believe that you all know that government does not exist to hurt families but to help them, that government does not exist to compete with private lending institutions when setting interest rates.

I implore you to amend this law. If the Government of Guam Retirement Fund needs money -- Please do not allow it to get money this way. I believe there are other ways to do it. Ways that will not hurt families. Ways that will not hurt children. Ways that will not contribute to the mental and physical anguish of the hard working employees of our government who will be affected.

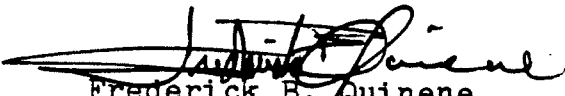
I know we have enough smart people in our government and in our island, and in our legislature who can arrive at creative solutions to help our government's retirement program.

I implore you to amend this provision in Public Law 19-19 and bring it back to its original $4\frac{1}{2}\%$.

However, if you still feel that a raise must be made, I ask that you put a moratorium on any kind of interest raise at this time, give the affected employees time, like five (5) years, to set things in order and then raise the interest rate. But even then, I ask that it not be made competitive with the National Prime Interest Rate. Take a happy medium from $4\frac{1}{2}\%$ to whatever the National Prime Interest Rate is after five (5) years.

My family pray for an amendment. Honorable Senators, please hear us and take positive action.

Si Yuus Maasi Yan Infan Benindesi.


Frederick B. Quinene
Feb. 22, 1989

BCW
22

PETITION IN SUPPORT OF BILL 457

WE, THE UNDERSIGNED, STAND IN FULL SUPPORT OF THE TWENTIETH GUAM LEGISLATURE'S BILL 457, INTRODUCED BY SENATOR CARL C. GUTIERREZ AT THE FIRST REGULAR SESSION (AN ACT TO AMMEND SECTION 8130 OF TITLE 4, GOVERNMENT CODE OF GUAM REGARDING REPAYMENT OF WITHDRAWN CONTRIBUTIONS TO THE RETIREMENT FUND).

WE ARE SPECIFICALLY AND WHOLE HEARTEDLY IN SUPPORT OF THAT PROVISION OF BILL 457 THAT WOULD ALLOW, "FOR THOSE MEMBERS WHO WITHDRAW THEIR CONTRIBUTIONS TO THE RETIREMENT FUND PRIOR TO THE EFFECTIVE DATE OF THIS ACT, SUCH MEMBERS SHALL HAVE SIXTY DAYS FROM THE EFFECTIVE DATE OF THIS ACT TO MAKE PAYMENT OF THE AMOUNT WITHDRAWN INCLUDING REGULAR INTEREST FOR THE ENTIRE TIME THE AMOUNT WAS WITHDRAWN. MEMBERS MAY SIGN A PROMISSORY NOTE AND REPAY ON INSTALLMENT PAYMENTS OF UP TO FIVE YEARS AT SAID INTEREST RATES."

WE HEREBY PETITION ALL MEMBERS OF THE TWENTIETH GUAM LEGISLATURE TO SUPPORT ENACTMENT OF BILL 457.

(over 300 signatures)

Exhibit E

February 22, 1989

Honorable Carl Gutierrez
Chairman, Committee on Ways and Means
Twentieth Guam Legislature
Agana, Guam 96910

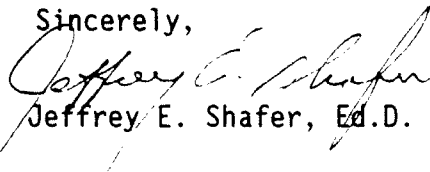
RE: Testimony in favor of Bill 457

Dear Senator Gutierrez:

Like many Guam educators, I consider my past years of service to the children of Guam as containing some of my most memorable moments; moments I would not change one bit. When I arrived on Guam in 1969 I was, like many other contract employees, discouraged from participating in the Government of Guam Retirement Fund (Fund). The perception being that if we joined the Fund we would lose certain contractual benefits. We were not allowed to join the Social Security system either. We were promised this inequity would be fixed soon. And it was. I joined the fund in 1974. No one advised us then that we could pay in the excluded service at that time. For what ever reason many of us did not begin to think about excluded service until a year or two ago. I suspect the bruhaha over education credits and pay back of withdrawn funds prompted many to ask questions about excluded service. I finally signed a promissary note for education credits and was told the excluded service and amount withdrawn in 1986 could be paid back at the rates prevalent at the time I was supposed to make the actual contributions and there was no time limitation on this. Actual amounts would depend on my salary for those earlier years and the prevailing interest rates at the time. After all I learned that some of my colleagues were already paying back excluded service at rates equal to the 1969-1974 rates. My own confusion can best be explained by a period of broken service from May 1976 thru August 1978; I used the withdrawn retirement monies to finance my education off island. I withdrew ~~some~~ \$1,900. I did not wish to take educational leave from the school system here since that would have meant my position could not be filled in my absence. Imagine my shock when I learned last week that the \$1,900 had now grown to over \$6,800 and this did not include interest!

What I am trying to say is that many of us were not given ample notice that the interest rates we would incur would be 1 point below prime at the time we signed the note and these rates would be applied to the principal amount each year of the note and not the declining balance or principal. Is there any financial institution that could get away with an effective interest rate of 34% per annum? I think not. Loan sharking is illegal. Many of my colleagues feel that we are being unfairly singled out and discriminated against. I fully support the intent of Bill 457 and push for early passage. I want to contribute my fair share to the fund, however, I believe present policies unfairly single many of us out and create an unfair financial burden on our families.

Sincerely,



Jeffrey E. Shafer, Ed.D.

Exhibit F

Ladies and Gentlemen, my name is Gene Bruce. I am an Assistant Professor of English at the University of Guam, and I'm a vested member of the Government of Guam Retirement Fund.

I come here today to ask you to remedy an inequity. Several years ago, by Legislative act, Government of Guam employees who had been in the military service were allowed to claim at least a part of that service towards Government of Guam retirement. It is my understanding that a military retiree may claim up to five years. I want to point out that what I'm about to say should in no way be taken as criticism of either the Legislature or of former members of the armed forces, for I believe that extending retirement credit to them is honorable and appropriate.

I'm sure you've heard of the U.S. Peace Corps, especially in the last few months as the twenty fifth anniversary of President John Kennedy's death was recognized. I was in Peace Corps training in Hilo, Hawaii, when that tragedy happened, so I've always felt a special relationship towards his memory. John Kennedy created the Peace Corps. It was probably the Peace Corps he had in mind when he said in his inaugural address: Ask not what your country can do for you; ask what you can do for your country. Many people answered that call, and continue to do so. I've yet to meet a former Peace Corps Volunteer--and I know many--who said the Peace Corps experience didn't change his or her life's direction.

There are, I estimate, about one hundred former Peace Corps and VISTA Volunteers on Guam. Many are, like me, here because of that experience. There are teachers, lawyers, agriculturalists, business people. Maybe about forty work for the Government of Guam, and it is those forty people I want to speak for today.

When the Peace Corps Act was passed by Congress in about 1961, Volunteer service was made to be on par with other Federal government employment. Section 5 (f) of the Peace Corps Act, 22 USC Para 2504 (f), as amended, states that any former Volunteer employed by the U.S. Government following his Peace Corps Volunteer service is entitled to have any period of satisfactory Peace Corps Volunteer serviced credited for purposes of retirement, seniority, reduction in force, leave and other privileges based on length of Government service. I believe this is relevant because I want to establish that Peace Corps service, at least as far as Federal government employment is concerned, is essentially no different from military service.

When Volunteers complete their service time, they are given a readjustment allowance which is intended to help former Volunteers get started with their lives. During the time of service Volunteers earn no salary and are provided with an

amount of money for expenses which a local person would earn in the job the Volunteer holds. For me, that was about \$50 a month, so the readjustment allowance came in real handy. Unfortunately, it turns out, receiving that readjustment allowance has come back to haunt me, for out of it, I, of course, paid Federal income and Social Security taxes. It is the payment of Social Security taxes which brings me here today.

For several years, the Retirement Fund Office has been accepting money from former Volunteers who want to buy in for their service time since it is considered Federal government employment. However, lately we have been advised that Peace Corps service no longer qualifies because we paid those Social Security taxes. It seems that there is an IRS ruling that the same employment period in one's working life cannot be claimed for two different retirement systems, especially if one of those is Social Security, regardless of whether I, for instance, will ever claim Social Security retirement. Now this news wouldn't have affected us so much if Retirement had made the ruling early on and had never accepted any of our money, so apparently there are conflicting interpretations even within the Fund itself. In fact, the Retirement Board has asked its attorney for an opinion in order to resolve the conflict.

We are perplexed when we see that others, namely former military service members, face no conflict, apparently because they have been exempted from that IRS ruling by Legislative action. I don't pretend to understand the complexities of Retirement regulations, IRS rulings, or the law. I do, however, recognize what I and my colleagues believe to be inequitable treatment--some former Federal employees are treated differently from others.

I would therefore ask that you consider amending Bill 457 to deal with this problem of inequity. While I recognize the Legislative intent to honor military service members, I would hope that the Legislative will is not to exclude those of us whose more peaceful pursuits are just as honorable and worthy of recognition.

P. O. Box 7867,
Tamuning, Guam 96911
February 25, 1989

Senator Carl T. C. Gutierrez, Chairman
Ways & Means Committee
Twentieth Guam Legislature
Agana, Guam 96910

Dear Senator Gutierrez,

I wish to submit written testimony on Bill 457. I understand that it is an attempt to correct Retirement Legislation relative to education credit and refunds of which I am in favor with some changes.

When the law was amended regarding education credit, it only recognized actual degrees. The Dept. of Education has recognized thirty six (36) hours of graduate credit as equivalent to a Master's Degree for classification and for pay purposes, both at hiring and at promotion. This was partly done because the University of Guam offers few Master's programs, so it was often not possible to get a Master's degree in certain fields of teaching.

For the reasons stated above I am requesting that Bill 457 be amended to include the thirty six (36) hours of graduate credit for retirement purposes.

Sincerely,
Mary E. Roth

FEB 14 '89

Bill No. 457(25)

Introduced by:

C. Gutierrez
C. GUTIERREZ
T.T. Nelson

AN ACT TO AMEND SECTION 8130 OF 4 GCA REGARDING
REPAYMENT OF WITHDRAWN CONTRIBUTIONS TO THE
RETIREMENT FUND.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:
2 Section 1. Section 8130 of Title 4 Guam Code Annotated
3 is amended as follows:

4 *8130. Refund on Separation.

5 (a) Upon complete separation from service before
6 a member shall have completed at least twenty (20) years
7 of total service, the member shall be entitled to receive
8 a refund of his total contributions, including regular
9 interest, but no payment of interest shall be made in
10 any case in which total service is less than one (1)
11 year. Total contributions shall include all contributions
12 made by a member to obtain various types of credit autho-
13 rized by this Chapter.

14 Any member who withdraws after having completed
15 at least five (5) years total service shall have the
16 option of leaving his contributions in the Fund and re-
17 ceiving retirement annuity upon attainment of the age
18 of sixty (60) years without choice of any of the optional
19 survivors' benefits hereinunder described.

20 If such member has less than twenty (20) years of
21 total service, he may elect to receive his contributions,
22 ~~as hereinabove provided,~~ as hereinabove provided, in lieu
23 of the service retirement annuity. If his total service
24 is twenty (20) years or more, the acceptance of such
25 deferred retirement annuity payment beginning at the
26 age of sixty (60) years, shall be mandatory as to such
27 member.

1 so. If a member pays back the withdrawal pursuant to
2 this paragraph, the member may not retire or count the
3 time for which the withdrawal was made for any purpose
4 until the member actually, subsequent to the withdrawal,
5 works for the government of Guam, its agencies or its
6 instrumentalities, as a full time employee and member
7 of the Retirement Fund for whatever period of time is
8 otherwise required by law for vesting, and

9 (c) Any member who has withdrawn his or her retire-
10 ment contribution from the Fund who later has paid back
11 such amounts or who is paying back such amounts pursuant
12 to a repayment agreement or promissory note on the effec-
13 tive date of this Act and who is currently, on the effec-
14 tive date of this Act, a member (whether or not vested)
15 shall be deemed to have reentered the Retirement Fund
16 on the terms and conditions in effect on the date he
17 or she originally became a member of the Fund, subject,
18 however, to the provisions, ~~conditions,~~ and ~~restrictions~~
19 of this Act.

20 (d) Prior members who withdraw their contributions
21 and are no longer members may pay back their contributions
22 within [180] 60 days from the effective date of this
23 Act, or shall thereafter be ineligible to claim retirement
24 credit for such periods of prior employment, provided,
25 that the reentry into the retirement system shall be
26 on the following terms:

27 (1) The prior member may not retire or count the
28 time for which the withdrawal was made for
29 any purpose until the prior member actually,
30 subsequently, works for the government of Guam,
31 its agencies or instrumentalities, as a full
32 time employee and member of the Retirement
33 Fund for whatever period of time is otherwise
34 required by law for vesting, and

1 Any member receiving a refund of contributions shall
2 thereby forfeit, waive and relinquish all accrued rights
3 and benefits in the system, including all credited and
4 creditable service. The Board may, in its discretion
5 regardless of cause, withhold payment of a refund for
6 a period not to exceed one (1) year after receipt of
7 an application from a member.

8 (b) Any member who withdraws his contribution
9 after the effective date of this Act shall lose all service
10 credit earned up to the date of the withdrawal of his
11 contribution, and may not hereafter receive credit for
12 such time, and may not repurchase or pay in for retirement
13 credit for the time withdrawn. As a condition of with-
14 drawing his or her contribution, a member must first
15 sign a statement that he or she understands that the
16 withdrawal is permanent and that the withdrawal cannot
17 hereafter be paid back in and that if the member later
18 re-enters the retirement system, the member shall not
19 receive credit for the previous service. For those members
20 who withdraw their contributions to the Retirement Fund
21 prior to the effective date of this Act, such members
22 shall have [one hundred eighty (180)] sixty (60) days
23 from the effective date of this Act to make payment of
24 the amount withdrawn including regular interest for the
25 entire time the amount was withdrawn [at the prevailing
26 bank prime interest rate on loans, and not less than
27 the interest rate charged by the United States Internal
28 Revenue Service on unpaid overdue income tax liability
29 (exclusive of penalties)]. Members may sign a promissory
30 note and may repay on installment payments of up to five
31 years at said interest rates. Any member who does not
32 claim such credit for prior service within [180] sixty
33 (60) days from the effective date of this Act, shall
34 be deemed to have waived and forfeited the right to do

1 (2) The prior employee must be otherwise eligible
2 to reenter the government service as a full
3 time employee, and

4 (3) The prior employee pays regular interest on
5 the amount withdrawn, [at the prevailing bank
6 prime interest rate on loans, and not less
7 than the interest rate charged by the United
8 States Internal Revenue Service on unpaid overdue
9 income tax liability (exclusive of penalties)].

10 Any prior member who does not claim such retirement
11 credit for prior employment within [180] sixty (60) days
12 from the effective date of this Act shall be deemed to
13 have waived and forfeited the right to do so. The prior
14 member may pay the amount in full or sign a promissory
15 note to repay on installment payments of up to five (5)
16 years.

17 Section 2. Notwithstanding any other law or regu-
18 lation, members and prior members who paid or signed
19 promissory notes for repayment of withdrawn contributions
20 between August 22, 1988 and February 18, 1989, shall
21 have the interest on their payment re-calculated at the
22 new interest rate and shall have money refunded or payments
23 reduced accordingly.