



CARL T.C. GUTIERREZ  
GOVERNOR OF GUAM

OCT 19 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:	<u>October 19, 1995</u>
Time:	<u>3:27pm</u>
Received By:	<u>Arina Cabrera</u>
Print Name:	<u>Arina Cabrera</u>


RECEIVED TO  
LEGISLATIVE SECRETARIAT

Dear Speaker Parkinson:

Enclosed please find a copy of Bill No. 395 (LS), "AN ACT WHICH, WHEN ENACTED IN CONJUNCTION WITH SUBSTITUTE BILL NO. 233 PASSED BY THE LEGISLATURE ON OCTOBER 2, 1995 AND TRANSMITTED TO THE GOVERNOR ON OCTOBER 11, 1995, PROVIDES ESSENTIAL CORRECTIONS TO SUBSTITUTE BILL NO. 233 AND THE PUBLIC LAW WHICH MAY RESULT FROM ITS ENACTMENT", which I have signed into law today as **Public Law No. 23-46**.

This bill provides the vehicle to implement Public Law 23-45, and represents a collaborative effort between the Governor and the Legislature. This legislation provides the Governor with the necessary management tools to respond to day-to-day problems in the government. Whenever there is cooperative effort between government leaders, a positive result will come to the people of the territory.

Very truly yours,

  
Carl T. C. Gutierrez

Attachment

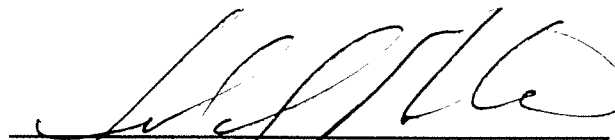
**230680**

OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGMENT RECEIPT	
Received By:	<u>Janet Beffin</u>
Time:	<u>4:37</u>
Date:	<u>10/19/95</u>

CERTIFICATION OF EMERGENCY CONDITIONS  
WITH RESPECT TO BILL NO. 395, AN ACT TO  
PROVIDE ESSENTIAL CORRECTIONS TO  
SUBSTITUTE BILL NO. 233

I, the Acting Speaker and Presiding Officer of the Twenty-Third Guam Legislature, hereby certify, pursuant to §2103 of Title 2, Guam Code Annotated, that emergency conditions exist involving danger to the public health and safety, so that the statutory requirement of a public hearing for Bill No. 395 may be waived. Such emergency conditions result from the lack of sufficient personnel to provide all of the public safety required of the Guam Police Department and to provide additional personnel to the Customs and Quarantine Agency to protect the community from an "invasion" of illicit drugs, as well as other vital protection for the entire community in this time of fiscal austerity. Since this speedy resolution is in the public interest, I CERTIFY that (i) immediate action must be taken on Bill No. 395 and (ii) there is no time for a public hearing thereon.

DATED: this 12th day of October, 1995.

  
TED S. NELSON  
Acting Speaker

TWENTY-THIRD GUAM LEGISLATURE  
1995 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Bill No. 395 (LS), "AN ACT WHICH, WHEN ENACTED IN CONJUNCTION WITH SUBSTITUTE BILL NO. 233 PASSED BY THE LEGISLATURE ON OCTOBER 2, 1995 AND TRANSMITTED TO THE GOVERNOR ON OCTOBER 11, 1995, PROVIDES ESSENTIAL CORRECTIONS TO SUBSTITUTE BILL NO. 233 AND THE PUBLIC LAW WHICH MAY RESULT FROM ITS ENACTMENT," was on the 13th day of October, 1995, duly and regularly passed.



TED S. NELSON  
Acting Speaker

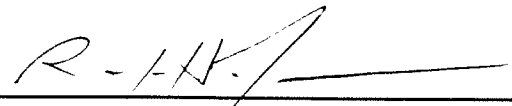
Attested:



THOMAS C. ADA

Senator and Acting Legislative Secretary

-----  
This Act was received by the Governor this 13<sup>th</sup> day of October  
1995, at 2:27 o'clock P.M.



Assistant Staff Officer  
Governor's Office

APPROVED:

  
CARL T. C. GUTIERREZ  
Governor of Guam

Date: 10-19-95

Public Law No. 23-46

TWENTY-THIRD GUAM LEGISLATURE  
1995 (FIRST) Regular Session

Bill No. 395 (LS)  
As amended on the floor.

Introduced by:

T. S. Nelson  
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  
S. L. Orsini  
V. C. Pangelinan  
D. Parkinson  
J. T. San Agustin  
A. L. G. Santos  
A. R. Unpingco  
J. Won Pat-Borja  
by request of the Governor in  
accordance with the Organic  
Act of Guam.

AN ACT WHICH, WHEN ENACTED IN CONJUNCTION WITH  
SUBSTITUTE BILL NO. 233 PASSED BY THE LEGISLATURE ON  
OCTOBER 2, 1995 AND TRANSMITTED TO THE GOVERNOR  
ON OCTOBER 11, 1995, PROVIDES ESSENTIAL CORRECTIONS  
TO SUBSTITUTE BILL NO. 233 AND THE PUBLIC LAW WHICH  
MAY RESULT FROM ITS ENACTMENT.

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

2 **Section 1. Department of Administration.** Item 9), Housing Management, of the  
3 Department of Administration, contained on page 15 of Chapter II of Substitute Bill No.  
4 233 passed by the Legislature on October 2, 1995 and transmitted to the Governor on

1 October 11, 1995, and the public law which may result from its enactment, is amended  
 2 to read:

	General	Special	Federal	Fund	
	Fund	Fund	Match	Total	
3					
4					
5	<b>9) HOUSING MANAGEMENT</b>				
6	Personnel Services	2,577	650,000 1/	-0-	652,577
7	(17 FTE)				
8	Operating	82,793	-0-	-0-	82,793
9	Office Space Rental	-0-	-0-	-0-	-0-
10	Miscellaneous	-0-	-0-	-0-	-0-
11	Utilities	8,500	-0-	-0-	8,500
12	Power	2,500	-0-	-0-	2,500
13	Water / Sewer	1,500	-0-	-0-	1,500
14	Telephone	4,500	-0-	-0-	4,500
15	Capital Outlay	3,205	-0-	-0-	3,205
16	<b>Total</b>	<b>97,075</b>	<b>650,000 1/</b>	<b>-0-</b>	<b>747,075</b>

17 **Section 2. Customs and Quarantine Agency.** Item C., Customs & Quarantine,  
 18 contained on page 70 of Chapter II of Substitute Bill No. 233 passed by the Legislature on  
 19 October 2, 1995 and transmitted to the Governor on October 11, 1995, and the public law  
 20 which may result from its enactment, is repealed and reenacted to read:

21	<b>C. CUSTOMS &amp; QUARANTINE</b>				
22		-0-	9,175,559/6	-0-	9,175,559/6
23					

24	<b>1) OVERALL SUMMARY</b>				
25	Personnel Services	2,724,700	2,724,701	-0-	5,449,401/6
26	(140 FTE)				
27	Operating	1,171,321	1,171,321	-0-	2,342,642/6*

1	Office Space Rental	-0-	-0-	-0-	-0-
2	Miscellaneous	109,600	109,600	-0-	219,200/6
3	Utilities	13,798	13,799	-0-	27,597/6
4	Power	-0-	-0-	-0-	-0-
5	Water / Sewer	-0-	-0-	-0-	-0-
6	Telephone	13,798	13,799	-0-	27,597/6
7	Capital Outlay	-0-	1,136,719/6	-0-	1,136,719/6
8	<b>Total</b>	<b>4,587,779</b>	<b>4,587,780</b>	<b>-0-</b>	<b>9,175,559/6"</b>

9       **Section 3. Department of Agriculture.** (a) Item 8), Animal and Plant: Plant  
10 Protection and Quarantine Section of the Department of Agriculture, contained on page  
11 46 of Chapter II of Substitute Bill No. 233 passed by the Legislature on October 2, 1995  
12 and transmitted to the Governor on October 11, 1995, and the public law which may  
13 result from its enactment, is repealed and reenacted to read:

14	<b>"8) ANIMAL AND PLANT: PLANT PROTECTION AND QUARANTINE</b>				
15	Personnel Services	557,633	557,634	-0-	1,115,267/6
16	(37 FTE)				
17	Operating	137,616	137,617	-0-	275,233/6
18	Office Space Rental	30,000	30,000	-0-	60,000/6
19	Miscellaneous	14,500	14,500	-0-	29,000/6
20	Utilities	5,250	5,250	-0-	10,500/6
21	Power	-0-	-0-	-0-	-0-
22	Water / Sewer	-0-	-0-	-0-	-0-
23	Telephone	-0-	-0-	-0-	-0-
24	Capital Outlay	-0-	-0-	-0-	-0-
25	<b>Total</b>	<b>745,000</b>	<b>745,000</b>	<b>-0-</b>	<b>1,490,000</b>

1 (b) Section 26 of Chapter III, Miscellaneous Appropriations, of Substitute Bill No.  
2 233 passed by the Legislature on October 2, 1995 and transmitted to the Governor on  
3 October 11, 1995, and the public law which may result from its enactment, is repealed.

4 **Section 4. Komitea Para Tiyan.** Subsection (d) of Section 7 of Chapter IV,  
5 Miscellaneous Provisions, of Substitute Bill No. 233 passed by the Legislature on  
6 October 2, 1995 and transmitted to the Governor on October 11, 1995, and the public law  
7 which may result from its enactment, is amended to read:

8 "(d) **Komitea Para Tiyan authorized to charge rents and fees.** The  
9 Komitea Para Tiyan is designated the responsibility of developing and  
10 recommending the planning activities in the reuse of NAS or the various  
11 use or potential uses of the facilities within NAS for the maximum benefit  
12 of the people of Guam. The Komitea Para Tiyan is authorized to assess One  
13 Dollar (\$1) per square foot for government and non-profit entities and not  
14 less than One Dollar (\$1.00) per square foot for private entities for use of  
15 NAS facilities provided it is not in conflict with the caretaker's agreement  
16 entered into between the government of Guam and the U.S. Department of  
17 the Navy. All money collected or proceeds received from lease fees or  
18 rentals of equipment and facilities within NAS, and service fees shall be  
19 properly accounted for and deposited into the 'Komitea Para Tiyan Fund' of  
20 the Government of Guam."

21 All money collected and deposited into the Komitea Para Tiyan Fund  
22 shall be used only for payment of utility expenses incurred by the common  
23 areas of Tiyan and not for utility expenses incurred by any department or  
24 agency. For the purposes of this section only, common areas are those areas  
25 within the confines of Tiyan that have not been allocated or designated for  
26 use by any agency or department of the government of Guam.

1           **Section 5. Guam Police Department.** Forty-Four (44) Police Officers FTE  
2 positions, originally deleted, are hereby reinstated to the General Appropriation Act of  
3 1996 for the Guam Police Department. Forty-Four (44) additional auxiliary worker FTE  
4 positions, are hereby added to the office of the Chief of Police of the Guam Police  
5 Department."

6           **Section 6. Transfer of funds of ongoing projects.** Subsection c) of Section 7 of  
7 Chapter V, Administrative Provisions, of Substitute Bill No. 233 passed by the  
8 Legislature on October 2, 1995 and transmitted to the Governor on October 11, 1995, and  
9 the public law which may result from its enactment, is repealed.

10           **Section 7. Failure of appropriation to 14 agencies and correction of fiscal**  
11 **year.** Section 12 of Chapter V, Administrative Provisions, of Substitute Bill No. 233  
12 passed by the Legislature on October 2, 1995 and transmitted to the Governor on October  
13 11, 1995, and the public law which may result from its enactment, is amended to read:

14           **"Section 12.** For convenience, the General Appropriation Act of FY  
15 1996 lists the territorial agency's name at the top, the divisions of the  
16 territorial agency as so labeled in this Act on the left side, the purposes of the  
17 appropriations as so stated in this Act listed at the left side, and the amount  
18 and source of appropriations listed in the columns labeled "General Fund",  
19 "Other Fund (specified)", "Federal Fund", and "Total". The purposes of the  
20 appropriations are set out to the left of the totals in the General  
21 Appropriation Act of 1996."

22           **Section 8. Operations of CAHA and Guam Museum.** Section 22 of Chapter IV,  
23 Miscellaneous Provisions, of Substitute Bill No. 233 passed by the Legislature on  
24 October 2, 1995 and transmitted to the Governor on October 11, 1995, and the public law  
25 which may result from its enactment, is amended to read:

26           **"Section 22.** The Council on the Arts and Humanities Agency  
27 ("CAHA") and the Guam Museum may utilize any fees legally collected and



1 profits from sales to private entities during FY 1996, up to \$354,000 for FY  
2 1996, for the purpose of paying rent and utilities. Any fees collected above  
3 that amount, or collected from Executive Branch departments or agencies,  
4 autonomous or semi-autonomous agencies, or public corporations for rental,  
5 sale, or lease of artwork, artifacts or any other thing, for subletting, consulting  
6 services, advertising or any other service or product, shall be deposited into  
7 an Arts and Museum Special Fund, hereby established pursuant to this act,  
8 which shall require Legislative approval and authorization to expend."

9 **Section 9. Total appropriation not to exceed mandatory 95%**  
10 **cap.** Notwithstanding any other provision or section, the General Appropriation Act  
11 for Fiscal Year 1996, as contained in Substitute Bill No. 233 passed by the Legislature on  
12 October 2, 1995 and transmitted to the Governor on October 11, 1995, and the public law  
13 which may result from its enactment, does not appropriate more than Five Hundred  
14 Thirteen Million Dollars (\$513,000,000) from the government of Guam General Fund.  
15 Should the appropriations in Chapter II, Appropriation for Executive Branch  
16 Operations, of Bill No. 233 not conform to this limit, the appropriations shall be  
17 reduced by the Governor to comply with the cap established in this section. The  
18 Bureau of Budget and Management Research (BBMR) shall review the appropriations  
19 in Bill No. 233 for conformance with this section.

20 **Section 10. Non-codification of definitions which are not applicable.** Since the  
21 definitions contained within Substitute Bill No. 233 passed by the Legislature on  
22 October 2, 1995 and transmitted to the Governor on October 11, 1995, and the public law  
23 which may result from its enactment, are not complete, and the definition of "agency"  
24 applies to agencies which do not receive funding from the Legislature, it is not desired  
25 that these definitions be codified. For this reason, the first sentence of Section 5 of  
26 Chapter I of the above-cited bill, which states "A New §§4120 through 4120.2 are added

1 to Title 5, Guam Code Annotated, to read" and §4120 and §4102.1 stated thereafter, are  
2 repealed, and instead the following words are inserted in the same place:

3 "The following definitions apply to the General Appropriation Act of 1996:"

4 **Section 11. Approval of Guam Council on the Arts and Humanities Agency and**  
5 **the Guam Museum's rules and regulations for charging fees.** The rules and regulations  
6 establishing fees to be charged by the Guam Museum at its three (3) locations, to be  
7 charged in conjunction with the Guam Council on the Arts and Humanities Agency at  
8 the Manhattan II Building, as transmitted to the Speaker of the Legislature by the  
9 Governor on September 22, 1995, are hereby approved and effective on an interim basis  
10 not to exceed one (1) calendar year beginning on the date of enactment of this Section as  
11 rules and regulations.

12 The rules and regulations establishing fees to be charged by the Guam Council on  
13 the Arts and Humanities Agency in conjunction with the Guam Museum at the  
14 Manhattan II Building, as transmitted to the Speaker of the Legislature by the Governor  
15 on September 26, 1995 are hereby approved and effective on an interim basis not to  
16 exceed one (1) calendar year beginning on the date of enactment of this Section as rules  
17 and regulations.

18 **Section 12. Vacancies.** (a) Notwithstanding any other provision of law, all  
19 classified positions funded one hundred percent (100%) by the General Fund which are  
20 vacant as of October 1, 1995, shall be funded at fifty percent (50%) of the total allocated  
21 for salaries and benefits.

22 (b) All restrictions in filling the vacancies within the Department of Education,  
23 with regards to school based instructional and principals positions, are hereby  
24 exempted, for those positions that were filled at the beginning of the 1995 school year  
25 and became vacant prior to October 1, 1995."

26 **Section 13. Customs and Quarantine Agency.** The General Fund shall be  
27 reimbursed no later than September 30, 1996, from revenues collected through the

1 Customs, Agriculture and Quarantine Inspection Services Charges levied pursuant to  
2 new Sections 47143, 47144 and 47145 of the Government Code, for the FY 1996 General  
3 Fund appropriations made to the Department of Agriculture and the Customs and  
4 Quarantine Agency.

5 **Section 14. Plant Protection and Quarantine.** The General Fund shall be  
6 reimbursed no later than September 30, 1996, from revenues collected through the  
7 Customs, Agriculture and Quarantine Inspection Services Charges levied pursuant  
8 to new Sections 47143, 47144 and 47145 of the Government Code, for the FY 1996  
9 General Fund appropriations made to the Department of Agriculture and the  
10 Customs and Quarantine Agency.

11 **Section 15.** Notwithstanding any other provision of law, no funds, other than  
12 those appropriated from the General Appropriation Act of 1996, explicit to the purposes  
13 stated later in this section, shall be used for the purpose of paying rent payments for  
14 either the Guam Council on the Arts and Humanities Agency (CAHA) or the Guam  
15 Museum for Fiscal Year 1996, exclusive of any federal funds.

16 **Section 16.** Section 13 of Chapter V, Administrative Provisions, of Substitute Bill  
17 No. 233 passed by the Legislature on October 2, 1995 and transmitted to the Governor on  
18 October 11, 1995 and the public law which may result from its enactment, is amended to  
19 read:

20 **"Section 13. Reclassification.** Beginning October 1, 1995, and  
21 continuing until September 30, 1997, a moratorium is placed upon the  
22 initiating agency for all reclassifications by the Civil Service Commission. All  
23 reclassifications approved by the Department of Administration as of  
24 September 30, 1995, or requests for reclassifications which have been  
25 approved by the Department of Administration for review and audit prior to  
26 September 30, 1995, are exempt from this provision."

1           **Section 17.** Additional amount of One Hundred Sixty-Three Thousand Five  
2 Hundred Two Dollars (\$163,502) is hereby appropriated from the General Fund to the  
3 Department of Vocational Rehabilitation for independent living services programs.

4           **Section 18.** Two Hundred Fifty Thousand Dollars (\$250,000) are appropriated  
5 from the General Fund to the Department of Public Works to install and repair lighting  
6 at the Fort Apugan and Route 7 areas, and to contain flooding by drainage correction to  
7 San Ramon Hill and Route 7 in Agana Heights.

8           **Section 19.** Item (15), Public Assistance, of the Department of Public Health and  
9 Social Services, contained on page 121, line 25, of Chapter II of Substitute Bill No. 233  
10 passed by the Legislature on October 2, 1995 and transmitted to the Governor on October  
11 11, 1995 and the public law which may result from its enactment, is amended to read:

12           "Miscellaneous     \$12,973,102           -0-           3,203,182     16,176,284".

13           **Section 20. Severability.** If any provision of this Act or its application to any  
14 person or circumstances is held invalid, the invalidity does not affect other provisions  
15 or applications of this Act which can be given effect without the invalid provision or  
16 application, and to this end the provisions of this Act are severable.

# TWENTY-THIRD GUAM LEGISLATURE

1995 (FIRST) Regular Session

Date: 10/13/95

## VOTING SHEET

Bill No. 395

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

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

NAME	YEAS	NAYS	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.				✓
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.	✓			
SANTOS, Francis E.	✓	✓		
UNPINGCO, Antonio R.	✓			
WONPAT-BORJA, Judith				✓

TOTAL 15 1 \_\_\_\_\_ 5

CERTIFIED TRUE AND CORRECT:

\_\_\_\_\_  
Recording Secretary

EXCERPTS TAKEN FROM LEGISLATIVE PROCEEDINGS OF  
OCTOBER 12, 1995, IN THE DISCUSSION OF BILL 395,  
SECTION 12, "VACANCIES"

" ...

THE CHAIR: Senator Pangelinan.

SENATOR PANGELINAN: I have a floor amendment, it doesn't have my name, but it just has the following language: I would like to add a new section...This would be Section 12. Basically, it would be a new section 12; it's been passed out, it was passed out. All it would read would be: "All restrictions in filling vacancies within the Department of Education with regards to school base", and I want to just add, if you could pen in "School based instructional and principal positions are hereby exempted". We have just read the last few weeks here with the number of retirees at DOE with regards to teachers that now we got unqualified school aides in the classrooms and therefore we need to fill these positions based upon the retirees and therefore we like to get teachers back in the classrooms. (end of tape)

(beginning of side 2)

SENATOR PANGELINAN; ... to be below the ....

SENATOR AGUON: No, I am taking about the overall five hundred thirteen million. Based on the findings and recommendation of the Chairman of the Committee on Ways and Means. I gather that the budget by fifty percent of the Department of Education that would effectively reduce the allocation down to hundred forty seven million but if you allow the exemption to happen then in actuality you are increasing this, increasing the overall budget for the Department of Education. What does this overall do to the entire budget in terms of overall appropriation by the Legislature?

SENATOR F. E. SANTOS: Mr. Speaker.

SENATOR UNPINGCO: I will yield. Actually the amendment that was passed by Senator Mark Forbes of the 513 cap, it, that breaks any amount. In other words, even if the appropriated six hundred million dollars, the cap should be still 513 and what normally this would do, of course, is to give free hand to the Department of Education and this is where BBMR and the Governor would have to, sort of, enforce the requirement of the Forbes' amendment.

SENATOR PANGELINAN: That's right.

SENATOR AGUON: Thank you, Senator Unpingco, but in terms of dollars, as Chairman of the Ways and Means, what has this ....

SENATOR FRANCIS SANTOS: Thank you, Senator Aguon. The vacancies that were saved as a result of the fifty percent is in the neighborhood of three million dollars. The real question is, I think, am not sure Senator Pangelinan knows it. How many vacancies are there for teaching positions and principal positions? Well, if we know that number then if it is not in the neighborhood of three million dollars, and I don't think it is.

SENATOR PANGELINAN: Basically, what we are doing is, because of the end of the school year or the beginning of the school year and the beginning of the budget year, we've had people who retired from DOE after the school year started. And basically the way the law reads or if 233 is enacted, these positions have to remain vacant for ninety days. You can't have that; these guys are out of the classroom; we've got unqualified school aides in there now instructing our kids, so it would exempt them from the ninety day thing for those people that have retired recently and the vacancies are still budgeted at fifty percent, but we need to fill those positions, the ones that have retired.

THE CHAIR: Senator Brown, on the motion by Senator Pangelinan

**SENATOR BROWN:** Thank you very much, Mr. Speaker. I do support the intent of Senator Pangelinan's desire to put a new section. I was at DOE earlier this week and I am aware that there were couple of hundred employees, including teachers and principals, that retired at the end of September. They are faced with a very difficult problem because there are a number of school principals that have retired and they cannot fill those positions. There are also a number of teaching positions in the classroom that cannot be filled for a ninety day period, and as you know, we have these children, all of our children in class, we need to ensure that there is qualified teacher available. I think it is incumbent upon DOE to ensure that they live within their budget constraint. But these positions of these individuals that just retired a couple of weeks ago were budgeted for this fiscal year, and as long as they don't exceed their ceiling, I think, in this particular case, we do need to make an exception to ensure that there are qualified teachers and qualified principals that are running the school system. The ninety-day limitation is a tremendous burden that we're placing within the school system, if we continue to allow this. I certainly do support the intent of Senator Pangelinan's desire to add this new section. Thank you very much, Mr. Speaker.

**THE CHAIR:** Senator Lamorena.

**SENATOR PANGELINAN:** Taigue. Mapos. Senator Camacho, then Barrett-Anderson, then Forbes.

**SENATOR CAMACHO:** Thank you, Mr. Speaker, I'll say exactly what Tony would say. Earlier when I had mentioned, you know, in comparison to the forty four positions that the Guam Police Department, I was making reference, of course, to the positions in DOE, again as was mentioned by my colleagues with the recent retirement of a lot of teachers, what in effect is the current bill as presented will require that DOE replace all these teachers who retired with substitute teachers for a period of ninety days and again is a matter can they live with it or not, that has been the



question. I think the real question is can we afford the level of education that our children will receive for ninety days with substitute teachers in their place? I don't think so and I think that's the major concern. Again I think the issue of funding from what I understand many of these positions were part of the amount budgeted, so I don't think it is going to affect the overall numbers going up and a violation of the budget cap. So I think for the welfare of our kids and the need of qualified teachers in there verses substitute teachers, I definitively support this amendment and congratulate Senator Pangelinan in beating me to it. Thank you.

THE CHAIR; Senator Barrett-Anderson, on the Pangelinan amendment.

SENATOR BARRETT-ANDERSON: I am in support of the Pangelinan amendment, however I would like to make an amendment to Senator Pangelinan's provision. If you all follow closely which I know you are not. Mr. Speaker, this is how I would like to do it. Senator Pangelinan and I both have amendments to the vacancy provisions of Bill 233. If you will turn to my floor amendment here. It says my name, floor amendment, section blank to Bill 395 to read as follows: let me explain what I would like to do, I would like to add Senator Pangelinan's sentence, "All restrictions in filling the vacancies within the Department of Education with regard to the school base positions or instructional or administrative positions are hereby exempted". I like to add that as the last paragraph to my amendment here, because I do support his amendment. Let me indicate I am amending it. I am amending his amendment, so that's the issue on the floor right now, because both his amendment and mine refer to the same section in the budget bill that is currently on the Governor's desk. What I would like to do, is explain why I have amended that section. If you could all turn to page 160 of Bill 233, beginning at line 22, during the session or markup session we added the line "All funds budgeted for the vacant positions shall only be used to fill the vacant position with a classified appointment in conformance with the merit system". What my

amendment, with Senator Pangelinan's addition, would do, would be to delete that line, it would say "Notwithstanding the budget bill and that provision that's on the Governor's desk, this provision would prevail". Let me tell you why I want to take out that sentence. There are numerous, numerous positions that are filled by limited term appointments as well as temporary employees and I know we have criticized this present Governor for his excessive use of the LTA appointments as well as temporary employees, but I have to impress upon this body that those limited term and temporary positions are important to every director in every department and agency. When we state that those vacancies can only be filled by a classified employee it eliminates entirely, limited term appointments and temporary appointments. Why do I say that? You have also on your desk a copy of 4GCA section 4102. I ask you to turn to Subsection 6, the unclassified service consists of persons employed on a temporary basis, so therefore if we are saying that only classified positions or appointments can be made to these vacancies, we have completely eliminated appointments on a temporary basis. I don't think that was our intent, certainly when I look at classified appointments, it was my understanding that limited term appointments, as well as temporary ninety day appointments were within the classified appointment procedure. I am wrong in that analysis because 4102 GCA section 6 does indicate that any LTA and any limited term appointee is in the unclassified service. I don't think it's wise for this Legislature to completely eliminate that mechanism of appointment. I do know that limited term appointees, although unclassified, must otherwise be qualified for the position that they are filling and although they have had, there are instances that I believe whether it is the past governor or the current governor that tends to abuse that, I don't think we should throw the baby out with a bath. So, therefore, my amendment to Senator Pangelinan's amendment would eliminate that sentence and combine his and my amendment together.

THE CHAIR: On the amendment to the amendment. Senator Blaz.

SENATOR BLAZ: On a point of information, will the author yield?

THE CHAIR: Will Senator Barrett-Anderson yield?

SENATOR BARRETT-ANDERSON: Yes, I yield.

SENATOR BLAZ: So what you are trying to do, Senator Barrett-Anderson, basically, is to ensure that the limited term appointments that are currently in place today will not be eliminated by some inadvertent action on the part of the body in passing the bill.

SENATOR BARRETT-ANDERSON: No, not necessarily. What am saying is that if we leave that section on page 160 of Bill 233 that's in front of the Governor's Desk, which is Section 8 of Chapter 5, we will effectively prohibit every director in every agency from ever filling the vacancy by a limited-term appointee or temporary appointee.

SENATOR BLAZ: Okay, I understand that. Now, in your section (b) of this new amendment to the amendment, are you saying here that, by the way there is a typographic error, the Legal Counsel take note to correct it, but it says here "any classified positions funded hundred percent (100%) by the general fund which become vacant shall remained unfilled for a period for not less than ninety calendar days from the effective date of the vacancy, so you're saying then, that when the limited term appointment expires that person is out of job because then they can't renew that limited term for another ninety days, if that person did not go into the classified service.

SENATOR BARRETT-ANDERSON: The ninety day provision is nothing new. It was what we approved before and that it does say that any vacancy that occurs in the '96 Fiscal Year shall remain unfilled for a period of ninety days. Senator Blaz, I am not making an amendment to remove that. Certainly, Senator Pangelinan, in order to get around that very restrictive ninety day provision, is asking

that we exempt teaching positions and principal positions, I am explaining it to you only as we had passed it several weeks ago.

THE CHAIR: Senator San Agustin. On the amendment by Senator Barrett-Anderson.

SENATOR SAN AGUSTIN: I think, Mr. Speaker, what we had before us, is first the heading should read: "Section 8 of Chapter 4, "Miscellaneous Provisions" of Bill 233 is repealed and amended to read."

SENATOR BARRETT-ANDERSON: I disagree. I disagree only because that bill is no longer before us.

SENATOR SAN AGUSTIN: That's what we're doing, repealing it and then to substitute it with your version. Otherwise, you are going to have two versions before the body, so all am saying is to repeal and then amend it to read and then add your section and then at the end of the vacancy, which is on line 8, add Senator Pangelinan's amendment and that makes it complete, because you take it away from Bill 233 and then it is substituted by this new version, which is under Section 12 of Bill 395.

SENATOR BARRETT-ANDERSON: I understand exactly what you are trying to say. That is why I've added the words "Notwithstanding any other provisions of law".

SENATOR SAN AGUSTIN: I am not saying, that's why, but you got to make reference to that; otherwise you have two sections that is in conflict with each other.

SENATOR BARRETT-ANDERSON: What happens, what happens if he has to sign one first and then the other. If you have two pieces of legislation, and Senator San Agustin you are correct, we will have the version in Bill 233 and we will have the version in Bill 395, the latter will repeal the earlier one especially with the words "Notwithstanding any other provisions of law". Senator San Agustin,

if you have a better procedural way of doing it as long as it is clear on this floor, for the record, and then I will defer.

SENATOR SAN AGUSTIN: I would like to offer this, Mr. Speaker, this says "Section 8 of Chapter 4 of Bill 233, passed by the Legislature on October 2, 1995 and transmitted to the Governor on October 11, 1995 and the Public Law which results from its enactment is hereby repealed and is reenacted to read". And then you have that so that way you'll be, no. I want to be sure that there are no two provisions, so once you have that, then I would like Senator Barrett-Anderson's amendment and then at the end on line 8, add Senator Pangelinan's amendment. That would make it a complete picture, a package.

SENATOR PANGELINAN: What happens if the Governor signs 395 and not 233?

THE CHAIR: No, he won't sign, no, he won't sign Bill 233 first. He assured me first; otherwise...

SENATOR SAN AGUSTIN: He wants to sign both bills at the same time, that's why I keep referencing to it.

THE CHAIR: Senator Pangelinan, do you have any objection to ...? No objection? Senator Santos.

SENATOR F.E. SANTOS: I just have to clarify in my mind. Will the author of the "vacancies" please yield?

THE CHAIR: Senator Barrett-Anderson or Senator Pangelinan

SENATOR F. E. SANTOS: Senator Barrett-Anderson. Senator Barrett-Anderson, are you trying to say that LTA's are a management tool to be used by a director?

SENATOR BARRETT-ANDERSON: Absolutely, and I will give an example. If I find it very hard to recruit classified - Senator Santos, you have never been in government service.

SENATOR F. E. SANTOS; And I know why.

SENATOR BARRETT-ANDERSON; Let me explain. Do you want to hear my explanation? Or I'll sit down.

SENATOR F. E. SANTOS: I want to hear it from the government bureaucracy that we created that we are now magnifying.

SENATOR BARRETT-ANDERSON: You want to hear an explanation or you want to argue.

THE CHAIR: Senators, look at me.

SENATOR BARRETT-ANDERSON: Yes, Mr. Speaker, I apologize. Would you like to hear my explanation?

THE CHAIR: Yes, you have to address the Chair.

SENATOR BARRETT-ANDERSON: Mr. Speaker, if there are classified positions that, for example, let's say a Communication or Telecommunication Engineer that is very difficult to fill because we do not have the number of qualified applicants on island. You cannot select unless you, at least, have five, the rule of five. Isn't that correct, Senator Camacho? The rule of five to give five classified applicants to send it to a director. A director would not be able to fill that unless at least five qualified applicants, well supposing there is none except there is one person who otherwise is as qualified, how can he compete since he's the only one on island. Well, what DOA usually does is to allow a director to put that person in on a limited-term basis so that within the period of a year the advertisements continue and hopefully perhaps another one, another two and another three qualified applicants, then that person who is an LTA, typically should then compete with the other

applicants there, so that usually, in hard to fill classified positions it is definitely a management tool with regards to temporary employees in times of emergency, in times of crisis. Temporary employees are critical to management, as well as to the people of Guam.

SENATOR F. SANTOS: Mr. Speaker, just a point of clarification for the Senators. You know that the vacancies in DOE, seventy, almost seventy percent of them, are teachers. So, you know, I want to alert you that these provisions have a dramatic impact on the provisions that we just passed on the fifty percent vacancies. So, you know, keep that in mind.

THE CHAIR: Go ahead. Wait, please, there are other speakers. I'll recognize you, Senator Pangelinan. Senator Unpingco, Blaz and then Pangelinan.

SENATOR UNPINGCO: I know that right now, as I've mentioned earlier, as far as many, you know just recently within about twelve days ago, there is a lot of vacancy positions in the teaching profession and I know for a fact that right now they are using substitute teachers like those custodians are being placed in there to take care of the classrooms and other available personnel within the Department of Education to be placed in the classroom. Yes, I think this is urgently needed and if for any other reason I think this section in itself would warrant you as a Speaker to certify that the need, that this is an emergency in nature because I for one, I do not want to have my kids being taught by a substitute teacher for six months. You know we talk about certified teachers, we talk about kids being given the best education, quality education and this is one area right now that is suffering throughout the entire agencies of the Government of Guam. So I do support, you know, the amendment made by Senator Pangelinan, as well as the motion made by Senator Barrett-Anderson.

THE CHAIR; Thank you. So Yuus Maase, Senator Unpingco. Senator Blaz, and then Senator Pangelinan.

Transcript of Discussion on "Vacancies"

Amendment in Bill 395

October 12, 1995

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SENATOR BLAZ: All, my own concern is, after listening to Senator Barrett-Anderson's eloquent explanation regarding the limited term appointment authority and using it as a management tool because clearly, as in the case of Senator Pangelinan's amendment, what we are now exempting school base positions because of an urgent necessity to ensure, as Senator Unpingco pointed out, we do not have situation where substitute teachers are teaching classes for six months until we get a permanent teacher in because of these restrictions of the ninety days. And I have a problem with this ninety days, this ninety-day hold on some of these limited term appointments then if that's the case because you are going to have a situation where, when these limited term appointments, as in the case of the teachers, are when their appointment expires. I don't know how long are limited term appointments usually. Senator Barrett-Anderson, what is the period of a limited term?

SENATOR BARRETT-ANDERSON: One year and temporaries are 120.

SENATOR BLAZ: So, if it extends to a year then I guess the point is moot, that's okay, I will withdraw then my concern of the ninety days, I thought that limited-term appointments are usually just ninety days, the ninety day wonders, I thought that's where we got that.

THE CHAIR: One year. Senator Pangelinan.

SENATOR PANGELINAN: I just want to say, of course, that it's critical that we get qualified teachers in the classroom and obviously some of the problems we have with regards to the law we passed needs to be fixed and I think this is the way of fixing it I also want to say that I agree with Senator Barrett-Anderson that limited-term appointments are a management tool; they are a campaign management tool.

THE CHAIR: Thank you. Senator Camacho, then Senator Forbes.



SENATOR CAMACHO: I just want to touch a bit on some of the comments made by my colleague, Senator Barrett-Anderson on LTA's. I understand, yeah, the intent behind many of the rules and regulations that this legislative body passes in the creation of positions such as LTA's or temporary hires and so forth. The intent is always good but the bureaucracy in this government always seems to find a way to take what's good and abuse it. In the LTA positions, in critical situations such as what Senator Barrett-Anderson had mentioned, it is used as a management tool but realistically and practically, for the most part, it is used, as Senator Pangelinan mentioned, for political hires and throughout the years I have been in government, which is a very limited amount of time, but my eyes have been wide open, there is not one LTA that I know of that has not eventually become a permanent position. So it's used as an avenue to get employees into the government and as the old saying goes, "we'll get you in and we'll find a way to permanize you". That is my concern on the LTA's. So, again, for the sake of maintaining LTA as a management tool I can understand that but the practical application of it in the government and how governors and administrators have used it, it has abused the intent of what was originally a good and well-intended piece of legislation to serve as a management tool, and that is my concern in this whole thing. It's been used by governors and administrations throughout the years to get some one in, and as long as we get you in, buddy, we're going to permanize you, and we will find a way. That is my concern, you know. Thank you, Mr. Speaker.

THE CHAIR: Thank you, Senator Camacho. Perhaps the next speaker can enlighten the group. Governor Forbes.

SENATOR M. FORBES: Actually, Mr. Speaker. Mr. Speaker, because you are assuming the seat that you are in today, I have noticed the absence of the type of rhetoric that you normally provide, and therefore I intend to provide, I intend to fill that gap in providing the rhetoric that normally you will provide to this body.

I would like to inject a note of reality on this a little bit, everyone who had spoken on this issue so far has spoken on an element of truth. It is true that in many aspects of Government of Guam hiring, including the classified service, there is a political element, including the classified service. It is also true that in many circumstances LTA's are required for simple managerial reasons. It is the quickies way to get some body on board, if you need some body on board. Everyone has spoken an element of truth and I want to inject one more element of truth, the fact of the matter is that the practice of using LTA is so wide spread in the Government of Guam that I would not be surprised if there are literally hundreds of GovGuam workers who right now are sitting in a limited-term appointment. Now, if this language does not get changed, quite frankly, I am of the opinion that the ninety-day provision needs to be taken a look at in terms of the practical applications of that. If this language is not changed, then every time one of those individuals who is on an LTA and that is not just the people who are hired by the Gutierrez Administration. There are people who were hired during the Ada Administration who are still on LTA's working in the Government of Guam, hundreds. Every time their anniversary date comes up they are fired because the ninety day provision says that that position must be vacant therefore that person is going to loose his job. There is a practical aspect to this, folks, if we passed this or if we allow the language to stand, then we are, as best as I can figure out right now, with my non-legal view condemning potentially hundreds and hundreds of GovGuam workers to termination this fiscal year, maybe someone thirty days from now because their anniversary date comes up, maybe someone forty five days from now because their anniversary came up, and now if that's what we want to do, you know, I will go with the will of the body here, but I just want to ask the body, do you want to see all of our Rapid Response at PWC fired in the next, in this fiscal year? Because most of the people that am aware of at Rapid Response are LTA'S. Is that what we want to have happen? I don't think it is and I think we need, you know, a lot of times we dance around this but we just need to come face to face with this simple fact. Do we want to be responsible for dis-

employing hundreds and hundreds of GovGuam workers. Is that what we want to do? Is that our interest? I think if we're concerned about fiscal responsibility we've made a very strong statement for fiscal responsibility by a simple virtue of the fact that for the first time in my memory, which is not universal, but for the first time in my memory, this Legislature has passed a budget that is substantially less than the identified revenues for the first time. Every other budget that I have ever seen is either right on the revenue nose. In other words, every dime that can be appropriated is appropriated or on other legislatures the revenue projection jumps by twenty or thirty million dollars in order to accommodate a requirement, so I think we've already taken a strong stand in terms of keeping the costs of government as low as we can, there is a lot of other things we can do. I'll grant you that. But we have made some progress. My question to the body is: Do we want to make that progress on the backs of hundreds and hundreds of potentially GovGuam employees who work for almost every department and agency in the Government of Guam? I don't think so.

**THE CHAIR:** Si Yuus Maase, Senator Forbes. The last speaker is Senator Barrett-Anderson. On the amendment to the amendment.

**SENATOR BARRETT-ANDERSON:** I am going to make an amendment to my amendment, and this is to take into consideration, and I ask anyone to certainly consider these words that section (b) is a hiring freeze and if you all remember about three or four, I would like to delete "Section (b)" entirely. That is my amendment.

Section (b) is a hiring freeze section, if you recall several months ago, in May, we were working very feverishly to have a hiring freeze and we had prepared (buccal) language to carefully exempt certain positions, make sure we don't foul up Government of Guam by the hiring freeze. Hearing what Senator Blaz was taking about, we did not seriously consider the impact of a ninety day hiring freeze when we passed the vacancy section in Bill 233. We had no problem with the fact that we were reducing the funding by fifty

percent of any vacancy that occurs in 1996 budget year, but did we understand the impact of a ninety day hiring freeze when those vacancies occur? It means not only that we for ninety days we cannot hire a limited term, a temporary employee. It means we cannot hire anybody in a classified service for ninety days. Senator Forbes has indicated that if, let's say tomorrow, there is a warm body out there who is a limited term appointment or temporary appointment or classified appointment is ended, that LTA temporary employee cannot be re-appointed for ninety days, that person is without a job, that person is without a pay check for ninety days. It is very very serious and I don't think we looked at this provision as a hiring freeze and talk enough about it. In consideration for what Senator Blaz is talking about and Senator Forbes is talking about, then, I would like to take out "Section (b)" of my amendment.

THE CHAIR: Section (b)?

SENATOR SAN AGUSTIN: And in lieu thereof, add the Pangelinan amendment and make it as a (b).

SENATOR BARRET-ANDERSON: I am not eliminating the Pangelinan amendment.

SENATOR SAN AGUSTIN That's what I mean, so Pangelinan's amendment will be a (b).

SPEAKER: Senator, you are withdrawing your amendment?

SENATOR BARRETT-ANDERSON: No

SENATOR SAN AGUSTIN: No, No. She is only deleting line 4 of this, (b).

SENATOR BARRET-ANDERSON: My amendment will have the provision of subsection (a). (b) will be eliminated; (b) will be replaced by Senator Pangelinan's exemption for the Department of Education.

SENATOR SAN AGUSTIN: No objection.

SPEAKER: Line 4 all the way to line 8 will be deleted, and in lieu thereof to be substituted by the Pangelinan version.

SENATOR SAN AGUSTIN: That's right. No objection.

THE CHAIR: Any objection?

SENATOR SAN AGUSTIN: I move for the previous question.

THE CHAIR: On the amendment, as amended. Senator Pangelinan.

SENATOR PANGELINAN: So, is my amendment now a stand alone amendment? Oh, okay.

SENATOR SAN AGUSTIN: It's (a) and (b); yours become (b).

SENATOR PANGELINAN: What am trying to do is, the main concern of my amendment, maybe I need to further amend my amendment, as the last speaker, is we have some teachers that have retired to take advantage of the COLA, basically, and I think it's those positions that are critical because, according to the Department of Education, we went into the new year fully staffed and the problem with the understaffing was created for those that stayed on board and retired before September 30, to take advantage of the COLA provision, so I don't want to open it up and put this thing in, you know, send everything (asunder) here but I do want to rectify the problems of those vacant classrooms of qualified teachers now that was a provisions of those retirement, so perhaps I don't know if, I mean I want it to state that because that's the intent of my amendment. It's not to give DOE *carte blanche* to hire for all the vacancies. It is to give them the authority and the flexibility to hire for those vacancies that were created due to, yeah, so, so and so, maybe, I've been talking to some of the Bureau of BBMR staff and I would like to further amend by further amending that portion of that amendment to say "to hire". I will try to restructure this as I

go along and to setup a cut-off date that they can hire those, for those vacancies that were created, that became vacant, after, that were filled and became vacant after the beginning of the school year up to September 30, 1995. So that it is only those, see those were the guys that left, the other vacancies were never in the classrooms. It is those people that were in the classrooms and in the schools that have left due to the COLA restrictions in the bills that we passed, that have then taken advantage and retired and have created a void now and those are the ones I want to replace. I don't want, again let me say that am very conscious of the fiscal integrity of the bill that we are trying to pass, and of Senator Santos' work with regards to the vacancies, and that's what am trying to address.

THE CHAIR: Could you repeat that? Senator Pangelinan., repeat that for the Legal Counsel and the Recording Secretary.

SENATOR PANGELINAN: The restrictions are for those positions that were filled at the beginning of the school year and became vacant as of September or October 1, 1995..

THE CHAIR: Will you write that down and bring it up here?

SENATOR SAN AGUSTIN: Let me just clarify.

SENATOR PANGELINAN: The school base positions.

SENATOR SAN AGUSTIN: That means that if it was vacant in December 1,1995, it is subject to the restriction?

SENATOR PANGELINAN: No, I shouldn't be, I don't want it to be, okay?

SENATOR SAN AGUSTIN: The way you worded it is the only ones vacant as of September 30, and so October 1 of this year, they can fill it.

SENATOR PANGELINAN: And other positions that become vacant during the school year.

SENATOR SAN AGUSTIN: I don't know, your language is just as blanket that they exempt. Period.

SENATOR PANGELINAN: No, because there are some vacancies that were never filled when the school year began, am excluding those vacancies.

THE CHAIR; Senator Camacho, on Pangelinan's amendment.

SENATOR CAMACHO: Mr. Speaker am just trying to understand the amendment proposed by Senator Pangelinan. I can understand it on one aspect of it and that he's trying to limit the impact, the financial impact on the exemption for all vacancies, the blanket exemption for all vacancies within DOE for teaching positions. Secondly, by restricting it and having a cutoff date, I think Senator Pangelinan, from what I understand, is trying to identify these critical positions that are affected in the classrooms due to retirement, and I'm wondering if the author of this amendment has any specific number, on the number of positions that we're talking about here. BBMR personnel had told me it is in excess of seventy, seventy-seven or so some odd positions. Ben, do you happen to know?

SENATOR PANGELINAN: I think there are about seventy to ninety.

SENATOR CAMACHO: About seventy to ninety positions, so at least we have some idea on the financial impact that this vacancy amendment will have on the overall budget. Then another point of concern, I think that perhaps Senator Pangelinan's amendment clearly identifies is under teaching positions there are some positions that are neither "fish" nor "fowl". For example, school health counselors, which are in effect registered nurses, that for some reason or another are considered teaching positions. Now, again, that is not a classroom positions. Do these fall under that if

it's school base positions, it is school base positions, it's still a teacher position although it's not in the classroom. Now, how do you handle a situation like that? So, anyway, these are just some of the points, at least with my interpretation on Senator Pangelinan's amendment.

THE CHAIR: Any other speaker on Senator Pangelinan's amendment? Senator Barrett-Anderson.

SENATOR BARRETT-ANDERSON: Senator Pangelinan, if you will yield?

SENATOR PANGELINAN: I yield.

SENATOR BARRETT-ANDERSON: Currently, the vacancy provision as it has been amended, amended, and amended, has fifty percent freeze on funding from the General Fund, so then your provisions, you are trying to get to the point that any vacancy that has occurred in a teaching position because of retirement would not be restricted by that fifty percent. What about a position that became vacant in May of last school year? Generally, most of the vacancies, by May, are filled as of the school year opening, that's correct.

SENATOR PANGELINAN: Yes, and the report by the Board of Education at the beginning of the school year was that all teaching positions were filled.

SENATOR BARRETT-ANDERSON: Then what I would like to suggest that perhaps the language as it is currently written that says "all classified positions funded by the general fund hundred percent which are vacant as of October 1, 1995 shall be funded at fifty percent and that your provisions at all restrictions on that fifty percent funding does not apply to DOE. Wouldn't that take care of everybody, because we have identified in the first part of October 1. All vacancies as of October 1 shall be funded at fifty percent but DOE is exempted from that fifty percent freeze. Is that what you're trying to accomplish?



SENATOR PANGELINAN: No, no, no.

SENATOR BLAZ: Point of information. By doing that then we will defeat the amendment that Senator Santos had tried to do earlier, from one hundred fifty million to one hundred forty seven. We don't want to do that.

SENATOR SANTOS: Why don't we just delete Section 8. Let's just wipe out "vacancies". Why are we so concerned? We already agreed; we exempt one, we exempt everybody else.

SENATOR PANGELINAN: Here's the language: "All restrictions in filling the vacancies within the Department of Education with regards to school base instructional and principal positions are hereby exempted for those positions that were filled at the beginning of the 1995 school year and became vacant after October 1, 1995."

THE CHAIR: On the Pangelinan amendment to the amendment. As many as are in favor, say "aye"; as are opposed, say "nay".

SENATOR F. E. SANTOS; No.

THE CHAIR: The "ayes" has it. On the amendment, as amended. As many as are in favor say "aye"; those opposed say "nay".

SENATOR F. E. SANTOS: No.

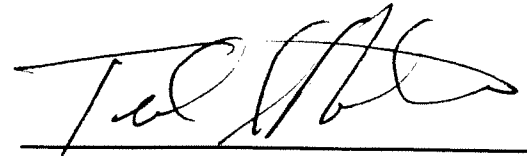
THE CHAIR: As many as are in favor of the amendment by Senators Pangelinan and Barrett, as amended, please signify by raising your hand. It needs eleven votes. Count fan. Raise them up, please. One, two, three, four, five, six, seven, eight, nine, ten votes; plus my vote made it possible...You owe me one, Ben. . . "

OCT 12 1995

TWENTY-THIRD GUAM LEGISLATURE  
1995 (FIRST) Regular Session

Bill No. 395(LS)

Introduced by:



by request of the Governor in accordance with the Organic Act of Guam.

AN ACT WHICH, WHEN ENACTED IN CONJUNCTION WITH SUBSTITUTE BILL NO. 233 PASSED BY THE LEGISLATURE ON OCTOBER 2, 1995 AND TRANSMITTED TO THE GOVERNOR ON OCTOBER 11, 1995, PROVIDES ESSENTIAL CORRECTIONS TO SUBSTITUTE BILL NO. 233 AND THE PUBLIC LAW WHICH MAY RESULT FROM ITS ENACTMENT.

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

2 Section 1. Department of Administration. Item 9),  
3 Housing Managment, of the Department of Administration, contained on  
4 page 15 of Chapter II of Substitute Bill No. 233 passed by the Legislature  
5 on October 2, 1995 and transmitted to the Governor on October 11, 1995,  
6 and the public law which may result from its enactment, is amended to  
7 read:

	"General Fund	Special Fund	Federal Match	Fund Total
10 HOUSING MANAGEMENT				
11 Personnel Services 12 (17 FTE)	2,577	650,000 1/ [ <del>650,000</del> +1]		652,577
13 Operating	82,793	-0-	-0-	82,793
14 Office Space Rental	-0-	-0-	-0-	-0-
15 Miscellaneous	-0-	-0-	-0-	-0-
16 Utilities	8,500	-0-	-0-	8,500

Rec'd: J. C. ...  
Acting Legislative Secret  
10/11/95 1250 hrs.

1	Power	2,500	-0-	-0-	2,500
2	Water/Sewer	1,500	-0-	-0-	1,500
3	Telephone	4,500	-0-	-0-	4,500
4	Capital Outlay	3,205	-0-	-0-	3,205
5	<b>Total</b>	<b>97,075</b>	<b>-650,000</b>	<b>1/[650,000-1/]</b>	<b>747,075"</b>

6           **Section 2.           Customs and Quarantine Agency.   Item   C.,**  
7    Customs & Quarantine, contained on page 70 of Chapter II of Substitute Bill  
8    No. 233 passed by the Legislature on October 2, 1995 and transmitted to  
9    the Governor on October 11, 1995, and the public law which may result  
10   from its enactment, is repealed and reenacted to read:

11	"C.	<b>CUSTOMS &amp; QUARANTINE</b>			
12		-0-	9,175,559/6	-0-	9,175,559/6

13   **OVERALL SUMMARY**

14	Personnel Services	2,724,700	2,724,701	-0-	5,449,401/6
15	162 FTE				
16	Operating	1,171,321	1,171,321	-0-	2,342,642/6*
17	Miscellaneous	109,600	109,600	-0-	219,200/6
18	Utilities	13,798	13,799	-0-	27,597/6
19	Power	-0-	-0-	-0-	-0-
20	Water/Sewer	-0-	-0-	-0-	-0-
21	Telephone	13,798	13,799	-0-	27,597/6
22	Capital Outlay	-0-	1,136,719/6	-0-	1,136,719/6
23	<b>Total</b>	<b>4,587,779</b>	<b>4,587,780</b>	<b>-0-</b>	<b>9,175,559/6"</b>

24           **Section 3.           Department of Agriculture.   (a)   Item   8),**  
25    Animal and Plant: Plant Protection and Quarantine Section of the  
26    Department of Agriculture, contained on page 46 of Chapter II of  
27    Substitute Bill No. 233 passed by the Legislature on October 2, 1995 and

1 transmitted to the Governor on October 11, 1995, and the public law  
2 which may result from its enactment, is repealed and reenacted to read:

3 **"ANIMAL AND PLANT: PLANT PROTECTION AND QUARANTINE**

4	Personnel Services	557,633	557,634	-0-	1,115,267/6
5	37 FTE				
6	Operating	137,616	137,617	-0-	275,233/6
7	Office Space Rental	30,000	30,000	-0-	60,000/6
8	Miscellaneous	14,500	14,500	-0-	29,000/6
9	Utilities	5,250	5,250	-0-	10,500/6
10	Power	-0-	-0-	-0-	-0-
11	Water/Sewer	-0-	-0-	-0-	-0-
12	Telephone	-0-	-0-	-0-	-0-
13	Capital Outlay	255,000	255,000	-0-	510,000/6
14	<b>Total</b>	<b>1,000,000</b>	<b>1,000,000</b>	<b>-0-</b>	<b>2,000,000/6"</b>

15 (b) Section 26 of Chapter III, Miscellaneous Appropriations, of  
16 Substitute Bill No. 233 passed by the Legislature on October 2, 1995 and  
17 transmitted to the Governor on October 11, 1995, and the public law  
18 which may result from its enactment, is repealed.

19 **Section 4. Komitea Para Tiyan.** Subsection (d) of  
20 Section 7 of Chapter IV, Miscellaneous Provisions, of Substitute Bill No. 233  
21 passed by the Legislature on October 2, 1995 and transmitted to the  
22 Governor on October 11, 1995, and the public law which may result from  
23 its enactment, is amended to read:

24 **"(d) Komitea Para Tiyan authorized to charge rents and**  
25 **fees.** The Komitea Para Tiyan is designated the responsibility of  
26 developing and recommending the planning activities in the reuse of NAS  
27 or the various use or potential uses of the facilities within NAS for the

1 maximum benefit of the people of Guam. The Komitea Para Tiyan is  
 2 authorized to assess One Dollar (\$1) per square foot for government and  
 3 non-profit entities and not less than One Dollar (\$1,00) per square foot for  
 4 private entities for use of NAS facilities provided it is not in conflict with  
 5 the caretaker's agreement entered int̄ between the government of Guam  
 6 and the U. S. Department of the Navy. All money collected or proceeds  
 7 received from lease fees or rentals of equipment and facilities within NAS,  
 8 and service fees shall be properly accounted for and deposited into the  
 9 ~~{General Fund}~~ 'Komitea Para Tiyan Fund' of the Government of Guam."

10 **Section 5. Guam Police Department.** Section 26 of  
 11 Chapter IV, Miscellaneous Provisions, of Substitute Bill No. 233 passed by  
 12 the Legislature on October 2, 1995 and transmitted to the Governor on  
 13 October 11, 1995, and the public law which may result from its  
 14 enactment, is repealed.

15 **Section 6. Transfer of funds of ongoing projects.**  
 16 Subsection c) of Section 7 of Chapter V, Administrative Provisions, of  
 17 Substitute Bill No. 233 passed by the Legislature on October 2, 1995 and  
 18 transmitted to the Governor on October 11, 1995, and the public law  
 19 which may result from its enactment, is repealed.

20 **Section 7. Failure of appropriation to 14 agencies and**  
 21 **correction of fiscal year.** Section 12 of Chapter V, Administrative  
 22 Provisions, of Substitute Bill No. 233 passed by the Legislature on October  
 23 2, 1995 and transmitted to the Governor on October 11, 1995, and the  
 24 public law which may result from its enactment, is amended to read:

25 "Section 12. For convenience, the General Appropriation Act of  
 26 ~~{1995}~~ 1996 lists the territorial agency's name at the top, the divisions of  
 27 the territorial agency as so labeled in this Act on the left side, the purposes

1 of the appropriations as so stated in this Act listed at the left side, and the  
2 amount and source of appropriations listed in the columns labeled 'General  
3 Fund', 'Other Fund (specified)', 'Federal Fund', and 'Total'. the purposes of  
4 the apporpiraitons are set out to the left of the totals in the General  
5 Appropriation Act of ~~{1995}~~ 1996. Except for the following agencies, namely  
6 Agency for Human Resources Development (AHRD),  
7 State Council on vocational Education (SCOVE),  
8 Territorial Planning Council (TPC),  
9 Guam Election Commission,  
10 Chamorro Land Trust Commission,  
11 Commission on Self Determination,  
12 Guam Council on the Arts and Humanities Agency (CAHA),  
13 Guam Museum,  
14 Chief Medical Examiner,  
15 Customs and Quarantine Agency,  
16 Guam Health Planning and Development Agency,  
17 Veterans Affairs,  
18 Chamorro Language Commission,  
19 Guam Educational Telecommunications Corporation (KGTE),  
20 Guam Contractors License Board, and  
21 Board of Registration for Professional Engineers,  
22 Architects, and Land Surveyors,

23 ~~{F}~~ totals in pages marked ~~{Overall 'Summary'}~~ 'Overall Summary' are not  
24 appropriations."

25 **Section 8. Close down of all operations of CAHA and**  
26 **Guam Museum.** Section 22 of Chapter IV, Miscellaneous Provisions,  
27 of Substitute Bill No. 233 passed by the Legislature on October 2, 1995 and

1 transmitted to the Governor on October 11, 1995, and the public law  
2 which may result from its enactment, is amended to read:

3 "Section 22. The Council on the Arts and Humanities Agency  
4 ('CAHA') and the Guam Museum may utilize any fees legally collected and  
5 profits from sales to private entities during FY 1996, up to \$354,000 for FY  
6 1996, for the purpose of paying rent and utilities. Any fees collected above  
7 that amount, or collected from Executive Branch departments or agencies,  
8 autonomous or semi-autonomous agencies, or public corporations for  
9 rental, sale, or lease of artwork, artifacts or any other thing, for subletting,  
10 consulting services, advertising or any other service or product, shall be  
11 deposited into an Arts and Museum Special Fund, hereby established  
12 pursuant to this act, which shall require Legislative approval and  
13 authorization to expend. ~~[Notwithstanding any other provision of law or~~  
14 ~~this Act, the Governor's transfer authority shall not extend to funds and~~  
15 ~~accounts of CAHA or Guam Museum, and he may not transfer money in or~~  
16 ~~out of CAHA, the Guam Museum, or their accounts, including but not~~  
17 ~~limited to the Arts and Museum Special Fund. No branch, department, or~~  
18 ~~agency of the government of Guam, autonomous or semi-autonomous~~  
19 ~~agency, public corporation, the Governor's Office, Lieutenant Governor's~~  
20 ~~Office, or any sub-entity thereof may pay any expense incurred by CAHA~~  
21 ~~or the Guam Museum or assume any lease to be paid by CAHA]".~~

22 **Section 9. Total appropriation above mandatory 95%**  
23 **cap.** Such appropriations in Chapter II as do not conform with the  
24 provisions of Section 8 of Chapter IV, Miscellaneous Provisions, of  
25 Substitute Bill No. 233 passed by the Legislature on October 2, 1995 and  
26 transmitted to the Governor on October 11, 1995, and the public law  
27 which may result from its enactment, are hereby reduced accordingly.

1           **Section 10. Non-codification of definitions which are not**  
2 **applicable.** Since the definitions contained within Substitute Bill No.  
3 233 passed by the Legislature on October 2, 1995 and transmitted to the  
4 Governor on October 11, 1995, and the public law which may result from  
5 its enactment, are not complete, and the definition of "agency" applies to  
6 agencies which do not receive funding from the Legislature, it is not  
7 desired that these definitions be codified. For this reason, the first sentence  
8 of Section 5 of Chapter I of the above-cited bill, which states "A New  
9 §§4120 through §4120.2 are added to Title 5, Guam Code Annotated, to  
10 read" and §4120 and §4102.1 stated thereafter, are repealed, and instead  
11 the following words are inserted in the same place:

12           "The following definitions apply to the General Appropriation Act of  
13 1996:"

14           **11. Approval of Guam Council on the Arts and Humanities**  
15 **Agency and the Guam Museum's rules and regulations for**  
16 **charging fees.** The rules and regulations establishing fees to be charged  
17 by the Guam Museum at its three (3) locations, to be charged in  
18 conjunction with the Guam Council on the Arts and Humanities Agency at  
19 the Manhattan II Building, as transmitted to the Speaker of the Legislature  
20 by the Governor on September 22, 1995, are hereby approved and  
21 effective on the date of enactment of this Section as rules and regulations.

22           The rules and regulations establishing fees to be charged by the Guam  
23 Council on the Arts and Humanities Agency in conjunction with the Guam  
24 Museum at the Manhattan II Building, as transmitted to the Speaker of the  
25 Legislature by the Governor on September 26, 1995 are hereby approved  
26 and effective on the date of enactment of this Section as rules and  
27 regulations.





CARL T.C. GUTIERREZ  
GOVERNOR OF GUAM

OFFICE OF THE SPEAKER	
Date:	10/11/95
Time:	4:21 pm
Received By:	Cheryl L. Kumabun
Print Name:	Cheryl L. Kumabun

OCT 11 1995

The Honorable Ted S. Nelson  
Acting Speaker  
Twenty-Third Guam Legislature  
Temporary Legislature Building  
155 Hesler Street  
Agana, Guam 96910

JL C. G...  
Acting Legislative Secretary  
10/11/95 1650 hrs.

Via: Office of Speaker Don Parkinson

Dear Speaker Nelson:

Attached is a draft bill entitled "AN ACT WHICH, WHEN ENACTED IN CONJUNCTION WITH SUBSTITUTE BILL NO. 233 PASSED BY THE LEGISLATURE ON OCTOBER 2, 1995 AND TRANSMITTED TO THE GOVERNOR ON OCTOBER 11, 1995, PROVIDES ESSENTIAL CORRECTIONS TO SUBSTITUTE BILL NO. 233 AND THE PUBLIC LAW WHICH MAY RESULT FROM ITS ENACTMENT" which must be addressed by the Legislature as soon as possible.

I have on my desk Substitute Bill No. 233, "AN ACT MAKING APPROPRIATIONS FOR THE OPERATIONS OF THE EXECUTIVE BRANCH OF THE GOVERNMENT OF GUAM FOR FISCAL YEAR 1996 AND MAKING OTHER APPROPRIATIONS, AND ESTABLISHING MISCELLANEOUS AND ADMINISTRATIVE PROVISIONS", passed by the Legislature on October 2, 1995 and transmitted on October 11, 1995.

Substitute Bill No. 233 is the General Appropriation Bill for Fiscal Year 1996, yet it is unacceptable unless serious corrections are made. Substitute Bill No. 233 cannot be signed into law without these corrections. The needed corrections are detailed as follows:

1) **Department of Administration.** The appropriation for the Housing Division of the Department of Administration states that the funding must come from federal funds. This is a non-existent funding source, which would result in the closing down of the Housing Division of the Department of Administration.

2) **Customs and Quarantine Agency.** The FTE level of the Customs and Quarantine Agency needs to be raised by 55, otherwise we will have an inability to control our borders at the airport and the port by making it impossible to press into service the needed Customs Officers to control the influx of the drug "ice" into our community. This is necessary to fund the level of needed protection during the interim period when new Customs Officers are going through the academy for training.

3) **Department of Agriculture.** The FTE level of the Plant Protection and Quarantine Section (PPG) of the Animal and Plant Division of the Department of Agriculture needs to be raised by 23, otherwise we will have an inability to control our borders at the airport and the port by making it impossible to press into service the needed Agricultural Inspection Officers to control pests coming into our island.

4) **Komitea Para Tiyan.** The funds derived from the rental of properties at Tiyan should be placed in the "Komitea Para Tiyan Fund" within the General Fund instead of the General Fund. The "Komitea Para Tiyan Fund" is created for the purpose of receiving these rentals.

5) **Guam Police Department.** The provisions on Page 174, Section 26 of Chapter IV, Miscellaneous Provisions, of Substitute Bill No. 233, needs to be deleted. This provision prevents the Guam Police Department from utilizing civilians to assist in non-law enforcement activities during the period that is necessary for new police officers to be recruited and trained. Removal of 44 persons from Police kobans would require uniformed police officers to take up these positions and remove them from patrolling the streets and neighborhoods of Guam.

6) **Transfer of funds of ongoing projects.** Subsection c) of Section 7 of Chapter V, Administrative Provisions, needs to be deleted. This Subsection prevents the transfer of prior years' appropriations for the purpose of completing projects started in prior years. This Subsection c) would prevent the completion of some older and ongoing projects, such as

the Southern High School, Pigua Subdivision, Talofofu Subdivision, As Lucas Subdivision, Ija Subdivision, and various water and sewer extension projects, as well as flood control projects.

**7) Failure of appropriation to 14 agencies.** Section 12 of Chapter V, Administrative Provisions, needs to be amended to provide for the use of the pages marked Overall "Summary" as the appropriation items for 14 agencies. Otherwise, Substitute Bill No. 233 does not provide any appropriations at all for the operations of these agencies, and they will need to be shut down. The affected agencies are:

- Agency for Human Resources Development (AHRD)
- State Council on vocational Education (SCOVE),
- Territorial Planning Council (TPC),
- Guam Election Commission,
- Chamorro Land Trust Commission,
- Commission on Self Determination
- Guam Council on the Arts and Humanities Agency (CAHA),
- Guam Museum,
- Chief Medical Examiner,
- Customs and Quarantine Agency,
- Guam Health Planning and Development Agency,
- Veterans Affairs,
- Chamorro Language Commission,
- Guam Educational Telecommunications Corporation (KGTF),
- Guam Contractors License Board, and
- Board of Registration for Professional Engineers,  
Architects, and Land Surveyors.

Although these agencies would lose total funding if the Administrative Provisions are applied as written, there are many other computational errors wherein the total appropriations per division may be correct, but some of the items making up the appropriations are either omitted or incorrectly decreased. Due to the shortness of time, these items will have to be listed and forwarded to the Legislation for later action.

**8) Close down of all operations of CAHA and Guam Museum.** The provision on page 173, Section 22 of Chapter IV, Miscellaneous Provisions, preventing the payment of any expenditures of the Guam Council on the Arts and Humanities Agency (CAHA) or the Guam Museum by CAHA or the Museum or any other government entity, needs to be amended. The language as presently stated, in addition to the language

cited in paragraph 7) above, would call for the immediate shut down of all operations of both CAHA and the Museum and the release of their personnel.

**9) Total appropriation above mandatory 95% cap.** The language restricting appropriation levels to Fifty Percent (50%) of the vacancies, contained on page 160 in Section 8 of Chapter IV, Miscellaneous Provisions, is not carried through in the monetary appropriations given to all of the various agencies in Chapter II, thereby causing an appropriation overage of approximately \$2 Million beyond the 95% cap on appropriations required by Public Law 22-14 and the bond issue.

**10) Non-codification of defintions.** The definitions section in Section 5 of Chapter I are incomplete, and the defintions of "agency" applies to portions of the government which are not funded by appropriations of the Legislature. This codification should be deleted.

**11) Approval of the rules and regulations for the Guam Council on the Arts and Humanities Agency and the Guam Museum to charge entrance fees for their Tumon exhibits.** The Tumon location of these agencies is already operational, and the rules and regulations are ready for legislative action. Although this is a new project, the agencies should be allowed at least a 1 year interim period to try to establish themselves as financially viable in this visitor industry location.

Very truly yours,

  
Carl T. C. Gutierrez

Attachment  
**230665**