



CARL T.C. GUTIERREZ  
GOVERNOR OF GUAM

OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGMENT RECEIPT	
Received By	<i>[Signature]</i>
Time	2:09 PM
Date	9/29/95

**SEP 29 1995**

The Honorable Don Parkinson  
Speaker  
Twenty-Third Guam Legislature  
424 West O'Brien Drive  
Julale Center - Suite 222  
Agana, Guam 96910

OFFICE OF THE SPEAKER	
Date:	Sept. 29, 1995
Time:	1:20 pm
Received By:	<i>P. Roberto</i>
Print Name:	<i>P. Roberto</i>

**REFER TO  
LEGISLATIVE SECRETARY**

Dear Speaker Parkinson:

Enclosed please find a copy of Substitute Bill No. 305 (LS), "AN ACT TO PROVIDE A DEFINED CONTRIBUTION PLAN FOR EMPLOYEES OF THE GOVERNMENT OF GUAM", which I have signed into law today as Public Law No. 23-42.

This public law is landmark legislation. It is in keeping with the spirit of "The Way Forward" plan to put government finances in order and better the Guam economy. For years, the government's financial difficulties impacted upon the Government of Guam Retirement Fund, and the Fund suffered from a mounting unfunded liability. In the Administration's quest to turn this situation around, Mr. Gerald S. A. Perez, and Senator Joe T. San Agustin, both members of the Governor's Council of Economic Advisors (GCEA), accepted the responsibility to attack the issue. Mr. Perez, as Chairman of the Retirement Fund Task Force on the GCEA, coordinated a group to draft the legislation which resulted in the new retirement system enacted in this public law. Senator San Agustin successfully carried the ball of this draft legislation through the legislative process. I want to personally thank Mr. Perez, Senator San Agustin, the members of the Governor's Council of Economic Advisors, the members of the Retirement Fund Board of Trustees, and directors of the Retirement Fund and the Department of Administration, and others who served on the Retirement Fund Task Force, for a job well done! This was a job which everyone said **couldn't** be done!

The GCEA's Retirement Fund Task Force consisted of GCEA members Mr. Gerald S. A. Perez, Chairman of the Board of Trustees of the Government of Guam Retirement Fund and President of Guam Division DFS Guam, Senator Joe T. San Agustin, Chairman of the Legislature's Committee on Economic-Agricultural Development and Insurance; and Mr. Dan Roland, Senior Vice President of Smith Barney. Additionally, Mr. Rodney Webb of the Guam Finance Commission; Ms. Michelle Santos, Executive Director, and Mr. Joseph Torres, Deputy Executive Director, of the Government of Guam Retirement

Fund; and Mr. John Salas, Director of the Department of Administration were members of this Task Force.

This new retirement system offers a number of attractive features to government employees, which are not available under the old retirement system. One of these features is the option for the employee to choose to place his or her retirement contributions in one of several investment plans to be made available by the Retirement Fund Board of Trustees. Another feature is that employee contributions from biweekly payroll checks will be reduced to 5% of base pay of the employee from the current system's 9-1/2% of base pay. A third feature is the option of the employee to contribute, under a "deferred compensation" plan, additional funds to his or her retirement which are over and above the 5% mandatory contribution, and thereby receive a tax advantage as well as increase future retirement benefits.

Participation in the new retirement system is entirely optional for current government employees who are members of the old system. Each employee can judge for him or herself which plan is more desirable for their particular situation. For new employees who start their employment on or after October 1, 1995, participation in the new retirement plan is mandatory.

This new retirement system will exist simultaneously with the old system until the old system is entirely phased out due to deaths of members of the old system and the fact that employees hired after October 1, 1995 will be unable to be members of the old system.

This new retirement system will finally put government retirement on a firm financial footing, where the retirement system will pay for itself, thereby eventually eliminating the unfunded liability of the government for the old retirement system.

I am pleased to put this new retirement system into effect.

Very truly yours,



Carl T. C. Gutierrez

Attachment  
**230644**

TWENTY-THIRD GUAM LEGISLATURE  
1995 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Substitute Bill No. 305 (LS), "AN ACT TO PROVIDE A DEFINED CONTRIBUTION PLAN FOR EMPLOYEES OF THE GOVERNMENT OF GUAM," was on the 19th day of September, 1995, duly and regularly passed.



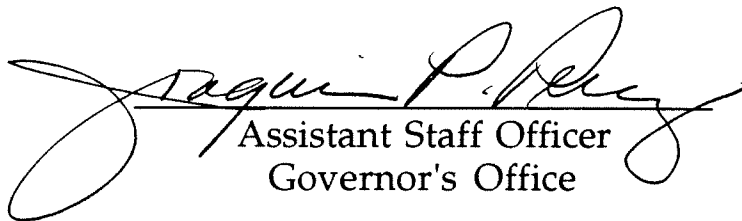
DON PARKINSON  
Speaker

Attested:



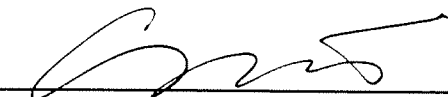
JUDITH WON PAT-BORJA  
Senator and Legislative Secretary

This Act was received by the Governor this 19<sup>th</sup> day of Sept.  
1995, at 6:15 o'clock PM .M.



Assistant Staff Officer  
Governor's Office

APPROVED:



CARL T. C. GUTIERREZ  
Governor of Guam

Date: 9-29-95

Public Law No. 23-42

TWENTY-THIRD GUAM LEGISLATURE  
1995 (FIRST) REGULAR SESSION

Bill No. 305 (LS)

As substituted by the  
Committee on Ways & Means

Introduced By

J. T. San Agustin  
F. E. Santos  
T. C. Ada  
J. P. Aguon  
E. Barrett-Anderson  
A. C. Blaz  
J. S. Brown  
F. P. Camacho  
M. C. Charfauros  
H. A. Cristobal  
M. Forbes  
A. C. Lamorena V  
C. Leon Guerrero  
L. Leon Guerrero  
T. S. Nelson  
S. L. Orsini  
V. C. Pangelinan  
D. Parkinson  
A. L. G. Santos  
A. R. Unpingco  
J. Won Pat-Borja

AN ACT TO PROVIDE A DEFINED CONTRIBUTION PLAN  
FOR EMPLOYEES OF THE GOVERNMENT OF GUAM.

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

2           **Section 1. Legislative Findings and Intent.** The Legislature finds that:

3                       (a) The Actuarial Valuation of the Retirement Plan  
4                       prepared by Deloitte & Touche as of September 30, 1993,  
5                       expressed concern that the Fund benefit levels are rather

1 excessive in comparison to most other government  
2 retirement systems.

3 (b) Benefit levels and retirement policy should be  
4 reviewed and benefit levels should be adjusted in order to  
5 address specific inequities, excessiveness, and desired policy  
6 objectives.

7 (c) It is necessary to maintain the current plan benefit  
8 levels for current members, while establishing a new plan for  
9 all new members.

10 (d) In establishing benefits for a new plan, generally  
11 accepted retirement income level standards should be  
12 observed and the details of any new plan must be considered  
13 thoroughly and a comprehensive education and  
14 implementation plan must be developed.

15 (e) The concern expressed by the Independent Actuaries  
16 must serve as a warning that the current fund may be  
17 jeopardized if the benefits it provides to its members are not  
18 reasonably related and restricted to the resources from which  
19 said benefits may be paid.

20 (f) Any further delay in enacting statutory changes to  
21 the current system or establishing a new plan may lead to the  
22 implementation of a plan for new members with benefits  
23 sharply disparate from those provided to current members.

24 (g) The legislature concurs with the recommendations  
25 of the Actuaries.

26 (h) The Legislature intends to establish a new "Defined  
27 Contribution Plan" for new members, in order to protect and

1 preserve the fiscal soundness of the fund for the benefit of all  
2 its members now and in the future.

3 **Section 2.** (a) §§8101 to 8299 of Title 4, Guam Code Annotated, shall be  
4 codified as Article 1 of Chapter 8 of the same title.

5 (b) 4 GCA §8137(b) is amended to read:

6 "§8137(b). **Government Unfunded, Liability Amortization**  
7 **Cost.** An amount resulting from the application of a rate percent of  
8 total salaries of all members which will amortize the remaining liability  
9 for prior service over the remainder of a specified period, as determined  
10 by the Board upon recommendation of the actuary, but not to exceed a  
11 period of eighty (80) years following the operative date. From July 1,  
12 1955 to August 30, 1972 the rate of contribution shall be not less than one  
13 and three hundred seventeen thousandths percent (1.317%) of the total  
14 salaries of the members participating in the Fund. From September 1,  
15 1972 the rate of contributions shall be not less than one and four  
16 hundred and seven thousandths percent (1.407%) of the total salaries of  
17 the members participating in the Fund. From the beginning of the first  
18 full pay period following the beginning of the 1992 fiscal year, the rate  
19 of contribution shall be equal to thirteen and six hundred sixty-five  
20 thousandths percent (13.665%) of the total salaries of the members  
21 participating in the Fund. From October 1, 1993 the rate of contribution  
22 shall be equal to the Government Unfunded Liability Amortization Cost  
23 rate percent determined in the latest completed actuarial valuation  
24 prepared for the Board of Trustees by the actuary appointed by the  
25 Board, subject to the approval by the Legislature by legislation.

26 The amount of contributions by the Government shall be  
27 determined by applying the applicable percentage rate of contributions

1 as hereinabove prescribed to the total salaries paid to the members  
2 during each payroll period, and all such amounts shall be paid into the  
3 Fund following the close of each payroll period, concurrently with the  
4 contributions made to the Fund by the members. For purposes of this  
5 Section, the term *total salaries of members* shall be interpreted to  
6 include Base Pay, as defined in 4 GCA §8301(l), of members  
7 participating in the Government Defined Contribution System.

8 **Section 3.** A new Article 2 is added to Chapter 8 of Title 4, Guam Code  
9 Annotated, to read:

10 **ARTICLE 2**

11 **DEFINED CONTRIBUTION RETIREMENT SYSTEM**

12 **§8301. Definitions.** As used in this article, unless the context otherwise  
13 requires:

14 (a) *Defined contribution system* means the Government of  
15 Guam Defined Contribution Retirement System created and  
16 established by this Article;

17 (b) *Existing retirement system* means the Government of  
18 Guam Retirement Fund established in Article 1 of this Title;

19 (c) *Existing employer* means any employer who employed or  
20 employs a member of the existing retirement system;

21 (d) *Board* means the Board of Trustees of the government of  
22 Guam Retirement Fund, which is responsible for the direction and  
23 operation of the affairs and business of the system. Title to all  
24 assets of the Retirement Fund shall be held for the Retirement Fund  
25 by the Board or its qualified agent's bank trustee;

26 (e) *Year of employment service for vesting purposes* means  
27 employment for at least ten (10) months, a month being defined as

1 twenty (20) employment days; provided, that no more than one  
2 year of service may be accumulated in any twelve-month period;  
3 the twelve (12) consecutive month period equal to a plan year  
4 during which a member completes not less than one-thousand  
5 (1,000) hours of service, as computed on an actual or equivalency  
6 basis as the board may so determine with respect to all members;

7 (f) *Employer* means each and every line department or  
8 agency of the Executive Branch, every autonomous and semi-  
9 autonomous agency or instrumentality, public corporations, every  
10 educational institution whether secondary or post secondary, the  
11 Judicial Branch, Public Defender Corporation, and every public  
12 entity hereafter to be created by law, within the territory of Guam  
13 which has employed or employs a member;

14 (g) *Member contribution* means an amount deducted from  
15 the member's regular base pay, and deposited into the member's  
16 individual annuity account within the Defined Contribution  
17 Retirement System;

18 (h) *Employer contribution* means an amount deposited into  
19 the member's individual annuity account on a periodic basis  
20 coinciding with the employee's base payroll period by an employer  
21 from its own funds;

22 (i) *Account* means an account established for each member to  
23 record the deposit of member contributions, employer  
24 contributions, and interest, dividends or other accumulations  
25 credited on behalf of the member;



1 (j) *Retirement* means a member's withdrawal from the active  
2 employment of a participating employer and completion of all  
3 conditions precedent to such withdrawal;

4 (k) *Permanent and total disability* means a mental or physical  
5 incapacity requiring the absence from employment service for at  
6 least six months; provided, that such incapacity is shown by an  
7 examination by a physician or physicians selected by the board; and

8 (l) *Base Pay* means an employee's stated rate of pay;

9 (m) *Member of the Defined Contribution Retirement System*  
10 means any person who becomes employed after September 30,  
11 1995, by an employer or who has elected to transfer from the  
12 existing retirement system to the Defined Contribution System in  
13 accordance with this article; provided that any employee of the  
14 government of Guam whose employment is purely temporary,  
15 seasonal, intermittent or part-time shall have the option of  
16 accepting or rejecting membership and shall become a member only  
17 upon submission of a written request to the Board for membership.

18 **§8302. Defined Contribution Retirement System created and**  
19 **established; body corporate.** The Defined Contribution Retirement System is  
20 hereby created and established to provide for the secure, fair, and orderly  
21 retirement of personnel of the Government of Guam. The Defined  
22 Contribution Retirement System shall constitute a body corporate and all  
23 business of the system shall be transacted in the name of the Government of  
24 Guam Defined Contribution Retirement System.

25 **§8303. Article to be liberally construed; purpose.** The provisions of this  
26 article shall be liberally construed so as to provide an individual account  
27 retirement system for any person who is employed in the Government of

1 Guam. The purpose of the Article is to provide a defined contribution  
2 retirement program which is fully funded on a current basis from employer  
3 and member contributions.

4 **§8304. Administration of the Government Defined Contribution**  
5 **Retirement System.** The Board of Trustees created pursuant to Article 1 of  
6 Chapter 8 of this Title shall administer the Government of Guam Defined  
7 Contribution Retirement System. The board may sue and be sued, contract  
8 and be contracted with and conduct all the business of the defined  
9 contribution system in the name of the Government of Guam Defined  
10 Contribution Retirement System.

11 **§8305. Powers and duties of the Board of Trustees in the**  
12 **administration of the Defined Contribution Retirement System.** The board  
13 has all powers necessary to effectuate the purposes of this Article. The board  
14 may contract with an insurance, annuity, mutual fund, or other qualified  
15 company or companies to administer the operations of the defined  
16 contribution system. In selecting such company or companies the board shall  
17 take into account as its highest fiduciary duty, the proper safeguard and  
18 protection of the member and employer contributions and the interest  
19 dividends, or other returns thereon. The board shall promulgate rules  
20 regarding the proper investment of funds.

21 **§8306. Participation in Government of Guam Defined Contribution**  
22 **Retirement System; limiting participation in existing retirement system.**  
23 Beginning October 1, 1995, the Government of Guam Defined Contribution  
24 Retirement System shall be the single retirement program for all new  
25 employees whose employment commences on or after that date. No  
26 additional new employees may be admitted to the existing retirement system.  
27 Members of the existing retirement system whose employment continues

1 beyond September 30, 1995, shall continue to contribute and participate in the  
2 existing system without change in provisions or benefits.

3 Any employee who leaves government service after September 30, 1995,  
4 who is later reemployed by the Government of Guam shall be eligible for  
5 membership only in the Government of Guam Defined Contribution  
6 Retirement System; provided, that he or she shall be entitled to readmission  
7 to the existing retirement system in which he or she was originally a member,

8 if such employee has not withdrawn his or her contributions from the  
9 existing retirement system. However, if such employee has withdrawn his or  
10 her contribution from the existing retirement system, the readmission shall  
11 not be permitted and the employee will be entitled only to membership in the  
12 Government of Guam Defined Contribution Retirement System.

13 Any employee who retires after September 30, 1995, and who later  
14 becomes re-employed by the Government of Guam shall be entitled to re-  
15 admission to the existing retirement system pursuant to 4 GCA §8121.

16 **§8306.1. Same: Ineligible Persons.** The following employees shall not  
17 be eligible for membership:

18 (a) Persons whose services are compensated on a fee basis.

19 (b) Independent contractors.

20 (c) Persons whose employment is for a specific project.

21 (d) Persons who are employed in the Senior Citizens

22 Community Employment Program.

23 **§8307. Voluntary participation in system.** Any member, with less than  
24 twenty (20) years service credit, recognized under the existing retirement  
25 system may, upon written election, voluntarily elect membership in the  
26 Government of Guam Defined Contribution Retirement System, on a  
27 prospective basis, on or after October 1, 1995. Said member of the existing

1 retirement system upon election to withdraw his or her contribution plus  
2 interest, must then deposit such funds in the Government of Guam Defined  
3 Contribution Retirement System; and as a result thereof, such member's  
4 years of service credit in the existing system shall be applied toward the years  
5 of employment service for vesting purposes under §8310 of this Article, and no  
6 further benefits will be payable to such member under the existing retirement  
7 system. Members electing to transfer to the Defined Contribution  
8 Retirement System will have their transfers effective at the end of the first  
9 pay period following the month of transfer. Employees will have two (2)  
10 years, after enactment of this legislation, in which to elect to transfer to the  
11 Defined Contribution Retirement System. After having made such election,  
12 the employee may not change such election or again become a member of the  
13 existing retirement system. Any member who does not select one option or  
14 the other at the end of the two-year period shall be deemed to have  
15 irrevocably elected be a member in the existing system.

16 **§8308. Members' contributions.** All contributions by the members shall  
17 be mandatory and equal to five (5) percent of base pay. Such reductions from  
18 base pay, although designated as member contributions, shall be deducted by  
19 the employer at the normal payroll intervals, shall be paid by the employer in  
20 lieu of contributions by the member, and shall be remitted within five working  
21 days to the insurance, annuity, mutual fund, or other qualified company or  
22 companies designated by the board to administer the operations of the  
23 Defined Contribution Retirement System.

24 The employer shall deduct the member's mandatory contributions  
25 required by this section from member's base pay on or after the first payroll  
26 interval following the latest of (i) the enactment of this Article (ii) October 1,  
27 1995, or (iii) a member's transfer to the Defined Contribution Retirement

1 System pursuant to §8307, and the contributions so deducted shall be treated  
2 as employer contributions in determining federal tax treatment under Section  
3 414 (h) of the United States Internal Revenue Code. The employer shall  
4 contribute or pay these member deducted contributions from the same source  
5 of funds which is used in paying base pay to the member. Member  
6 contributions deducted shall be treated for all purposes of the Government of  
7 Guam Retirement Fund Defined Contribution Retirement System in the same  
8 manner and to the same extent as member contributions made prior to the  
9 date of deduction.

10 All member contributions shall be immediately credited to an account or  
11 accounts established for the benefit of the member under a trust agreement. A  
12 summary plan description shall be issued to each member setting forth the  
13 terms and conditions under which contributions are received, and the  
14 investment and retirement options available to the member. The board shall  
15 promulgate within ninety (90) days after enactment of the law, pursuant to  
16 §8305 of this Article, rules defining the minimum requirements for the  
17 investment and retirement options, including but not limited to:

- 18 1. Lump sum distributions of members' accounts which do not  
19 exceed an amount established by the board ;
- 20 2. Joint and Survivor annuities ;
- 21 3. Other annuity forms ;
- 22 4. Variable annuities which gradually increase monthly  
23 retirement payments; provided, that said increased payments  
24 are funded solely by existing current value of the member's  
25 account at the time the member's retirement payments  
26 commence and not, to any extent, in a manner which would  
27 require additional employer or member contributions to any

1 member's account after retirement or after the cessation of  
2 employment ; and

3 5. The instances in which, if any, distributions or loans can be  
4 made from this on account balances prior to having attained  
5 the age of fifty-five.

6 **§8309. Employer contributions.** Each employer shall make a  
7 contribution with respect to each member whose employment commenced on  
8 or after October 1, 1995, or who transfers to the Defined Contribution  
9 Retirement System pursuant to §8307, which is equal to five (5) percent of  
10 such member's contributions. Each participating employer shall match the  
11 first five (5) percent of each member's contribution. Each participating  
12 employer shall ensure that its employer or member contributions are made  
13 within five working days. In the case of an officer or an employee of the  
14 Government of Guam, any unpaid employer contribution shall be a  
15 government debt, contracted as a result of a causal deficit in the  
16 government's revenues, to be accorded preferred status over other  
17 expenditures.

18 In the event that any payment is not timely made the participating  
19 employer shall within ten (10) working days of the contribution due give to  
20 the employee and to the Office of the Public Auditor notice in writing of the  
21 nonpayment, in such form and accompanied by such documentation as may be  
22 required by the Public Auditor. At such time as funds are available in the  
23 appropriate account, the employer shall pay the employer contribution,  
24 together with appropriate daily interest. It shall be a felony for any person to  
25 knowingly withhold payment of the employer's contributions or hinder the  
26 Treasurer of Guam or an employer from making timely payment. Any person

1 convicted of same shall serve a prison sentence of not less than one (1) year  
2 and not more than three (3) years.

3 Payment of employer's or member's contributions shall not be governed  
4 by the Government Claims Act, and the Act shall not apply to either the  
5 existing retirement system or the Defined Contribution System. In addition,  
6 with respect to this Chapter, there shall be no statute of limitations applied as  
7 against the government of Guam.

8 **§8310. Termination of membership.** Any member who leaves  
9 government service after the completion of five (5) complete years of  
10 employment service, for vesting purposes shall be eligible following his or her  
11 attainment of age 55 to receive a distribution from the member's account of  
12 an amount equal to the member's contribution plus one hundred percent  
13 (100%) of the employer contributions and any earnings thereon.

14 Any member who leaves government service after the completion of  
15 five (5) years but less than twenty (20) years of service shall be eligible to  
16 receive a distribution from the member's account, an amount equal to the  
17 member's contributions plus any earnings thereon, provided said member is  
18 less than fifty-five (55) years of age at termination. The board shall  
19 promulgate rules and regulations to determine reinstatement of vesting  
20 service with respect to future government contributions upon reemployment  
21 of the member.

22 Any member who leaves government service prior to the completion of  
23 five (5) complete years of employment service for vesting purposes shall be  
24 eligible to receive a distribution from the member's account of an amount  
25 equal to the member's contributions plus any earnings thereon following his  
26 or her termination of employment; provided, that in the event of permanent  
27 and total disability or death of any member, that member or his or her

1 beneficiary shall be eligible to receive a distribution equal to the member's  
2 contributions plus one hundred percent (100%) of the employer's contributions  
3 and any earnings thereon.

4 The remaining balance, if any, in the member's account after the  
5 distribution shall be credited to a suspense account. Any account balances  
6 credited to the suspense account shall be maintained by the board for a  
7 period of five (5) years following termination of the member's employment.  
8 In the event that the member does not return to the employ of the employer  
9 within said five (5) years, the amount attributable to such member shall be  
10 released from the suspense account and applied to employer contributions in  
11 future years. The aggregate amount of forfeitures released from the  
12 suspense account at the end of each fiscal year will be applied as contributions  
13 of contributing employers in proportion to the aggregate amount of  
14 contributions made by the contributing employer for the five (5) fiscal years  
15 ending with the fiscal year in which the forfeitures are released from the  
16 suspense account bears to the total contributions made by all contributing  
17 employers for the same five (5) fiscal year period. Upon certification to the  
18 several contributing employers of the aggregate account balances plus  
19 earnings thereon which have been irrevocably forfeited pursuant to this  
20 §8310, the several contributing employers shall be permitted in the next  
21 succeeding fiscal year or years to reduce their total aggregate contribution  
22 requirement pursuant to §8309 of this Article, for the then current fiscal year  
23 by an amount equal to the aggregate amounts irrevocably forfeited and  
24 certified as such to each contributing employer.

25 **§8311. Retirement, commencement of benefit payments.** At any time  
26 after a member reaches the age of fifty-five years and has completed five (5)  
27 years of employment service for vesting purposes, he or she may elect to



1 receive retirement benefits by notifying the board or its designee in writing of  
2 such intention not less than sixty days prior to the effective date of  
3 retirement. Retirement payments shall commence within thirty days of the  
4 retirement date under such payment option or options as may be provided by  
5 the board and elected by the member.

6 **§8312. Amount of benefit payments.**

7 (a) The amount of benefit payments a retired member shall  
8 receive shall be based solely upon the balance in the member's  
9 account at the date of retirement, the retirement option selected,  
10 the actuarial life expectancy of the member, and such other factors  
11 as normally govern annuity payments.

12 (b) The board, or its designee, is authorized upon retirement  
13 of a member, upon the election of that member, to purchase an  
14 annuity for the member upon his or her retirement.

15 **§8313. Supplemental annuity contracts.** The board shall authorize the  
16 private pension, insurance, annuity, mutual fund, or other qualified company  
17 or companies with whom it contracts to make available to members such  
18 supplemental annuity options, disability and other insurance or benefits.

19 **§8314. Account Statements.** The board shall prepare or cause to be  
20 prepared, on a quarterly basis, an account statement for each members'  
21 account. The statement shall include, but not be limited to a statement of the  
22 current market value of the members' account. The board shall prescribe the  
23 form and content of the account statement not inconsistent with the  
24 provisions of this §8314.

25 **§8315. Years of employment service for vesting purposes.** A member of  
26 the Government of Guam Defined Contribution Retirement System who  
27 leaves government service with a participating employer and does not

1 withdraw any funds from his or her account and becomes reemployed with a  
2 participating employer within five years shall retain his or her previous years  
3 of employment services for vesting purposes of the provisions of §8310.

4 **§8316. Right to benefits not subject to execution, etc.** The right of any  
5 person to a benefit provided for in this Article shall not be subjected to  
6 execution, attachment, garnishment, the operation of bankruptcy or  
7 insolvency laws, or other process whatsoever, nor shall any assignment  
8 thereof be enforceable in any court.

9 **§8317. Administrative Expenses.**

10 (a) The Board of Trustees may provide for administrative  
11 fees or charges to be paid by participants in the following manner:

12 (1) For fiscal years beginning October 1, 1995, and  
13 October 1, 1996, the Board of Trustees may assess an amount  
14 up to four percent (4%) of the employer and member  
15 contributions.

16 (2) For fiscal years beginning October 1, 1997, and  
17 thereafter, the Board of Trustees may assess an amount up to  
18 two percent (2%) of the employer and member contributions.

19 (b) Any amounts not needed for administrative expenses of  
20 the plan must be allocated to member accounts.

21 **§8318. Implementation.** The Board of Trustees will be responsible for  
22 implementation of the new defined contribution plan and the completion of  
23 the following implementation steps:

24 (a) Establishment of procedures to withhold member and  
25 employer contributions and transferring of such contributions to a  
26 "temporary" investment account with respect to employees hired

1 after September 30, 1995. This step is to be completed within one (1)  
2 month of the enactment of enabling legislation.

3 (b) Preparation of request for proposal (RFP) for investment  
4 management and plan administration services. This step is to be  
5 completed within two (2) months of enactment of enabling  
6 legislation.

7 (c) Proposals for the provision of investment management  
8 and plan administration services to be received by the Board of  
9 Trustees. This step is to be completed within four (4) months of the  
10 enactment of enabling legislation.

11 (d) Review of proposals and selection of investment  
12 managers and plan administrators. This step is to be completed  
13 within six (6) months of enactment of enabling legislation.

14 (e) Development and distribution of appropriate plan  
15 summary, and enrollment/investment election materials to post -  
16 September 30, 1995, hires. This step is to be completed within eight  
17 (8) months of enactment of enabling legislation.

18 (f) Election materials returned and processed and funds  
19 currently held in "temporary" investment account allocated to  
20 appropriate investment funds per the election of the member. This  
21 step is to be completed within 10 (ten) months of enactment of  
22 enabling legislation.

23 (g) Development and distribution of appropriate plan  
24 summary, benefit projection illustrations and  
25 enrollment/investment election materials to pre - October 1, 1995,  
26 hires. This step is to be completed within 12 (twelve) months of  
27 enactment of enabling legislation.

1 (h) Process pre - October 1, 1995, hire elections, transfer  
2 accumulated member contributions from existing retirement system  
3 to defined contribution plan or calculate frozen accrued benefits in  
4 existing retirement plan as appropriate. This step is to be  
5 completed within twenty-four (24) months of enactment of enabling  
6 legislation.

7 **§8319. Deferred Compensation.**

8 (a) (1) Entitlement to defer compensation. At the request of a  
9 member, the employer shall by payroll deduction defer the payment  
10 of part of the compensation of the member. The amount to be  
11 deferred must be as provided in a written agreement between the  
12 member and the employing unit. The agreement must be in a form  
13 specified by the Board of Trustees in such a manner as will qualify  
14 the deferred amount for benefits under federal tax laws, rules, and  
15 rulings.

16 (2) Failure to implement plan. Implementations of the  
17 deferred compensation plan by the employer must be completed  
18 within thirty (30) days of the request as provided in subsection (a)  
19 (1); however, such an implementation need not occur earlier than  
20 October 1, 1997. If the employer fails to implement the deferred  
21 compensation plan, the employing unit may not defer  
22 compensation under any existing or new deferred compensation  
23 plan from the date of the request until the date of which the  
24 deferred compensation plan provided for in this section is  
25 implemented. The Board of Trustees may order any employer that  
26 fails to implement the deferred compensation plan provided for in

1 this section upon a valid request to undertake that implementation  
2 and may enforce that order in appropriate legal proceedings.

3 (b) Purchase of shares. The amount of compensation so  
4 deferred may be used to purchase:

5 (1) shares in mutual funds or other managed  
6 investment portfolio selected by the Board of Trustees ;

7 (2) savings accounts in federally insured financial  
8 institutions ;

9 (3) life insurance contracts, fixed annuity and variable  
10 annuity contracts from companies that are subject to  
11 regulation by the Director of Revenue and Taxation ; or

12 (4) a combination of (1), (2), or (3), as specified by the  
13 participant.

14 The shares, accounts, or contracts purchased shall stand  
15 in the name of the Government of Guam or other employing  
16 unit, for the member whose deferred compensation  
17 purchased the shares, until distributed to the member in a  
18 manner agreed upon by the member and the Board of  
19 Trustees acting for the employer. The Government of Guam,  
20 political subdivision, or other employer is not responsible for  
21 any loss that may result from investment of the deferred  
22 compensation.

23 (c) Director to administer section. This section must be  
24 administered by the Director of the Government of Guam  
25 Retirement System under subsection (d). The Board of Trustees  
26 may solicit bids for options under subsection (b), items (1), (2), and  
27 (3) and may retain consulting services to assist it in soliciting and

1 evaluating bids and in the periodic review of companies offering  
2 options under subsection (b). The periodic review must occur at  
3 least every two (2) years. The Board of Trustees may annually  
4 establish a budget for its cost in the soliciting, evaluating, and  
5 periodic review processes and may charge a proportional share of  
6 all costs related to the periodic review to each company currently  
7 under contract and charge a proportional share of all costs related  
8 to soliciting and evaluation bids to each company selected by the  
9 Board of Trustees. Contracts must provide that all options in  
10 subsection (b) must: be presented in an unbiased manner and in a  
11 manner that conforms to rules adopted by the Director, be reported  
12 on a periodic basis to all members participating in the deferred  
13 compensation program, and not be the subject of unreasonable  
14 solicitation of Government of Guam employees to participate in  
15 the program. The contract may not call for any person to  
16 jeopardize the tax-deferred status of money invested by  
17 Government of Guam employees under this section.

18 (d) Director to establish rules. The Director of the  
19 Government of Guam Retirement System with the advice and  
20 consent of the Board of Trustees shall establish rules and  
21 procedures to carry out this section including allocation of  
22 administrative costs against the assets accumulated in this section.  
23 Funds to pay these costs are appropriated from the fund or account  
24 in which the assets accumulated under this section are placed. The  
25 rules established by the Director must conform to federal tax laws,  
26 regulations, and rulings.

1           (e) Other laws not applicable. No provision of this chapter or  
2 other law specifically referring to this chapter applies to this section  
3 unless this section is specifically mentioned.

4           (f) Exemption from process. As money to which legal title is  
5 vested in the Government of Guam, no amount of deferred  
6 compensation is assignable or subject to execution, levy,  
7 attachment, garnishment, or other legal process.

TWENTY-THIRD GUAM LEGISLATURE

1995 (FIRST) Regular Session

Date: 9/19/95

VOTING SHEET

Bill No. 305

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

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

NAME	AYE	NO	NOT VOTING/ ABSTAINED	ABSENT/ OUT DURING ROLL CALL
ADA, Thomas C.	✓			
AGUON, John P.	✓			
BARRETT-ANDERSON, Elizabeth	✓			
BLAZ, Anthony C.	✓			
BROWN, Joanne S.	✓			
CAMACHO, Felix P.	✓			
CHARFAUROS, Mark C #		✓		
CRISTOBAL, Hope A. -1	✓			
FORBES, MARK	✓			
LAMORENA, Alberto C., V	✓			
LEON GUERRERO, Carlotta	✓			
LEON GUERRERO, Lou	✓			
NELSON, Ted S.	✓			
ORSINI, Sonny L.	✓			
PANGELINAN, Vicente C		✓		
PARKINSON, Don	✓			
SAN AGUSTIN, Joe T.	✓			
SANTOS, Angel L. G. P		✓		
SANTOS, Francis E.	✓			
UNPINGCO, Antonio R. +	✓			
WONPAT-BORJA, Judith -1		✓		

TOTAL

17 4 0 0





# Senator Francis E. Santos

Chairperson, Committee on Ways & Means

Phone: (671) 472-3414/5 Fax: (671) 477-3048

September 11, 1995

**TWENTY-THIRD  
GUAM LEGISLATURE**  
155 HESLER ST.  
AGANA, GUAM 96910

The Honorable W. Don Parkinson  
Speaker,  
Twenty - Third Guam Legislature  
155 Hesler Street  
Agana, Guam 96910

Dear Speaker Parkinson:

The Committee on Way and Means, now reports its findings on **Bill #305 An act to provide a defined contribution plan for the employees of the Government of Guam**, to the full legislature with the recommendation to do Pass.

Votes of the Committee members are as follows:

To Pass:	<u>10</u>
Not To Pass:	<u>0</u>
Abstain:	<u>0</u>
Inactive File:	<u>0</u>
Off Island:	<u>0</u>

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

Respectfully,  
  
Francis E. Santos

attachments

- Member,*  
Committee on  
Economic-Agricultural  
Development & Insurance
- Member,*  
Committee on  
Electrical Power &  
Consumer Protection
- Member,*  
Committee on Federal  
& Foreign Affairs
- Member,*  
Committee on Rules
- Member,*  
Committee on  
Tourism & Transportation
- Member,*  
Commission on  
Self-Determination
- Member,*  
Guam Finance Commission



TWENTY-THIRD  
 GUAM LEGISLATURE  
 155 Hesler St.  
 Agana, Guam 96910


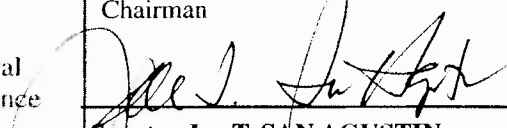
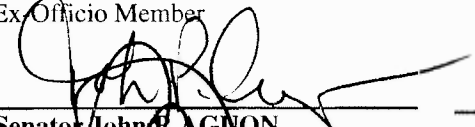
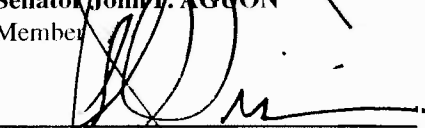
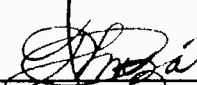

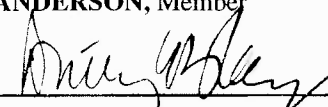

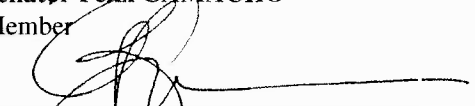
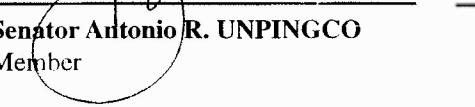
# Senator Francis E. Santos

Chairperson, Committee on Ways & Means

Phone: (671) 472-3414/5 Fax: (671) 477-3048

## VOTING SHEET

ON BILL #305<sup>p3 sub. 70</sup> AN ACT TO PROVIDE A DEFINED CONTRIBUTION PLAN FOR EMPLOYEES OF THE GOVERNMENT OF GUAM

	<u>COMMITTEE MEMBERS</u>	<u>TO PASS</u>	<u>NOT TO PASS</u>	<u>TO ABSTAIN</u>	<u>TO PLACE IN INACTIVE FILE</u>
		✓			
Member, Committee on Economic-Agricultural Development & Insurance	Senator Francis E. SANTOS Chairman				
		✓			
Member, Committee on Electrical Power & Consumer Protection	Senator Joe T. SAN AGUSTIN Vice-Chairman				
		✓			
Member, Committee on Federal & Foreign Affairs	Speaker Don PARKINSON Ex Officio Member				
		✓			
Member, Committee on Rules	Senator John F. AGUON Member				
		✓			
Member, Committee on Tourism & Transportation	Senator Sonny L. ORSINI Member				
		✓			
Member, Commission on Self-Determination	Senator Judy WON PAT-BORJA Member				
		✓			
Member, Guam Finance Commission	Senator Elizabeth BARRETT-ANDERSON, Member				
		✓			
	Senator Anthony C. BLAZ Member				
		✓			
	Senator Felix CAMACHO Member				
		✓			
	Senator Antonio R. UNPINGCO Member				

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<b>Exhibit D: Cost Analysis of Bill 305 as substituted</b>	page 15
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**COMMITTEE ON WAYS AND MEANS**

Twenty-third Guam Legislature  
155, Hesler Street, Agana, Guam 96190

**Committee Report**

**on**

**BILL 305 AS SUBSTITUTED - AN ACT TO PROVIDE A DEFINED  
CONTRIBUTION PLAN FOR EMPLOYEES OF THE  
GOVERNMENT OF GUAM**

**COMMITTEE MEMBERS**

Chairman: Senator Francis E. Santos

Vice Chairman: Senator Joe T. San Agustin

Senator John P. Aguon, Member

Senator Elizabeth Barrett-Anderson, Member

Senator Anthony C. Blaz, Member

Senator Felix P. Camacho, Member

Senator Sonny L. Orsini, Member

Speaker Don Parkinson, Member

Senator Antonio R. Unpingco, Member

## **COMMITTEE REPORT**

Bill 305 As Substituted

**Committee Members Present:** Senator F. Santos, Chairman  
Senator San Agustin, Vice Chairman  
Senator Aguon  
Senator Blaz  
Senator Camacho  
Senator Orsini  
Senator Unpingco

**Additional Senators in Attendance:** Senator Ada  
Senator Cristobal  
Senator L. Leon Guerrero  
Senator Pangelinan  
Senator Won Pat-Borja

## I. OVERVIEW

In a report released in September of 1993, and prepared by Deloitte and Touche, the concern was expressed that current benefit levels were excessive in comparison to other government retirement systems.

There were no changes made to the current retirement system, at that time.

Currently, the Government of Guam must meet \$9.3 million in monthly obligations to the Fund in comparison to \$8.7 million in monthly employee contributions. Additionally, there is an Unfunded Liability of \$730 million.

Bill 305 As Substituted is a result of work and research completed by the Governor's Task Force on Retirement Reform, of which the author of this bill is a member. The implementation of a new system, the Defined Contribution System, is a way to maintain the level of benefits, deemed excessive in comparison to other systems, for current members and at the same time offer a new plan that will be equitable for future employees of Gov. Guam.

The Committee on Ways and Means conducted a Public Hearing at 1:30 p.m., on Wednesday, September 6, 1995, in the Public Hearing Room of the Guam Legislature Building.

## II. SUMMARY OF TESTIMONY

**Testifying:**        **Mr. Gerald S.A. Perez, Chairman**  
                          **Retirement Board of Trustees and**  
                          **Governor's Task Force on Retirement Reform**  
                          **Ms. Michelle Santos, Director**  
                          **Retirement Fund**  
                          **Mr. Jay Lingo, Actuary**  
                          **Deloitte and Touche**

**Senator Joe T. San Agustin**, prior to the beginning of testimony, acknowledges that there has been many rumors surrounding Bill 305, with regard to the elimination of COLAs and the changing of the retirement system for current as well as future employees. Senator San Agustin clarifies that the new system, will effect only Gov. Guam employees hired after September 30, 1995.

**Mr. Gerald Perez** submitted written and oral testimony in support of Bill 305 As Substituted.

Mr. Perez pointed out that Bill 305 as substituted recognizes the need to change a system that is becoming "less attuned to the economic realities with which the Government of Guam must deal", and that "Bill 305 as substituted will demand greater financial responsibility from Gov. Guam employees and employers". Pointing out the \$730 million in Unfunded Liabilities and the fact that Gov. Guam must pay \$100 million in obligations annually. Additionally, \$9.3 million must be paid monthly to meet retirement fund

obligations compared to \$8.7 million in employee contributions. This amounts to 29.17% of payroll.

Mr. Perez went on to offer historic background of the present retirement system relating that the current plan was conceived in 1951 to attract qualified workers, but a combination of embellishment of benefits, growth in the number of employees and lengthened life expectancies are factors that put a strain on the future economic viability of the present system.

Mr. Perez related that Bill 305 as substituted offers a plan that will:

1. Be less susceptible to manipulation by special interest or politics ;  
(here Mr. Perez does not elaborate)
2. Decrease the unfunded liability ;
3. Give employees flexibility and control over retirement income ;
4. Give the employee more take home pay ; and
5. Provide savings to the General Fund and postpone or eliminate increases in Gov. Guam contributions.

Mr. Perez concluded his testimony by adding that the Governor's Task Force on Retirement Reform is doing work and research on the COLA issue and will be able to discuss that issue at a later date.

**Ms. Michelle Santos** submitted written and oral testimony in favor of Bill 305 As Substituted.

Ms. Santos reiterated the need for a new retirement system for incoming employees relayed in testimony by board chairman, Mr. Perez. Ms. Santos went on to give a brief summary of each section of Bill 305 As Substituted.

Ms. Santos further added that although Bill 305 will not effect current employees, current employees with less than twenty years of service to Gov. Guam will be able to choose to become a member of the Defined Contribution Plan if adopted.



Ms. Santos concluded her testimony by inviting Mr. Jay Lingo to explain the cost savings to the Government of Guam.

**Mr. Jay Lingo** provided a written cost analysis of Bill 305 in his capacity as Actuary to the Retirement Fund.

Mr. Lingo pointed out that the savings to Gov. Guam will be small in the first year of enactment of Bill 305, approximately \$1.5 million, but that savings will increase to \$4.8 million in the third year. By the ninth year of enactment, the savings to Gov. Guam will be approximately \$22 million.

### **III. SENATOR'S COMMENTS/QUESTIONS**

Senator Joe T. San Agustin reiterates that the Defined Contribution Plan will be "self directed." Members will be able to choose where they want to invest their contributions. Mr. Perez does add that there will be boundaries in place with regard to investments.

Senator Francis Santos inquires as to the timetable needed to put the administrative service together. Ms. Santos responds that up to twelve months will be needed and shows the committee the timetable section of Bill 305. Ms. Santos adds that the timetable is long and that most of the tasks will be done earlier.

Ms. Santos further adds that current employees, with less than twenty years of service will have two years, of enactment of law, to voluntarily switch to the Defined Contribution Plan. Senator Santos inquires whether, upon voluntarily switching, the member may switch back to the old plan. Ms. Santos responded, no.

Senator Antonio Unpingco asks Ms. Santos to clarify a section of Bill 305 (page 5/line 15) with regard to employees who terminate employment and then return. Ms. Santos responds that if an employee takes their contributions out of the retirement fund and that same employee returns after Septemeber 30, 1995, that employee will become a member of the Defined Contribution Plan.

Senator Unpingco further inquires as to the amount of withdrawal of contributions allowable, whether a member may withdraw a portion and not all. Ms. Santos answers that the Retirement Fund, under the current system, requires that you withdraw the total amount of employee contributions. Ms. Santos adds that if an employee does not withdraw their contributions upon termination of employment, if that employee returns, he or she will return to the current system. Membership in both plans will not be allowed.

#### **IV. COMMITTEE FINDINGS**

The Committee on Ways and Means, having held a public hearing for Bill 305 as substituted, finds:

1. That the current system was designed to attract and retain qualified workers at a time when that was difficult to do so and that is no longer an issue ;
2. Benefit levels, current Government of Guam members are entitled to, must be maintained ;
3. Gov. Guam must provide an equitable and secure retirement plan for all future employees ;
4. Gov. Guam's monthly contributions to the Fund is 29.17% of payroll ;
5. Gov. Guam must annually meet obligations of \$100 million from the General Fund ;
6. In order to pay for other necessities from the General Fund, i.e., infrastructure improvements and school upgrades, ways of saving funds must be implemented ;
7. The Defined Contribution Plan, proposed in Bill 305 as substituted, has been projected to save the General Fund \$1 million in the first year of implementation ;
8. The savings to the General Fund are projected to grow in size - \$4.8 million in the third year of implementation - \$22 million in the ninth year ;
9. The proposed new plan will be equitable for future members ;

10. The Committee recognizes the need for change to the current retirement system ; and

11. It is important to make changes at this time, as any delay may dictate that a plan be implemented that will not be as equitable to future employees.

## **V. COMMITTEE RECOMMENDATIONS**

The Committee on Ways and Means, having held a public hearing on Bill 305 As Substituted, hereby recommend that Bill 305 As Substituted be passed.

**EXHIBIT A**

**BILL 305 As Substituted**

TWENTY-THIRD GUAM LEGISLATURE  
1995 (FIRST) REGULAR SESSION

Bill No. 305 (As Substituted  
By the Committee on Ways and Means)

Introduced By J.T. San Agustin  
F. E. Santos

AN ACT TO PROVIDE A DEFINED CONTRIBUTION PLAN  
FOR EMPLOYEES OF THE GOVERNMENT OF GUAM.

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

1  
2  
3 Section 1. Legislative Findings and Intent. The Legislature  
4 finds that:

5  
6 (a) The Actuarial Valuation of the Retirement Plan  
7 prepared by Deloitte & Touche as of September 30, 1993,  
8  
9 expressed concern that the Fund benefit levels are rather  
10  
11 excessive in comparison to most other government retirement  
12  
13 systems.  
14

15  
16 (b) Benefit levels and retirement policy should  
17  
18 be reviewed and benefit levels should be adjusted in order to  
19  
20 address specific inequities, excessiveness, and desired policy  
21  
22 objectives.  
23

24  
25 (c) It is necessary to maintain the current plan



1  
2 benefit levels for current members, while establishing a new  
3  
4 plan for all new members.

5  
6 (d) In establishing benefits for a new plan, generally  
7  
8 accepted retirement income level standards should be  
9  
10 observed and the details of any new plan must be considered  
11  
12 thoroughly and a comprehensive education and implementation plan  
13  
14 must be developed.

15  
16 (e) The concern expressed by the Independent Actuaries  
17  
18 must serve as a warning that the current fund may be  
19  
20 jeopardized if the benefits it provides to it's members are  
21  
22 not reasonably related and restricted to the resources from  
23  
24 which said benefits may be paid.

25  
26 (f) Any further delay in enacting Statutory changes to  
27  
28 the current system or establishing a new plan may lead to  
29  
30 the implementation of a plan for new members with benefits  
31  
32 sharply disparate from those provided to current members.

33  
34 (g) The legislature concurs with the recommendations of  
35  
36 the Actuaries; and

37  
38 (h) The Legislature intends to establish a new plan  
39  
40 "Defined Contribution Plan" for new members, in order to  
41  
42 protect and preserve the fiscal soundness of the fund for the  
43  
44 benefit of all its' members now and in the future.

45  
46 Section 2. (a) Sections 8101 to 8299 of Chapter 8, Title IV of  
47  
48 the Guam Code Annotated are reorganized under Article 1 of the  
49  
50 same title.

1 (b) For purposes of Section 8137(b), the term "total  
2 salaries of members" shall be interpreted to include Base Pay, as  
3 defined in Chapter 8, Title IV, Article II, Section 8301(L), of  
4 members participating in the Government Defined Contribution  
5 System.

6 Section 3. A New Article II is added to Chapter 8, Title IV of  
7 the Guam Code Annotated to read:

8 Section 8301. Definitions. As used in this article, unless  
9 the context otherwise requires:

10 A. "Defined contribution system" means the Government of  
11 Guam Defined Contribution Retirement system  
12 created and established by this Article;

13 B. "Existing retirement system" means the Government of  
14 Guam Retirement Fund established in Article 1 of this Title;

15 C. "Existing employer" means any agency who employed or  
16 employs a member of the existing retirement system;

17 D. "Board" means the Board of Trustees, the agency  
18 responsible for the direction and operation of the affairs and  
19 business of the system. Title to all assets of the Retirement  
20 Fund shall be held for the Retirement Fund by the Board or its  
21 qualified bank trustee ;

22 E. "Year of employment service for vesting purposes"  
23 means the twelve (12) consecutive month period equal to a plan  
24 year during which a member completes not less than one-thousand  
25 (1,000) hours of service, as computed on an actual or equivalency  
26 basis as the board may so determine with respect to all members;

1 F. "Employer" means the agency of or within the Territory  
2 of Guam which has employed or employs a member;

3 G. "Member contribution" means an amount reduced from the  
4 member's regular base pay, and deposited into the member's  
5 individual account within the Defined Contribution Retirement  
6 System;

7 H. "Employer contribution" means an amount deposited into  
8 the member's individual account on a periodic basis coinciding  
9 with the employee's base payroll period by an employer from its  
10 own funds;

11 I. "Account" means an account established for each  
12 member to record the deposit of member contributions and employer  
13 contributions and interest, dividends or other accumulations  
14 credited on behalf of the member;

15 J. "Retirement" means a member's withdrawal from the active  
16 employment of a participating employer and completion of all  
17 conditions precedent to retirement;

18 K. "Permanent, and total disability" means a mental or  
19 physical incapacity requiring the absence from an employment  
20 service for at least six months; provided, that such incapacity  
21 is shown by an examination by a physician or physicians selected  
22 by the board ;

23 L. "Base Pay" means an employee's stated rate of pay.

24 Section 8302. Defined Contribution Retirement System  
25 created and established; body corporate.

26 The Defined Contribution Retirement System is hereby created  
27 and established to provide for the secure, fair and orderly

1 retirement of personnel of the Government of Guam. The Defined  
2 Contribution Retirement System shall constitute a body corporate  
3 and all business of the system shall be transacted in the name of  
4 the Government of Guam Defined Contribution Retirement System.

5 Section 8303. Article to be liberally construed; purpose.  
6 The provisions of this article shall be liberally construed so  
7 as to provide an individual account retirement system for any  
8 person who is employed in the Government of Guam. The purpose  
9 of the Article is to provide a defined contribution retirement  
10 program which is fully funded on a current basis from employer  
11 and employee contributions.

12 Section 8304. Administration of the Government Defined  
13 Contribution Retirement System. The Board of Trustees created  
14 pursuant to Article 1, of this Title shall administer the  
15 Government of Guam Defined Contribution Retirement System. The  
16 board may sue and be sued, contract and be contracted with and  
17 conduct all the business of the defined contribution system in  
18 the name of the Government of Guam Defined Contribution  
19 Retirement System.

20 Section 8305. Powers and duties of the Board of Trustees in  
21 the administration of the Defined Contribution Retirement System.  
22 The board has all powers necessary to effectuate the purposes of  
23 this Article. The board may contract with an insurance,  
24 annuity, mutual fund or other qualified company or companies to  
25 administer the operations of the defined contribution system.  
26 In selecting such company or companies the board shall take into  
27 account as its highest fiduciary duty, the proper safeguard and

1 protection of the member and employer contributions and the  
2 interest, dividends, or other returns thereon. The board shall  
3 promulgate rules regarding the proper investment of funds.

4 Section 8306. Participation in Government of Guam Defined  
5 Contribution Retirement System; limiting participation in  
6 existing retirement system. Beginning October 1, 1995, the  
7 Government of Guam Defined Contribution Retirement System shall  
8 be the single retirement program for all new employees whose  
9 employment commences on or after that date, No additional new  
10 employees may be admitted to the existing retirement system.  
11 Members of the existing retirement system whose employment  
12 continues beyond September 30, 1995, shall continue to contribute  
13 and participate in the existing system without change in  
14 provisions or benefits.

15 Any employee whose employment terminates after September 30,  
16 1995, who is later reemployed by the Government of Guam shall be  
17 eligible for membership only in the Government of Guam Defined  
18 Contribution Retirement System; provided, he or she shall be  
19 entitled to readmission to the existing retirement system in  
20 which he or she was originally a member, provided, that such  
21 employee has not withdrawn his or her contributions from the  
22 existing retirement system. However, if such employee has  
23 withdrawn his or her contribution from the existing retirement  
24 system, the readmission shall not be permitted and the employee  
25 will be entitled only to membership in the Government of Guam  
26 Defined Contribution Retirement System.

1           Section 8307. Voluntary participation in system. Any  
2 member, with less than twenty (20) years service credit,  
3 recognized under the existing retirement system may, upon written  
4 election, voluntarily elect membership in the Government of Guam  
5 Defined Contribution Retirement System, on a prospective basis,  
6 on or after October 1, 1995. Said member of the existing  
7 retirement system upon election shall withdraw his or her  
8 contribution plus interest; the member must then deposit such  
9 funds in the Government of Guam Defined Contribution Retirement  
10 System; and as a result thereof such member's years of service  
11 credit in the existing system shall be applied toward the years  
12 of employment service for vesting purposes under Section 8310 of  
13 this Article; and no further benefits will be payable to such  
14 member under the existing retirement system. Members electing to  
15 transfer to the defined contribution Plan retirement system will  
16 have their transfers effective at the end of the first pay period  
17 following the month of transfer. Employees will have two (2)  
18 years, after enactment of this legislation, in which to elect to  
19 transfer to the defined contribution Plan retirement system.  
20 After having made such election, the employee may not change such  
21 election or again become a member of the existing retirement  
22 system.

23           Section 8308. Members' contributions. All contributions by  
24 the members shall be mandatory and, equal to five (5) percent  
25 of base pay. Such reductions from base pay, although  
26 designated as member contributions shall be picked up by the  
27 employer at the normal payroll intervals, shall be paid by the

1 employer in lieu of contributions by the member, and shall be  
2 remitted within ten working days of the end of each payroll  
3 period to the insurance, annuity, mutual fund, or other qualified  
4 company or companies designated by the board to administer the  
5 operations of the defined contribution system.

6 The employer shall pick up the member's mandatory  
7 contributions required by this section from member's base pay  
8 on or after the first payroll interval following the latest of  
9 (i) the enactment of this Article (ii) October 1, 1995, or (iii)  
10 a member's transfer to the defined contribution system pursuant  
11 to Section 8307, and the contributions so picked up shall be  
12 treated as employer contributions in determining federal tax  
13 treatment under Section 414 (h) the United States Internal  
14 Revenue Code. The employer shall contribute pay these employee  
15 picked up contributions from the same source of funds which is  
16 used in paying base pay to the member. Member contributions  
17 picked up shall be treated for all purposes of the Government of  
18 Guam Retirement Fund Defined Contribution Retirement System in  
19 the same manner and to the same extent as employee contributions  
20 made prior to the date picked up.

21 All member contributions shall be immediately credited to  
22 an account or accounts established for the benefit of the member  
23 under a trust agreement. A summary plan description shall be  
24 issued to each member setting forth the terms and conditions  
25 under which contributions are received, and the investment and  
26 retirement options available to the member. The board shall  
27 promulgate within ninety (90) days after enactment of the law,

1 pursuant to Section 8305 of the Article, rules defining the  
2 minimum requirements for the investment and retirement options  
3 including but not limited to:

- 4 1. Lump sum distributions of members' accounts which  
5 do not exceed an amount established by the board;
- 6 2. Joint and Survivor annuities;
- 7 3. Other annuity forms;
- 8 4. Variable annuities which gradually increase monthly  
9 retirement payments; provided, that said increased  
10 payments are funded solely by existing current value of  
11 the member's account at the time the member's  
12 retirement payments commence and not, to any extent, in  
13 a manner which would require additional employer or  
14 employee contributions to any member's account after  
15 retirement or after the cessation of employment; and
- 16 5. The instances in which, if any, distributions or  
17 loans can be made from this on account balances prior  
18 to having attained the age of fifty-five.

19 Section 8309. Employer contributions. Each agency shall  
20 make a contribution with respect to each member whose employment  
21 commenced on or after October 1, 1995, or who transfers to the  
22 defined contribution system pursuant to Section 8307 which is  
23 equal to five (5) percent of such member's base pay. Each  
24 participating agency shall match the first five (5) percent of  
25 each employee's contribution. Each participating agency shall  
26 ensure that it's employer contributions are made concurrently  
27 with member contributions and within ten working days of the end



1 of each payroll period. In the case of an officer or an employee  
2 of the Government of Guam, any unpaid contribution shall be a  
3 government debt, contracted as a result of a causal deficit in  
4 the government's revenues, to be accorded preferred status over  
5 other expenditures.

6 In the event that any payment is not timely made the  
7 participating employer shall within ten (10) working days of  
8 the contribution due date give to the employee and to the Office  
9 of the Public Auditor notice in writing of the nonpayment, in  
10 such form and accompanied by such documentation as may be  
11 required by the Public Auditor. At such time as funds are  
12 available in the appropriate account, the agency shall pay the  
13 employer contribution, together with appropriate daily interest.  
14 It shall be a felony for any person to knowingly withhold payment  
15 of the agency's contributions or hinder the Treasurer of Guam or  
16 an agency from making timely payment. Any person convicted of  
17 same shall serve a prison sentence of not less than one (1) year  
18 and not more than three (3) years.

19 Section 8310. Termination of membership. Any member whose  
20 employment with a participating employer terminates after the  
21 completion of five (5) complete years of employment service for  
22 vesting purposes shall be eligible following his or her  
23 attainment of age 55 to receive a distribution of the member's  
24 account, of an amount equal to the member's contribution plus  
25 earnings thereon plus One hundred (100%) percent of the employer  
26 contributions and any earnings thereon.

1 Any member whose employment with a participating employer  
2 terminates after the completion of five (5) years but less than  
3 twenty (20) years of service shall be eligible to receive a  
4 distribution from the member's account, an amount equal to the  
5 member's contributions plus any earnings thereon. The board  
6 shall promulgate rules and regulations to determine reinstatement  
7 of vesting service with respect to future government  
8 contributions upon reemployment of the member.

9 Any member whose employment with a participating employer  
10 terminates prior to the completion of five (5) complete years of  
11 employment service for vesting purposes shall be eligible to  
12 receive a distribution from the member's account, of an amount  
13 equal to the member's contributions plus any earnings thereon  
14 following his or her termination of employment ; provided, that  
15 in the event of permanent and total disability or death of any  
16 member, that member or his or her beneficiary shall be eligible  
17 to receive a distribution equal to the member's contributions  
18 plus One hundred (100%) percent of the employer's contributions  
19 and any earnings thereon.

20 The remaining balance, if any, in the member's account after  
21 the distribution shall be credited to a suspense account. Any  
22 account balances credited to the suspense account shall be  
23 maintained by the board for a period of five (5) years following  
24 termination of the member's employment. In the event that the  
25 member does not return to the employ of the employer within said  
26 five (5) years, the amount attributable to such member shall be  
27 released from the suspense account and applied to employer

1 contributions in future years. The aggregate amount of  
2 forfeitures released from the suspense account at the end of each  
3 fiscal year will be applied as contributions of contributing  
4 employers in proportion to the aggregate amount of contributions  
5 made by the contributing employer for the five (5) fiscal years  
6 ending with the fiscal year in which the forfeitures are released  
7 from the suspense account bears to the total contributions made  
8 by all contributing employers for the same five (5) fiscal year  
9 period.

10 Upon certification to the several contributing employers of the  
11 aggregate account balances plus earnings thereon which have been  
12 irrevocably forfeited pursuant to this Section 8310, the several  
13 contributing employers shall be permitted in the next succeeding  
14 fiscal year or years to reduce their total aggregate contribution  
15 requirement pursuant to Section 8309 of this Article, for the  
16 then current fiscal year by an amount equal to the aggregate  
17 amounts irrevocably forfeited and certified as such to each  
18 contributing employer.

19 Section 8311. Retirement, commencement of benefit  
20 payments. At any time after an employee reaches the age of  
21 fifty-five years and has completed five (5) years of employment  
22 service for vesting purposes, he or she may elect to receive  
23 retirement benefits by notifying the board or its designee in  
24 writing of such intention not less than sixty days prior to the  
25 effective date of retirement. Retirement payments shall commence  
26 within thirty days of the retirement date under such payment

1 option or options as may be provided by the board and elected by  
2 the employee.

3 Section 8312. Amount of benefit payments.

4 (a) The amount of benefit payments a retired member shall  
5 receive shall be based solely upon the balances in the member's  
6 account at the date of retirement, the retirement option  
7 selected, the actuarial life expectancy of the member, and such  
8 other factors as normally govern annuity payments.

9 (b) The board, or its designee, is authorized upon  
10 retirement of a member, upon the election of that member, to  
11 purchase an annuity for the member upon his or her retirement.

12 Section 8313. Supplemental annuity contracts. The board  
13 shall authorize the private pension, insurance, annuity, mutual  
14 fund or other qualified company or companies with whom it  
15 contracts to make available to members such supplemental annuity  
16 options, disability and other insurance or benefits.

17 Section 8314. Account Statements. The board shall prepare  
18 or cause to be prepared, on a quarterly basis, an account  
19 statement for each members' account. The statement shall  
20 include, but not be limited to a statement of the current market  
21 value of the members' account. The board shall prescribe the  
22 form and content of the account statement not inconsistent with  
23 the provisions of this Section 8314.

24 Section 8315. Years of employment service for vesting  
25 purposes. A member of the Government of Guam Defined  
26 Contribution Retirement System who terminates employment with a  
27 participating employer and does not withdraw any funds from his

1 or her account and becomes reemployed with a participating  
2 employer within five years shall retain his or her previous years  
3 of employment services for vesting purposes of the provisions of  
4 Section 8310.

5 Section 8316. Right to benefits not subject to execution,  
6 etc. The right of any person to a benefit provided for in this  
7 Article shall not be subjected to execution, attachment,  
8 garnishment, the operation of bankruptcy or insolvency laws, or  
9 other process whatsoever, nor shall any assignment thereof be  
10 enforceable in any court.

11 Section 8317. Administrative Expenses.

12 (a) The Board of Trustees may provide for administrative fees or  
13 charges to be paid by participants in the following manner:

14 (1) For fiscal years beginning October 1, 1995 and October  
15 1, 1996, the Board of Trustees may assess an amount up to four  
16 percent (4%) of the employer and employee contributions.

17 (2) For fiscal years beginning October 1, 1997 and  
18 thereafter, the Board of Trustees may assess an amount up to two  
19 percent (2%) of the employer and employee contributions.

20 (b) Any amounts not needed for administrative expenses of the  
21 plan must be allocated to member accounts.

22 Section 8318. Implementation. The Board of Trustees will  
23 be responsible for implementation of the new defined contribution  
24 plan and the completion of the following implementation steps:

25 (A) Establishment of procedures to withhold employee and  
26 employer contributions and transferring of such contributions to  
27 a "temporary" investment account with respect to employees hired

1 after September 30, 1995. This step is to be completed within  
2 one (1) month of the enactment of enabling legislation.

3 (B) Preparation of request for proposal (RFP) for  
4 investment management and plan administration services. To be  
5 completed within two (2) months of enactment of enabling  
6 legislation.

7 (C) Proposals for the provision of investment management  
8 and plan administration services to be received by the Board of  
9 Trustees. To be completed within four (4) months of the  
10 enactment of enabling legislation.

11 (D) Review of proposals and selection of investment  
12 managers and plan administrators. To be completed within six (6)  
13 months of enactment of enabling legislation.

14 (E) Development and distribution of appropriate plan  
15 summary, and enrollment/investment election materials to post -  
16 September 30, 1995, hires. To be completed within eight (8)  
17 months of enactment of enabling legislation.

18 (F) Election materials returned and processed and funds  
19 currently held in "temporary" investment account allocated to  
20 appropriate investment funds per the election of the employee.  
21 To be completed within 10 (ten) months of enactment of enabling  
22 legislation.

23 (G) Development and distribution of appropriate plan  
24 summary, benefit projection illustrations and  
25 enrollment/investment election materials to pre - October 1,  
26 1995, hires. To be completed within 12 (twelve) months of  
27 enactment of enabling legislation.

1 (H) Process pre - October 1, 1995, hire elections, transfer  
2 accumulated member contributions and interest thereon from  
3 existing retirement system to defined contribution plan. To be  
4 completed within twenty-four (24) months of enactment of enabling  
5 legislation.

6 Section 8319. Deferred Compensation.

7 Subdivision 1. Entitlement to defer compensation. At  
8 the request of an officer or employee of the Government of Guam,  
9 or an officer or employee of a political subdivision, the  
10 Government of Guam or the political subdivision employing such  
11 officer or employee shall by payroll deduction defer the payment  
12 of part of the compensation of the officer or employee. The  
13 amount to be deferred must be as provided in a written agreement  
14 between the officer or employee and the employing unit. The  
15 agreement must be in a form specified by the Board of Trustees in  
16 such a manner as will qualify the deferred amount for benefits  
17 under federal tax laws, rules, and rulings.

18 Subdivision 1a. Failure to implement plan.

19 Implementations of the deferred compensation plan by the  
20 employing unit must be completed within thirty (30) days of the  
21 request as provided in subdivision 1; however, such an  
22 implementation need not occur earlier than October 1, 1997. If  
23 the employing unit fails to implement the deferred compensation  
24 plan, the employing unit may not defer compensation under any  
25 existing or new deferred compensation plan from the date of the  
26 request until the date of which the deferred compensation plan  
27 provided for in this section is implemented. The Board of

1 Trustees may order any employing unit that fails to implement the  
2 deferred compensation plan provided for in this section upon a  
3 valid request to undertake that implementation and may enforce  
4 that order in appropriate legal proceedings.

5 Subdivision 2. Purchase of shares. The amount of  
6 compensation so deferred may be used to purchase:

7 (1) shares in mutual funds or other managed investment  
8 portfolio selected by the Board of Trustees ;

9 (2) savings accounts in federally insured financial  
10 institutions ;

11 (3) life insurance contracts, fixed annuity and  
12 variable annuity contracts from companies that are  
13 subject to regulation by the Director of Revenue and  
14 Taxation ; or

15 (4) a combination of (1), (2), or (3), as specified by  
16 the participant.

17 The shares accounts or contracts purchased shall stand  
18 in the name of the Government of Guam or other employing unit,  
19 for the officer or employee whose deferred compensation purchased  
20 the shares, until distributed to the officer or employee in a  
21 manner agreed upon by the employee and the Board of Trustees  
22 acting for the employer. The Government of Guam, political  
23 subdivision, or other employing unit is not responsible for any  
24 loss that may result from investment of the deferred  
25 compensation.

26 Subdivision 3. Director to administer section. This  
27 section must be administered by the Director of the Government of



1 Guam Retirement System under subdivision 4. The Board of  
2 Trustees may solicit bids for options under subdivision 2,  
3 clauses (1), (2), and (3) and may retain consulting services to  
4 assist it in soliciting and evaluating bids and in the periodic  
5 review of companies offering options under subdivision 2. The  
6 periodic review must occur at least every two (2) years. The  
7 Board of Trustees may annually establish a budget for its cost in  
8 the soliciting, evaluating, and periodic review processes and may  
9 charge a proportional share of all costs related to the periodic  
10 review to each company currently under contract and charge a  
11 proportional share of all costs related to soliciting and  
12 evaluation bids to each company selected by the Board of  
13 Trustees. Contracts must provide that all options in subdivision  
14 2 must: be presented in an unbiased manner and in a manner that  
15 conforms to rules adopted by the Director, be reported on a  
16 periodic basis to all employees participating in the deferred  
17 compensation program, and not be the subject of unreasonable  
18 solicitation of Government of Guam employees to participate in  
19 the program. The contract may not call for any person to  
20 jeopardize the tax-deferred status of money invested by  
21 Government of Guam employees under this section.

22 Subdivision 4. Director to establish rules. The  
23 Director of the Government of Guam Retirement System with the  
24 advice and consent of the Board of Trustees shall establish rules  
25 and procedures to carry out this section including allocation of  
26 administrative costs against the assets accumulated in this  
27 section. Funds to pay these costs are appropriated from the fund

1 or account in which the assets accumulated under this section are  
2 placed. The rules established by the Director must conform to  
3 federal tax laws, regulations, and rulings.

4           Subdivision 5. Other laws not applicable. No  
5 provision of this chapter or other law specifically referring to  
6 this chapter applies to this section unless this section is  
7 specifically mentioned.

8           Subdivision 6. Exemption from process. As money to  
9 which legal title is vested in the Government of Guam, no amount  
10 of deferred compensation is assignable or subject to execution,  
11 levy, attachment, garnishment, or other legal process.

12  
13  
14  
15

**EXHIBIT B**

**Testimony from  
Mr. Gerald Perez**

## **Bill 305**

**Testimony of Gerald S.A. Perez  
Before the Committee on Ways & Means  
Twenty Third Guam Legislature  
On Bill No. 305  
September 6, 1995**

Mr. Chairman and Members of the Committee:

For the record, my name is Gerald S.A. Perez, Chairman of the Governor's Task Force on Retirement Reform and also Chairman of the GovGuam Retirement Fund Board of Trustees.

I am here to support the enactment of substitute Bill 305 and to discuss the merits of what can be considered landmark legislation for the Government of Guam Retirement program. It is significant because it recognizes the need to change a system that is becoming less attuned to the economic realities with which the government must deal. And it is also significant because it will send the signal for, and demand greater financial responsibility from, both GovGuam employee and employer.

The present retirement system was conceived in 1951 and set forth at that time certain benefits designed to attract talented people into local government service. It was also a period when only a few people retired in the ensuing decades, and the average longevity was much shorter than it is today. But easier access to qualified labor, embellishment of benefits, the growth in income and number of employees, and ever lengthening life expectancies have combined to raise serious doubts over the future economic viability of the present system. Many today question the continuing need for what can only be characterized as, an overly generous plan that the people of Guam can no longer afford. Indeed, the plan's current \$730 million unfunded liability brings into question the Fund's ability to provide the asset base necessary to guarantee the benefits promised by law.

We are not here today to argue the merits of the current benefit package that, rightly or wrongly, evolved since the early 1950's. But we are here to state very simply that the present plan can not continue if we are to satisfy other vital necessities in the community. Already today, the Government of Guam's annual contribution to the retirement system exceeds \$70 million. When combined with the \$30 million in COLA subsidies for 4,400 retirees, the combined total annual outlay of \$100 million is second only to the Department of Education budget of \$143 million.

The monthly cash requirement today to meet our annuity obligations and other membership benefits is \$7.7 million (without \$4,238 COLA, extra \$1.6 million per month). Monthly contributions from the 12,000 some odd active employees and GovGuam departments and agencies total \$8.7 million. With only \$1 million in monthly surplus at this time (also does not include COLA payments), it is not difficult to imagine that as the number of retirees increase, the day will come very soon when total payouts will exceed contributions, unless of course further increases are made in employee and employer contributions. Next month, this combined contribution by both employer and employee will be 29.17% of payroll (9.5% employee and 19.675% employer).

Clearly, the need for change is now. Just as clearly, there is need to alter the dynamics which continue to drive up the cost of a retirement system that is now confronted with two major problems. These are, first, the large unfunded liability and, second, the disposition of a non-vested income subsidy program that has become ingrained into the mindset of both active and retired GovGuam employees.

Substitute Bill 305 is a good start in addressing one of these two major problems. If enacted into law, it will begin to shift the dynamics that have built up the huge and, many would argue, unaffordable financial obligation that now burdens the average taxpayer. And although the bill does not address the COLA issue as we know it today, the new plan will:

- Become less susceptible to special interest and politically motivated manipulation
- Decrease the current unfunded liability
- Give employees greater flexibility and control over their future retirement income
- Provide more employee take home pay while enabling him (her) to invest pre-tax dollars in tax deferred investments
- Provide some savings to the General Fund and postpone or eliminate the need for future increases in GovGuam contributions
- Allow portability, depending upon how vested employee benefits are distributed in the detailed plan document.

What Bill 305 does not do is to take away any of the existing benefits now enjoyed by members belonging to the current plan. It will affect only new employees following the effective date of the bill's enactment into law. But what it does is to shift the responsibility and risk to the employee who will have more control over the outcome of his retirement income.

With respect to the COLA issue, we believe this subsidy program must be replaced with a more financially responsible and more comprehensive approach that is tied to a sensible consumer price index formula. The Task Force is not yet ready to discuss this issue, but will be forthcoming with a recommendation at a later date. The recommendation will be sensitive to the plight of low income and older retirees while addressing the General Fund problem and issues of fairness to both retirees and active members of the present Retirement Fund.

Both the Task Force and the Board of Trustees are anxious to work with the Legislature to come up with a viable plan that would meet not only the needs of today, but the needs of tomorrow. At this point, Mr. Chairman, I would like to ask Michelle Santos, Director of the Retirement Fund, and our actuary, Mr. Jay Lingo, to discuss sections of the bill in greater detail and to answer questions that you and your committee may have.

**EXHIBIT C**

**Testimony from  
Ms. Michelle Santos**

**Testimony of Director  
Government of Guam Retirement Fund  
Michele B. Santos  
Bill No. 305  
September 6, 1995**

Mr. Chairman and members of the Committee on Ways & Means,

Our Board Chairman has explained the reasons why we need to establish and implement this Defined Contributions Plan for the government employees. I will go into explaining parts of the bill and we will answer any questions you may have on the bill itself or other related matters.

**Section 1**

Gives the legislative findings as presented by Deloitte Touche our actuaries in their report of Sept 30, 1993. It summarizes the facts that benefit levels and retirement policies need to be reviewed. Benefits are overly generous and taxing the current system, thus the reason for introducing the Defined Contributions Plan (DC Plan).

In this section you will also note that the benefit levels for the current members will be maintained.

**Section 2**

Reorganizes Title IV of the GCA under article 1.

**Section 3**

Adds Article II to Title IV which is the statute setting up the Defined Contributions Plan for the Government of Guam.

**Section 8301**

Sets up definitions with respect to terms used in the DC Plan.

**Section 8302 to 8305**

Establishes the Defined Contributions Plan, its purpose, who will administer the DC Plan, and the powers and duties of the Board of Trustees with respect to administering the DC Plan.

**Section 8306**

The DC Plan will commence on October 1, 1995 and will be the single retirement program for all new Government of Guam employees hired on October 1, 1995 and moving forward.

Government of Guam employees as of Sept. 30, 1995 will continue to contribute to the existing Defined Benefits Plan (DB Plan).

Employees whose employment terminates after Sept. 30, 1995 and is later reemployed can be readmitted to DB Plan provided he or she has not withdrawn his contributions. If the contributions were withdrawn, he or she will not be allowed to return to the DB plan but rather becomes a member of the DC Plan.

#### Section 8307

Allows current government employees who have less than 20 years service, to transfer to the DC Plan from the DB Plan. It allows the employee to transfer all member contributions plus any earnings, and years of service will be credited for vesting purposes.

No benefits will be paid to the member under the DB Plan once an election is made to transfer to the DC Plan.

Once an election is made, the employee may not change his or her election.

#### Section 8308

Member contributions are set at 5% pre-tax of base pay.

Such contributions are mandatory.

Employers shall remit contributions within 10 working days at the end of each payroll period.

Member contributions are credited to an account for the member.

Summary Plan descriptions will be issued to each member with the details of the plan, investments, and retirement options available to the member.

The Board will promulgate in 90 days after enactment of the law rules defining the minimum requirements for investment and retirement options.

#### Section 8309

Agencies shall contribute 5% of member's base pay.

Remittance shall be the same as that of employee contributions.

Remittances shall become preferred payouts over expenditures.

The Public Auditor shall be notified of nonpayment of contributions by the employer and interest shall be charged and it shall be a felony if anyone knowingly withholds payment of these contributions.

#### Section 8310

Employees who terminate employment with Government of Guam with less than 20 years service for vesting purposes and has not yet reached the age of 55 is allowed to withdraw his contributions plus interest.



The Board shall develop rules and regulations to determine reinstatement of vesting service with respect to future government service should the employee become reemployed with the Government of Guam.

If an employee with less than 5 years service who dies or becomes disabled, he or she or his or her beneficiary shall receive a distribution of their contributions plus 100% of the employer contributions plus any earnings thereon.

Any remaining balances shall be put into a suspense account and shall be maintained by the Board for 5 years. If the member does not return to Government employment within 5 years the balances will be used to offset future contributions of the employer.

#### Section 8311

Retirement of an employee will commence when the employee reaches the age of 55 years and has completed 5 years of employment service.

#### Section 8312

Amount of Retirement benefit payments will be based on

- \* the balance of the member's account at the date of retirement,
- \* the retirement option selected
- \* the actuarial life expectancy of the member
- \* other factors that normally govern annuity payments

#### Section 8314

Account statements shall be prepared and issued to all members on a quarterly basis.

The statements shall include statement of current market value of members' account.

#### Section 8315

should a Government of Guam employee terminate service and not withdraw any funds and becomes reemployed within 5 years will maintain his or her years of previous service for vesting purposes.

### Section 8316

The right of an employee to a benefit provided in this article is not subject to garnishment, execution, attachment, bankruptcy or insolvency laws or any other process whatsoever.

### Section 8317

Administrative expenses will be covered by setting aside up to 4% of both employer and employee contributions for FY 96 and FY 97. Up to 2% for FY 98 and after. Any unused amount reverts back to the member accounts.

### Section 8318

The Board of Trustees is charged with implementing the Defined Contributions Plan.

1. Establish procedures to withhold contribution amounts to be done in 1 month.
2. Prepare RFP for administrative services and investment management services in 2 months.
3. Responses for RFP to be received in 4 months.
4. Review and selection from RFP proposals in 6 months.
5. Develop and distribute plan summary, investment election materials to post 9/30/95 hires within 8 months.
6. Members elect and funds distributed accordingly to appropriate investment accounts to be completed in 10 months.
7. Develop and distribute to members plan summary, benefit projections, and enrollment/investment election materials. To be completed in 12 months.
8. Process any DB plan members to DC plan to be completed within 24 months.

### Section 8319

Deferred Compensation is an option members will have as part of the DC Plan.

In its most basic form the Deferred Compensation Plan allows for members to contribute above the 5% and in line with what the Internal Revenue Code will allow to purchase any one of the following:

1. shares in mutual funds or other managed investment portfolios;
2. savings accounts in federally insured financial institutions;
3. life insurance contracts, fixed annuity or variables that are subject to regulation by the Director of Revenue and Taxation;
4. a combination of 1,2 or 3 as specified by member

This section allows the Director of the Retirement Fund to set up and administer the Deferred Compensation Plan. The Director must also establish rules to carry out this section. Provisions are also set up to insist that employers set up and implement the Deferred Compensation Plan within 30 days of the first request from a member to participate in such plan. The Board of Trustees may start legal proceedings to enforce this section.

We have outlined the basic DC Plan in hope that it will receive your favorable attention. I will now give you Mr. Jay Lingo from Deloitte Touche in Minneapolis, who is our actuary. Mr. Lingo will explain the cost savings to the Government and will answer any questions you may have regarding the financial impact to the Fund.

**EXHIBIT D**

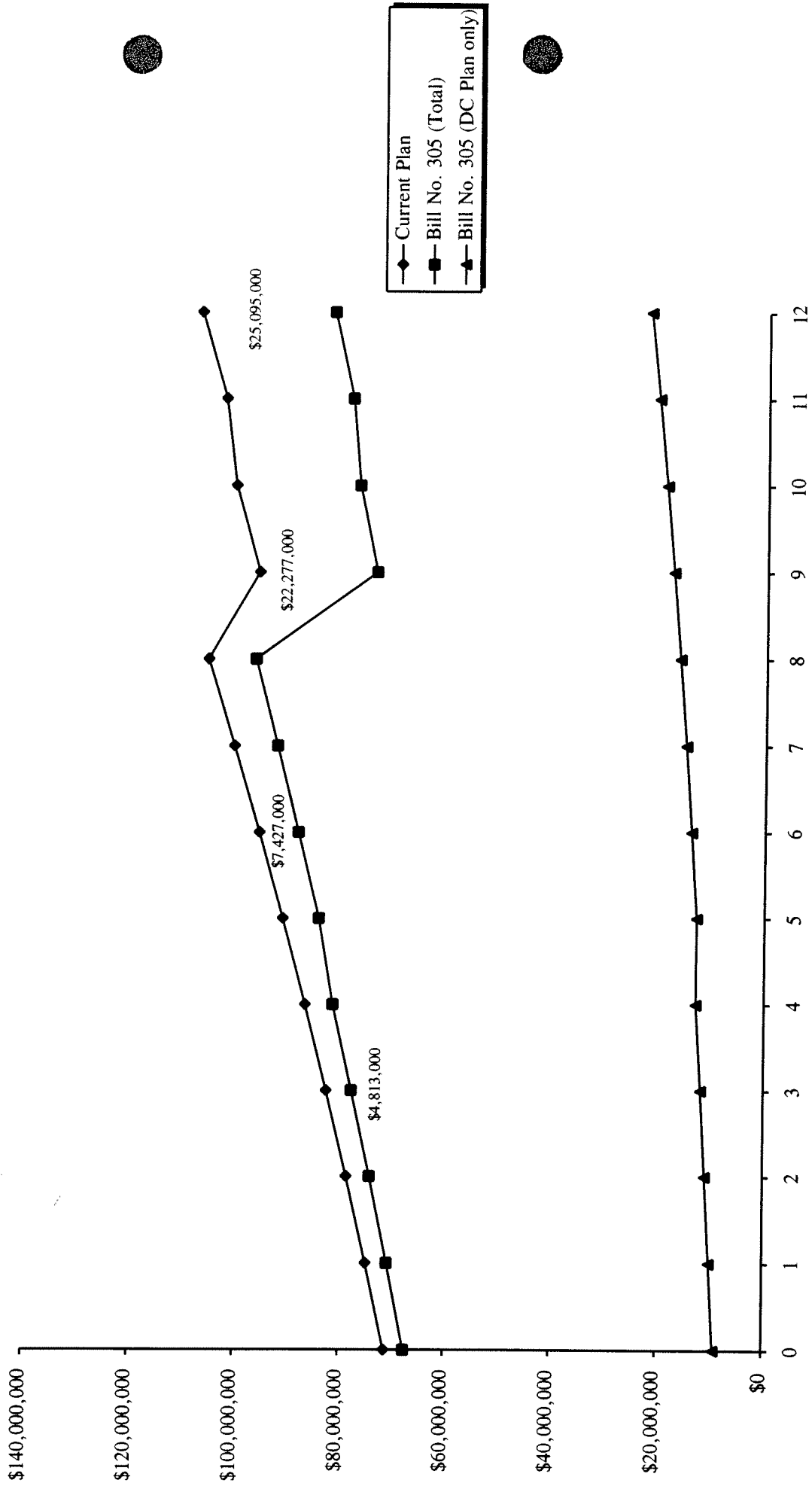
**Cost Analysis  
of  
Bill 305 As Substituted**

**GOVERNMENT OF GUAM RETIREMENT  
SYSTEM**

**Bill No. 305  
Cost Analysis**

**September 1995**

**GOVERNMENT OF GUAM**  
**Defined Contribution System Study**  
**Cost Analysis (Cash Cost Basis)**  
**Bill No. 305**



**Assumptions/Provisions**

- 5% Government DC Contribution
- Scaled % of DB members with less than 20 years of service assumed to transfer to DC Plan
- Current system members electing to transfer to DC Plan will transfer accumulated member contributions

**BILL NO. 305  
COST ANALYSIS FOR FY'96**

**CURRENT DEFINED BENEFIT RETIREMENT SYSTEM**

	<u><i>Current Service Cost</i></u>	<u><i>Unfunded Liability Amortization Cost</i></u>	<u><i>Total</i></u>
<i>Est. Payroll</i>	\$362 M	\$362 M	
<i>Cost %</i>	<u>6.800%</u>	<u>12.875%</u>	<u>19.675%</u>
<i>Total Cost</i>	\$24.6 M	\$46.6 M	\$71.2 M

**BILL NO. 305  
COST ANALYSIS FOR FY'96**

**NEW DEFINED CONTRIBUTION RETIREMENT SYSTEM**

***DEFINED BENEFIT PLAN:***

	<u><i>Current Service Cost</i></u>	<u><i>Unfunded Liability Amortization Cost</i></u>	<u><i>Total</i></u>
<i>Est. Payroll</i>	\$347 M	\$362 M	
<i>Cost % (Recommended)</i>	<u>6.330%</u>	<u>12.990%</u>	
<i>DB Cost</i>	\$22.0 M	\$47.0 M	\$69.0 M

***DEFINED CONTRIBUTION PLAN:***

	<u><i>Current Service Cost</i></u>	<u><i>Unfunded Liability Amortization Cost</i></u>	<u><i>Total</i></u>
<i>Est. Payroll</i>	\$15 M	N/A	
<i>Cost %</i>	<u>5.00%</u>	<u>N/A</u>	
<i>DC Cost</i>	<u>\$ .8 M</u>	<u>N/A</u>	<u>\$ .8 M</u>
<i>Total Cost</i>	\$22.8 M	\$47.0 M	\$69.8 M



**EXHIBIT E**

**Fiscal Note**

**FISCAL NOTE**  
**BUREAU OF BUDGET AND MANAGEMENT RESEARCH**

HB 305

Bill No. 305 Date Received: 7/27/95  
 Amendatory Bill: No Date Reviewed: 8/7/95  
 Department/Agency Affected: Government of Guam Retirement Fund  
 Department/Agency Head: Michelle B. Santos  
 Total FY 1995 Appropriation to Date: \$33,159,180  
 Bill Title (preamble): AN ACT TO PROVIDE A DEFINED CONTRIBUTION PLAN FOR EMPLOYEES OF THE GOVERNMENT OF GUAM.  
 Change in Law: To add Section 5311, and 5312 to CH 3, A.G.C.A. to reorganize Sections 4181-4292 under Article I  
 Bill's Impact on Present Program Funding:  
 Increase \_\_\_\_\_ Decrease x \_\_\_\_\_ Reallocation \_\_\_\_\_ No Change \_\_\_\_\_  
 Bill is for:  
 Operations \_\_\_\_\_ Capital Improvement \_\_\_\_\_ Other Defined Contribution Plan

**FINANCIAL/PROGRAM IMPACT**

**ESTIMATED SINGLE-YEAR FUND REQUIREMENTS (Per Bill)**

PROGRAM CATEGORY	GENERAL FUND	OTHER	TOTAL
Autonomous			1/

**ESTIMATED MULTI-YEAR FUND REQUIREMENTS (Per Bill)**

FUND	1st	2nd	3rd	4th	5th	TOTAL
GENERAL FUND						
OTHER						
TOTAL						0/

FUNDS ADEQUATE TO COVER INTENT OF THE BILL? 1/ IF NO, ADD'L AMOUNT REQUIRED \$ 1/

AGENCY/PERSON/DATE CONTACTED: \_\_\_\_\_

**ESTIMATED POTENTIAL MULTI-YEAR REVENUES**

FUND	1st	2nd	3rd	4th	5th	TOTAL
GENERAL FUND						
OTHER						
TOTAL						N/A

ANALYST Angela F. Martjen DATE 8/8/95 DIRECTOR Joseph B. Rivera, Acting DATE AUG 10 1995


FOOTNOTES: 1/ Bill No. 305 entails a positive impact on the General Fund by reducing the agency retirement contribution rate from .19675 to a maximum of 5%. Assuming that projected retirees for FY95 of 529 is equally replaced by new employees in FY96 employed at the average annual salary of a government employee of \$24,000 or a total of \$12,696,000. Then total fund requirements for retirement contributions in FY96 under the current Defined Benefit Plan (@ .19675) is estimated at \$2,497,938, whereas under the proposed Defined Contribution Plan, the government cost (@ 5%) is estimated at \$634,800, or a difference of \$1,863,138.

**EXHIBIT F**

**Bill 305  
As Submitted**

Bill No. 305

Introduced By

  
J.T. San Agustin

AN ACT TO PROVIDE A DEFINED CONTRIBUTION PLAN  
FOR EMPLOYEES OF THE GOVERNMENT OF GUAM.

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

2 Section 1. Legislative Findings and Intent. The Legislature  
3 finds that:

4 (a) The Actuarial Valuation of the Retirement Plan  
5 issued on October 9, 1992 by Deloitte & Touche expressed  
6 concern that the Fund benefit levels are rather excessive in  
7 comparison to most other government retirement systems, and  
8 that the effectiveness of the Fund has been eroded.

9 (b) Benefit levels and retirement policy have been  
10 reviewed and benefit levels should be adjusted in order to  
11 address specific inequities and excessiveness.

12 (c) It is necessary to maintain the current plan  
13 benefit levels for current members, while establishing a new  
14 plan for all new members.

15 (d) In establishing benefits for a new plan, generally  
16 accepted retirement income level standards should be

1 accepted retirement income level standards should be  
2  
3 observed and the details of any new plan must be considered  
4 thoroughly and a comprehensive education and implementation  
5 plan must be developed.

6 (e) The concern expressed by the Independent Actuaries  
7 must serve as a warning that the current fund may be  
8 jeopardized if the benefits it provides to it's members are  
9 not reasonably related and restricted to the resources from  
10 which said benefits may be paid.

11 (f) Any further delay in enacting Statutory changes to  
12 the current system or establishing a new plan may lead to  
13 the implementation of a plan for new members with benefits  
14 sharply disparate from those provided to current members.

15 (g) The legislature concurs with the recommendations of  
16 the Actuaries and intends to establish a new plan "Defined  
17 Contribution Plan" for new members, in order to protect  
18 and preserve the fiscal soundness of the fund for the  
19 benefit of all its' members now and in the future.

20 Section 2. Sections 8101 to 8299 of Title IV of the  
21 Guam Code Annotated are reorganized under Article 1 of the  
22 same title.

23 Section 3. A New Article II is added to Chapter 8,  
24 Title IV of the Guam Code Annotated to read:

25 Section 8301. Definitions. As used in this article,  
26 unless the context otherwise requires:

27 A. "Defined contribution system" or "system" means the

1 Government of Guam Defined Contribution Retirement system  
2 created and established by this Article;

3 B. "Existing retirement system" means the Government of  
4 Guam Retirement Fund established in Article 1 of this Title;

5 C. "Existing employer" means any agency who employed or  
6 employs a member of the existing retirement system;

7 D. "Board" means the Board of Trustees created and  
8 established in Article 1 of this Title;

9 E. "Regularly employed for full-time service" means  
10 employment in a regular position or job throughout the  
11 employment term regardless of the number of hours worked or the  
12 method of pay;

13 F. "Year of employment service" means employment for at  
14 least ten months, a month being defined as twenty employment  
15 days; provided, that no more than one year of service may be  
16 accumulated in any twelve-month period;

17 G. "Employer" means the agency of or within the Territory  
18 of Guam which has employed or employs a member;

19 H. "Compensation" means the full compensation actually  
20 received by members for service whether or not a part of such  
21 compensation is received from other funds, federal or  
22 otherwise, than those provided by the Territory or its agencies  
23 and instrumentalities;

24 I. "Member contribution" means an amount reduced from the  
25 employee's regular pay, and deposited into the member's  
26 individual annuity account within the Defined Contribution

1 Retirement System;

2 J. "Employer contribution" means an amount deposited into  
3 the member's individual annuity account on a periodic basis  
4 coinciding with the employee's regular pay period by an employer  
5 from its own funds;

6 K. "Annuity account" or "annuity" means an account  
7 established for each member to record the deposit of member  
8 contributions and employer contributions and interest,  
9 dividends or other accumulations credited on behalf of the  
10 member;

11 L. "Retirement" means a member's withdrawal from the active  
12 employment of a participating employer and completion of all  
13 conditions precedent to retirement;

14 M. "Permanent, total disability" means a mental or physical  
15 incapacity requiring the absence from an employment service for  
16 at least six months; provided, that such incapacity is shown by  
17 an examination by a physician or physicians selected by the  
18 board.

19 Section 8302. Defined Contribution Retirement System  
20 created and established; body corporate.

21 The Defined Contribution Retirement System is hereby created  
22 and established to provide for the secure, fair and orderly  
23 retirement of personnel of the Government of Guam. The Defined  
24 Contribution Retirement System shall constitute a body  
25 corporate and all business of the system shall be transacted in  
26 the name of the Government of Guam Define Contribution

1 Retirement System.

2 Section 8303. Article to be liberally construed; purpose.  
3 The provisions of this article shall be liberally construed so  
4 at to provide a general annuity based retirement system for any  
5 person who is employed in the Government of Guam. The purpose  
6 of the Article is to provide a defined contribution retirement  
7 program which is fully funded on a current basis from employer  
8 and employee contributions.

9 Section 8304. Administration of the Government Defined  
10 Contribution Retirement System. The Board of Trustees created  
11 pursuant to Article 1, of this Title shall administer the  
12 Government of Guam Defined Contribution Retirement System. The  
13 board may sue and be sued, contract and be contracted with and  
14 conduct all the business of the defined contribution system in  
15 the name of the Government of Guam Defined Contribution  
16 Retirement System.

17 Section 8305. Powers and duties of the Board of Trustee in  
18 the administration of the Defined Contribution Retirement System.  
19 The board has all powers necessary to effectuate the purposes of  
20 this Article. The board shall contract with a private pension,  
21 insurance, annuity, mutual fund or other qualified company or  
22 companies to administer the day-to-day operations of the system.  
23 In selecting such company or companies the board shall take into  
24 account as its highest duty, the proper safeguard and protection  
25 of the member and employer contributions and the interest  
26 dividends, or other return thereon. The board shall promulgate



1 rules regarding the proper investment of funds.

2 Section 8306. Participation in Government of Guam Defined  
3 Contribution Retirement System; limiting participation in  
4 existing retirement system. Beginning October 1, 1995, the  
5 Government of Guam Defined Contribution Retirement System shall  
6 be the single retirement program for all new employees whose  
7 employment commences on or after that date, No additional new  
8 employees may be admitted to the existing retirement system.  
9 Members of the existing retirement system whose employment  
10 continues beyond October 1, 1995, are not affected by this  
11 article and shall continue to contribute and participate in the  
12 existing system without change in provisions or benefits, except  
13 those that have been retired and permitted to return to active  
14 service without loss of annuity under the existing system.

15 Any employee whose employment terminates after September 30,  
16 1995, who is later reemployed by the Government of Guam shall be  
17 eligible for membership only on the Government of Guam Defined  
18 Contribution Retirement System; provided, that if such  
19 reemployment occurs not more than six months after the employee's  
20 previous employment, he or she shall be entitled to readmission  
21 to the existing retirement system in which he or she was  
22 originally a member. Provided, however, that such employee  
23 existing has not withdrawn his or her contributions from the  
24 existing retirement system. However, if such employee has  
25 withdrawn his or her contribution from the existing retirement  
26 system, the readmission shall not be permitted and the employee

1 will be entitled on to the Government of Guam Defined  
2 Contribution Retirement System.

3 Section 8307. Voluntary participation in system. Any  
4 employee who is a member of the existing retirement system may,  
5 upon written election, voluntarily elect membership in the  
6 Government of Guam Defined Contribution Retirement System, on a  
7 prospective basis, on or after October 1, 1995. All benefits  
8 earned by any employee making such voluntary election under the  
9 existing retirement system prior to such a voluntary election  
10 shall be frozen and made available to that employee upon  
11 retirement as provided by the existing retirement system. A  
12 member of the existing retirement system who has less than five  
13 years of contributing service in the existing retirement system  
14 may elect to withdraw his or her contribution plus interest plus  
15 the portion of the government's contribution equaling 50% of the  
16 value of the employee's contribution and interest as if such  
17 member terminating employment and upon withdrawal shall deposit  
18 such funds in the Government of Guam Defined Contribution  
19 Retirement System; provided, that such member's years of  
20 contributing service in the existing system shall be applied  
21 toward the years of unemployment service under Section 8310 of  
22 this Article; provided, however, that this election shall be  
23 allowed on a retroactive basis to October 1, 1995. For the  
24 purpose of this section, "frozen" means that the members's  
25 salary, years of service and any other factor to determine  
26 benefits shall be calculated as of the date that the member

1 elected membership in the Government of Guam Defined Contribution  
2 Retirement System and after that date no increase in salary,  
3 years of service or any other factor may be used to increase the  
4 retirement benefit above that which it would be if a person  
5 retired upon the date that the election is made. After having  
6 made such election, the employee may not change such election or  
7 again become a member of the existing retirement system.

8 Section 8308. Members' contributions: annuity account  
9 established. All contribution by the employee shall be voluntary  
10 but upon election shall be in multiples of 1, starting at 1% but  
11 not exceeding 10%. Each employee who is a member of the defined  
12 contribution system after electing the rate of contribution shall  
13 contribute same of his or her gross compensation by salary  
14 reduction. Such salary reductions shall be made by the employer  
15 at the normal payroll intervals and shall be remitted within five  
16 working days to the private pension, insurance, annuity, mutual  
17 fund, or other qualified company or companies designated by the  
18 board to administer the day-to-day operations of the system.

19 All member contributions shall be immediately deposited to  
20 an account or accounts established in the name of the member and  
21 held in trust for the benefit of the member. An account  
22 agreement shall be issued to each member setting forth the terms  
23 and conditions under which contributions are received, and the  
24 investment and retirement options available to the member. The  
25 board shall promulgate by September 30, 1995, pursuant to Section  
26 8305 of the Article, rules defining the minimum requirements for

.1 the investment and retirement options to be provided to the  
2 members.

3 Such rules, to the extent not inconsistent with the  
4 applicable provisions of the Internal Revenue Code of the United  
5 States, shall provide for varied retirement options including,  
6 but not limited to:

- 7 1. Lump sum distributions ;
- 8 2. Joint and Survivor annuities ;
- 9 3. Other annuity forms at the discretion of the board ;
- 10 4. Variable annuities which gradually increase monthly  
11 retirement payments; provided, that said increased payments are  
12 funded solely by existing current value of the member's account  
13 at the time the member's retirement payments commencement and  
14 not, to any extent, in a manner which would require additional  
15 employer or employee contributions to any member's account after  
16 retirement or after the cessation of employment ; and
- 17 5. The instances in which, if any, distributions or  
18 loans can be made from their annuity account balances prior to  
19 having attained the age of fifty-five.

20 Section 8309. Employer contributions. Each agency shall  
21 annually make a contribution equal to one percent of each  
22 member's gross compensation whose employment commenced on or  
23 after October 1, 1995; without further making contribution by the  
24 employee. Each agency shall dollar for dollar match the first  
25 three percent of each employee's contribution fifty cents to  
26 every employee dollar contribution for the next two percent so

1 that the agency's contribution shall not exceed five percent.

2 Each participating agency has a fiduciary duty to its employees  
3 to ensure that the employer contributions are timely made. In  
4 the case of an officer or an employee of the Government of Guam,  
5 any unpaid contribution shall be a government debt, contracted as  
6 a result of a casual deficit in the government's revenues, to be  
7 accorded preferred status over other expenditures.

8 In the event that any payment is not timely made the  
9 participating employer shall immediately give to the employee  
10 and to the Office of the Public Auditor notice in writing of the  
11 nonpayment, in such form and accompanied by such documentation as  
12 may be required by the Public Auditor. At such time as funds are  
13 available in the appropriate account, the agency shall pay the  
14 employer contribution, together with appropriate daily interest.  
15 It shall be a felony for any person to knowingly withhold payment  
16 for the agency's contributions or hindering the Treasurer of Guam  
17 or an agency on making timely payment. Any person convicted of  
18 same shall serve a prison sentence of not less than one (1) year  
19 and not more than three (3) years.

20 Section 8310. Termination of membership. Any member whose  
21 employment with a participating employer terminates after the  
22 completion of six complete years of employment service shall  
23 eligible to terminate his or her annuity account and receive a  
24 distribution from the member's annuity account, in an amount  
25 equal to the member's contribution plus one third of the employer  
26 contributions and any earnings thereon. Any member whose

1 employment with a participating employer terminates after the  
2 completion of nine complete years of employment service shall be  
3 eligible to terminate his or her annuity account and receive a  
4 distribution from the member's annuity account, in an amount  
5 equal to the member's contribution plus two thirds of the  
6 employer's contributions and any earnings thereon. Any member  
7 whose employment with a participating employer terminates after  
8 the completion of twelve complete years of employment service  
9 shall be eligible to terminate his or her annuity account and  
10 receive a distribution of all funds contributed and accumulated  
11 in his or her annuity account. Any member whose employment with  
12 a participating employer terminates prior to the completion of  
13 six complete years of employment service shall be eligible to  
14 terminate his or her annuity account and receive a distribution  
15 from the member's annuity account, in an amount equal to the  
16 member's contribution plus any earnings thereon; provided, that  
17 on the death or permanent, total disability of any member, that  
18 member shall be eligible to terminate his or her annuity account  
19 and receive all funds contributed to or accumulated in his or her  
20 annuity account.

21 The remaining balance, if any, in the member's account after  
22 the distribution shall be remitted and paid into a suspension  
23 account, hereby created, to be administered by the board. The  
24 board shall promulgate rules regarding the distribution of any  
25 balance in the special account created by this section; provided,  
26 that any funds in the account shall be used solely for the

.1 purpose of reducing employer contributions in future years.

2 Any account balances remitted to the suspension account  
3 herein shall be maintained by the board in said suspension  
4 account in the name of the terminated employee for a period of  
5 five years following initial remittance to the suspension  
6 account. For each said terminated employee at the culmination of  
7 the aforesaid five-year period, the board shall certify in  
8 writing to each contributing employer the amount of the account  
9 balances plus earning thereon attributable to each separate  
10 contributing employers previously terminated employee's accounts  
11 which have been irrevocably forfeited due to the elapse of a five  
12 year period since terminated pursuant to Section 8315 of this  
13 Article.

14 Upon certification to the several contributing employers of  
15 the aggregate account balances plus earnings thereon which have  
16 been irrevocably forfeited pursuant to this Section, the several  
17 contributing employers shall be permitted in the next succeeding  
18 fiscal year or years to reduce their total aggregate contribution  
19 requirement pursuant to Section 8316 of this Article, for the  
20 then current fiscal year by an amount equal to the aggregate  
21 amounts irrevocably forfeited and certified as such to each  
22 contributing employer.

23 Upon the utilization of the amounts irrevocably forfeited to  
24 any contributing employer as a reduction in the then fiscal year  
25 contribution obligation and upon notification provided by the  
26 several contributing employers to the board of their intention to

1 utilize irrevocably forfeited amounts, the board shall direct the  
2 distribution of said irrevocably amounts from the suspension  
3 account to be deposited on behalf of the contributing employer to  
4 the member annuity accounts of its then current pursuant to  
5 Section 8316 of this Article.

6 Section 8311. Retirement, commencement of annuity payments.  
7 At any time after an employee reaches the age of fifty-five  
8 years, he or she may elect to take retirement by notifying the  
9 board or its designee in writing of such intention not less than  
10 sixty days prior to the effective date of retirement. Retirement  
11 payments shall commence within thirty days of the retirement date  
12 under such payment option or options as may be provided by the  
13 board and elected by the employee.

14 Section 8312. Amount of annuity payments. (a) The amount  
15 of annuity payments a retired member shall receive shall be based  
16 solely upon the balances in the member's annuity account at the  
17 date of retirement, the retirement option selected, or in the  
18 event of an annuity option being selected, the actuarial life  
19 expectancy of the member, and such other factors as normally  
20 govern annuity payments.

21 (b) The board, or its designee, is authorized upon  
22 retirement of a member with the approval of that member, to  
23 purchase an annuity of the member upon his or her retirement, the  
24 member shall execute a release surrendering any claim the member  
25 may have against the retirement trust.

26 Section 8313. Supplemental annuity contracts. The board



1 shall authorize the private pension, insurance, annuity, mutual  
2 fund or other qualified company or companies with whom it  
3 contracts to make available to members such supplemental annuity  
4 options, disability and other insurance or benefits shall be  
5 funded solely from employee contributions.

6 Section 8314. Account Statements. The board shall prepare  
7 or cause to be prepared, on an annual basis, an account statement  
8 for each members' annuity account. The statement shall include,  
9 but not be limited tom a statement of the current market value of  
10 the members' account. The board shall prescribe the form and  
11 content of the account statement not inconsistent with the  
12 provisions of this Section.

13 Section 8315. Years of employment service. A member of the  
14 Government of Guam Defined Contribution Retirement System who  
15 terminates employment with a participating employer and does not  
16 remove any funds from his or her annuity account and becomes  
17 reemployed with a participating employer within five years shall  
18 retain his or her previous years of employment services for  
19 purposes of the provisions of Section 8310.

20 Section 8316. Right to benefits not subject to execution,  
21 etc. The right of any person to a benefit provided for in this  
22 Article shall not be subjected to execution, attachment,  
23 garnishment, the operation of bankruptcy or insolvency laws, or  
24 other process whatsoever, nor shall any assignment thereof be  
25 enforceable in any court.



Committee on Ways & Means  
Senator Francis E. Santos, Chairman  
**NOTICE OF PUBLIC HEARING**

Date: Wednesday, September 6, 1995

The public is invited to attend discussions on the  
following topics:

At 1:30 p.m.

On the appointment of Mrs. Ernestina B. Perez as a member  
of the Guam Board of Equilization.

Bill #327

An act to amend subsection(a) of section 66307, article 3,  
Chapter 66, Title 21 GCA relative to the requirements  
for the issuance certificate of occupancy.

Bill #349

An act to add subsection (c) to section 30900, Government  
Code ( Guam Banking Code ) to define "Branch" Banking.

Bill #333

An act to amend subsection (a) of §8170 of title 4, Guam  
Code Annotated, as contained in Public Law 23-33,  
Relative to retirement of members of the Guam  
Legislature, in order to clarify the intent to provide for  
retirement of senators to be based on the salary received  
rather than the salary of the director of the department  
of administration.

Bill # 88

An act to appropriate Eight Million Two Hundred Eighty  
Thousand Dollars (\$8,280,000.00) from the General Fund  
to fund a ~~one time~~ lump sum cost of living allowance for  
an estimated 4,600 Government of Guam Retirees or their  
survivors for fiscal year 1996 only.

Bill #305

An act to provide a defined contribution plan for  
employees of the Government of Guam.

Place: Guam Legislature's Public Hearing Room  
Your views and comments are welcome.

**Twenty-Third Guam Legislature**  
**Committee on Ways & Means**

Public Hearing

Wednesday, September 6, 1995 1:30 p.m.

Re: Bill # 305 An act to provide a defined contribution plan for employees of the government of Guam.

Print Name	Signature	Representing	Testimony Oral, Written or Both	For	Against
Jay Lingo	<i>Jay Lingo</i>		Oral	✓	
Michele B. Santos	<i>Michele B. Santos</i>		written/oral	✓	
Gerald Perez	<i>Gerald Perez</i>		Both	✓	