



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

Office of the Speaker
ANTONIO R. UNPINGCO
Date: Oct. 16, 1998
Time: 11:20am
Rec'd by: [Signature]
Print Name: F. Roberto

OCT 16 1998

The Honorable Antonio R. Unpingco
Speaker
Mina'Bente Kuattro na Liheslaturan Guåhan
Twenty-Fourth Guam Legislature
Guam Legislature Temporary Building
155 Hesler Street
Hagåtña, Guam 96910

OFFICE OF THE LEGISLATIVE SECRETARY
ACKNOWLEDGMENT RECEIPT
Received By [Signature]
Time 1:58pm
Date 10.16.98

Dear Speaker Unpingco:

Enclosed please find Substitute Bill No. 737 (COR), "AN ACT TO ALLOW FOR A NEW PRISON FACILITY TO BE BUILT, USING A BUILD-OPERATE-TRANSFER MODEL", which I have signed into law today as **Public Law No. 24-274**.

This legislation is in favor of privatization of prison facilities, and indeed, various privatization models are being informally explored.

This legislation acknowledges that in recent years our Department of Corrections is experiencing crowded conditions. Some recent changes in criminal laws passed by I Liheslaturan Guåhan has increased the population of our prisons. Some of these laws deal with Driving Under the Influence, and with Family Violence. Stricter laws concerning incarceration necessitates directing the funding resources of our island towards prison construction and operation.

This legislation states that the types of privatization approved by I Mina'Bente Kuattro na Liheslaturan Guåhan for prisons are: 1) private design and construction of a facility with the government leasing the facility for a term not to exceed 25 years; 2) private construction and operation of a facility with the government making periodic payments for services, for a term not to exceed 25 years; and 3) any terms which are in

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the best interests of the government and which would guarantee no loss of jobs for Department of Corrections employees.

There is no appropriation in this legislation. The time frame of 120 days from enactment may be too short to develop the required proposal. The language in the bill may chill cost effective proposals from all providers who are qualified. Also, many other provisions will be needed to protect the rights and humane conditions of prisoners, should a facility be privatized.

Very truly yours,



Carl T. C. Gutierrez
I Maga'lahañ Guåhan
Governor of Guam

Attachment: copy attached for signed bill
 original attached for vetoed bill

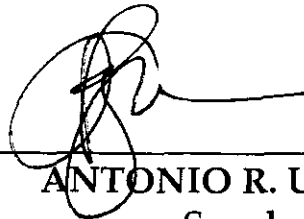
cc: The Honorable Joanne M. S. Brown
 Legislative Secretary

01051

MINA'BENTE KUATTRO NA LIHESLATURAN GUAHAN
1998 (SECOND) Regular Session


CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUAHAN

This is to certify that Substitute Bill No. 737 (COR), "AN ACT TO ALLOW FOR A NEW PRISON FACILITY TO BE BUILT, USING A BUILD-OPERATE-TRANSFER MODEL," was on the 2nd day of October, duly and regularly passed.



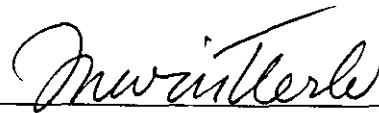
ANTONIO R. UNPINGCO
Speaker

Attested:



JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by *I Maga'lahaen Guahan* this 5th day of October, 1998,
at 4:05 o'clock P.M.



Assistant Staff Officer
Maga'lahi's Office

APPROVED:



CARL T. C. GUTIERREZ
I Maga'lahaen Guahan

Date: 10-16-98

Public Law No. 24.274

MINA'BENTE KUÁTTRO NA LIHESLATURAN GUÁHAN
1998 (SECOND) Regular Session

Bill No. 737 (COR)

As substituted by the Author
and amended on the Floor.

Introduced by:

Mark Forbes
A. C. Lamorena, V
F. E. Santos
T. C. Ada
F. B. Aguon, Jr.
A. C. Blaz
J. M.S. Brown
Felix P. Camacho
Francisco P. Camacho
M. C. Charfauros
E. J. Cruz
W. B.S.M. Flores
L. F. Kasperbauer
C. A. Leon Guerrero
L. A. Leon Guerrero
V. C. Pangelinan
J. C. Salas
A. L.G. Santos
A. R. Unpingco
J. T. Won Pat

**AN ACT TO ALLOW FOR A NEW PRISON
FACILITY TO BE BUILT, USING A BUILD-
OPERATE-TRANSFER MODEL.**

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

1 **Section 1. Legislative Findings.** Constant crowding at the
2 Department of Corrections (“DOC”) makes it clear that new prison facilities
3 must be built in order to avoid constant litigation in the Federal system.
4 Traditional means of doing so are problematic. Guam is in a poor position to
5 seek financing on its own for such a project, being some Seven Hundred
6 Million Dollars (\$700,000,000) in debt. The need remains, however, and it is
7 incumbent on Guam to find a feasible solution.

8 **Section 2.** The Department of Corrections (“DOC”) is authorized to,
9 and shall negotiate with, acknowledged private developers, builders and/or
10 operators of correctional facilities in the United States of America for the
11 construction and possible operation of a medium security correctional facility,
12 with sufficient capacity to accommodate four hundred (400) inmates, on
13 Guam. Such facility may be located at the present properties associated with
14 DOC, although *I Maga’lahen Guåhan* is authorized to construct the facility
15 elsewhere on public property as such real property may be available to such
16 purpose and upon his or her discretion; provided, that no land currently in
17 the inventory of the Chamorro Land Trust shall be used for such purpose.

18 As negotiated, the proposal detailed herein may take several forms: (1)
19 DOC may negotiate for the private design and construction of such a facility
20 with the government leasing such facility from the developer for a term not to
21 exceed twenty-five (25) years; provided, that at the end of such term, the
22 facility shall revert to the full ownership of the government of Guam; or (2)
23 DOC may negotiate for the private construction and operation of such facility,
24 with the government making an annual, quarterly, or monthly payment for

1 such service; provided, that the term of such a contract shall *not* exceed
2 twenty-five (25) years; or (3) DOC shall negotiate such terms as are in the *best*
3 *interests* of the government of Guam and guarantee that there shall be *no*
4 displacement of DOC employees.

5 No contract pursuant to this Act which provides for the lease of real
6 property or facility by the government of Guam, or the lease of government of
7 Guam real property shall be awarded without the express approval of *I*
8 *Liheslaturan Guåhan* in bill form. Any developer, potential contractor or
9 operator of correctional facilities with which DOC negotiates pursuant to this
10 Act shall be a recognized provider of construction services or operations
11 services, or both, for the corrections industry in the United States of America
12 with a proven record of successful projects. DOC shall entertain all proposals
13 for services from qualified contractors pursuant to this Act consistent with
14 Guam procurement law. DOC shall submit a proposal pursuant to this Act to
15 *I Liheslaturan Guåhan* within one hundred twenty (120) days of the effective
16 date of this Act. Notwithstanding the provisions of this Act, the source of
17 funding for the project described herein shall be subject to legislative approval
18 and appropriations.

PL 24-274



I Mina' Bente Kuattro Na Liheslaturan Guahan

Kumitean Areklamento, Refotman Gubetnamento Siha, yan Asunton Fidirat

Senator Mark Forbes, Chairman

SEP 14 1998

Speaker Antonio R. Unpingco
I Mina' Bente Kuattro Na Liheslaturan Guahan
155 Hesler Street
Hagåtña, Guam 96910

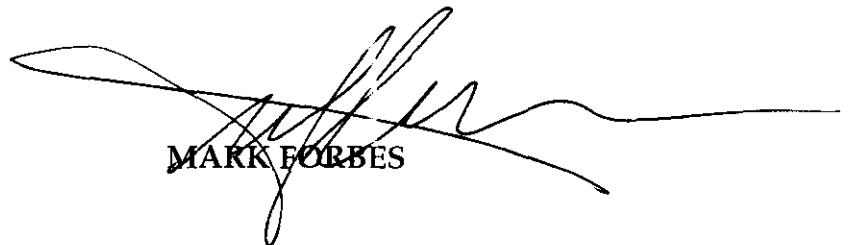
Dear Mr. Speaker:

The Committee on Rules, Government Reform and Federal Affairs, to which Bill No. 737 was referred, wishes to report its findings and recommendations **TO DO PASS BILL NO. 737** "An act to allow for a new prison facility to be built, using a Build-Operate-Transfer model."

The voting record is as follows:

TO PASS	<u>3</u>
NOT TO PASS	<u>0</u>
ABSTAIN	<u>0</u>
TO PLACE IN INACTIVE FILE	<u>0</u>

Copies of the Committee Report and other pertinent documents are attached. Thank you and si Yu'os ma'ase for your attention to this matter.


MARK FORBES

Attachments



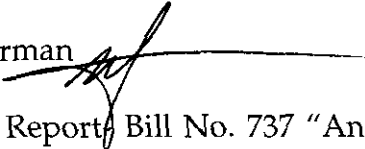
I Mina' Bente Kuattro Na Liheslaturan Guahan

Kumitean Areklamento, Refotman Gubetnamento Siha, yan Asunton Fidirat

Senator Mark Forbes, Chairman

MEMORANDUM

TO: Committee Members

FR: Chairman 

SUBJECT: Committee Report, Bill No. 737 "An act to allow for a new prison facility to be built, using a Build-Operate-Transfer model."

Transmitted herewith for your information and action is the report on Bill No. 737 from the Committee on Rules, Government Reform and Federal Affairs.

This memorandum is accompanied by the following:

1. Committee Voting Sheet
2. Committee Report
3. Bill No. 737
4. Public Hearing Sign-in Sheet
5. Fiscal Note/Fiscal Note Waiver
6. Notice of Public Hearing

Please take the appropriate action on the attached voting sheet. Your attention and cooperation in this matter is greatly appreciated.

Should you have any questions regarding the report or accompanying documents, please do not hesitate to contact me.

Thank you and si Yu'os ma'ase.

MARK FORBES

Attachments

I Mina' Bente Kuáttro Na Liheslaturan Guáhan

**Committee On Rules,
Government Reform & Federal Affairs
Senator Mark Forbes, Chairman**

Committee Report

on

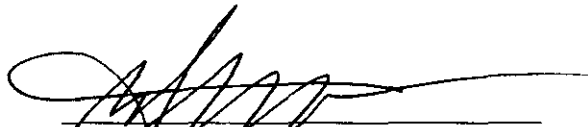

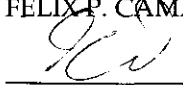
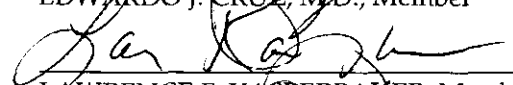
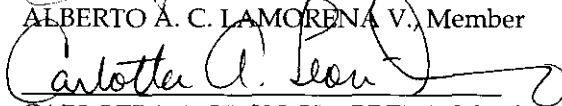
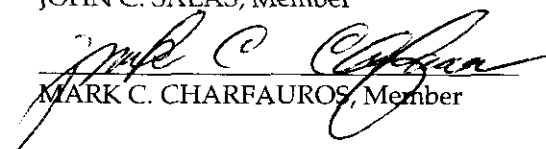

Bill No. 737

**“An act to allow for a new prison facility to be built, using a
Build-Operate-Transfer model.”**

Committee on Rules, Government Reform and Federal Affairs
I Mina' Bente Kuattro Na Liheslaturan Guåhan

Voting Record

Bill No. 737 "An act to allow for a new prison facility to be built, using a Build-Operate-Transfer model."

	<u>TO PASS</u>	<u>NOT TO PASS</u>	<u>ABSTAIN</u>	<u>INACTIVE FILE</u>
 MARK FORBES, Chairman	✓			
ANTHONY C. BLAZ, Vice-Chairman				
 JOANNE M. S. BROWN, Member	✓			
FELIX P. CAMACHO, Member				
 EDUARDO J. CRUZ, M.D., Member	✓			
 LAWRENCE F. KASPERBAUER, Member	✗			
ALBERTO A. C. LAMORENA V., Member				
 CARLOTTA A. LEON GUERRERO, Member	✓			
JOHN C. SALAS, Member				
 MARK C. CHARFAUROS, Member	✗			
FRANCIS E. SANTOS, Member				
 ANTONIO R. UNPINGCO, Member	✓			

I Mina' Bente Kuåttro Na Liheslaturan Guåhan

**Committee On Rules,
Government Reform & Federal Affairs
Senator Mark Forbes, Chairman**

**Committee Report
on**

Bill No. 737

**“An act to allow for a new prison facility to be built, using a
Build-Operate-Transfer model.”**

I. OVERVIEW

The Committee on Rules, Government Reform and Federal Affairs held a public hearing on Friday, September 11, 1998 at 10:00 a.m. at I Liheslaturan Guahan. Public notice of the hearing was announced in the September 6th, 7th and 11th, 1998 issues of the Pacific Daily News.

Senators present were:

Senator Mark Forbes, Chairman
Senator Edwardo Cruz, Member
Senator Larry Kasperbauer, Member
Senator Frank Aguon, Jr.
Senator Francisco Camacho

Appearing before the Committee were:

Mr. Joaquin Torre, Deputy Director, Department of Corrections
Mr. Ed Bitanga, private citizen
Dr. Eddie del Rosario, Executive Director, Advocacy Office

Providing written testimony:

Mr. Calvin E. Holloway, Sr., Assistant Attorney General/Legal Counsel for the Department of Corrections (attached)

II. SUMMARY OF TESTIMONY

Mr. Joaquin Torre, Deputy Director of the Department of Corrections, testified before the Committee **in favor** of Bill No. 737. He said he supports the bill because Guam is in need of a new prison. Mr. Torre stated that there are an increasing number of people that are being incarcerated for domestic violence and drug related offenses. Mr. Torre informed the Committee that the prison is overcrowded and that the different populations are not segregated. He said that the bulk of the population in prison is classified as medium security and should not be mixed with maximum security.

Mr. Ed Bitanga, a private citizen and former Director of the Department of Corrections, testified before the Committee **in favor** of Bill No. 737. Mr. Bitanga said he supports the bill because it would alleviate the overcrowded conditions at the prison.

Dr. Eddie del Rosario, the Executive Director of the Advocacy Office, testified before the Committee **in favor** of Bill No. 737. Dr. del Rosario suggested that the new prison be built to comply with the Americans with Disabilities Act.

Mr. Calvin E. Holloway, Sr., Assistant Attorney General/Legal Counsel for the Department of Corrections, provided written testimony on Bill No. 737 (attached). Mr. Holloway shared information regarding privatization of correctional facilities.

III. FINDINGS AND RECOMMENDATION

The Committee on Rules, Government Reform and Federal Affairs finds that Bill No. 737 takes a positive step forward in addressing the overcrowding of Guam's only prison. The Committee recognizes that the state of the island's economy would make it difficult for the government to borrow money from a lending institution or float a bond to build a new prison. Bill No. 737 addresses this problem by offering a way to find private funding to build a new prison.

The Committee further finds that Bill No. 737 would allow the Department of Corrections the authorization to negotiate with private developers, builders and operators of correctional facilities in the United States for the construction of a medium security facility. DOC also would be authorized to negotiate for the private operation of the facility, with the government of Guam making payment for such service. At the end of the term of the contract, the facility shall revert to the full ownership of the government of Guam.

Accordingly, the Committee on Rules, Government Reform and Federal Affairs, to which Bill No. 737 was referred does hereby submit its findings and recommendations to I Mina' Bente Kuáttro Na Liheslaturan Guahan **TO DO PASS BILL NO. 737** "An act to allow for a new prison facility to be built, using a Build-Operate-Transfer model."



GOVERNMENT OF GUAM

P.O. Box 3236
Hagåtña, Guam 96932
Telephone: (671) 734-3981-9/Fax: (671) 734-4490



CARL T.C. GUTIERREZ
Governor

September 11, 1998

ANGEL A.R. SABLAN
Director (Acting)

MADELEINE Z. BORDALLO
LT Governor

JOAQUIN A. TORRE
Deputy Director

**Senator Mark Forbes
Chairperson, Committee on Rules, Government Reform and
Federal Affairs
Twenty-Fourth Guam Legislature
155 Hesler Street
Hagåtña, Guam 96910**

**RE: An Act To Allow For A New Prison Facility To Be Built, Using A
Build-Operate-Transfer Model**

Dear Senator Forbes:

Buenas yan Hafa Adai!

I arrived at my office this morning and was informed that a bill to privatize the Department of Corrections (DOC) was being heard at 10:00 a.m. this morning.

Let me say at the outset that I have limited knowledge about privatization of correctional facilities; however, I have attended one workshop sponsored by the Department of Justice (DOJ). The workshop was titled "National Workshop On Privatization". I was scheduled to attend the 3rd Annual workshop on "Privatizing Correctional Facilities" sponsored by the World Research Group on September 16-18, 1998 in New York, New York; however, our DOC funds preclude my attendance.

The first speaker during opening remarks at the DOJ workshop began his remarks by stating that any state contemplating privatization should first have individuals from the legislature, corrections senior management, budget and accounting go to a place where a privatization effort is already underway to obtain information and data. It was emphasized that the success of a privatization effort is predicated on the law which authorize privatization and the "Request For Proposal".



COMAIONWEALTH NOW!

I have reviewed your proposed Bill NO. 737 and believe much work needs to be done before it becomes law. I have attached a proposed model law for regulating Privatization. While it covers most of the essential criteria in a privatization law, it still fall short of the mark. I would recommend that either your staff member attend a privatization workshop and visit states such as Arizona, Nevada, Texas, Louisiana and Florida. It appears that both Arizona, Texas and Florida have extensive experience and we should attempt to emulate their statutory authority, etc.

Some primary considerations should require that the private vendor carry a minimum of thirty million dollars (\$30,000,000.00) of general liability insurance policy on each facility. The contract must indemnify the Government of Guam for total damages, and must contain a liability release clause for Guam. Current case law indicate that the Government of Guam would still be liable even if the facility is operated by a private vendor. The liability costs should include litigation costs, attorney fees, costs associated with settlement of pending cases, and damages awarded. Privatization expands the scope of legal remedies available to prisoners.

The training of the private vendor staff must be either similar or equivalent to that required by present DOC regulations. The pay and benefits for present staff who convert to private vendors must remain the same. The cost must included the development and renewal of the contract. DOC should retain the authority to admiister discipline and classification of inmates. Decisions affecting length of stay and conditions of confinement must be retained by GovGuam DOC. The contract should be flexible to accomodate a draught of inmates, or in emergencies --- no government can abdicate by contract its sentencing and detention function. The law must address the risk of long-term service disruption --- contract cannot be awar4ded until a plan is developed, and certified by the Governor that "demonstrates the method by which the state would resume control of the prison upon contract termination.

There should be provisions for Monitors in the contract and the cost of monitors should be built into the cost. The private vendor should have no power to determine who will or who will not be committed to their facility. Does the cost per inmate include cost of construction? What about cost of debt retirement? The GovGuam should expect realistic savings of five to fifteen percent (5-15%) cost savings. Escapes and assaults should be treated as performance issues.

The contract should identify goals, standards and criteria against which the private vendor is measured. The contract should provide for sanctions if obligations are not satisfactorily met. The private vendor should not have the right to use deadly force. The private management of GovGuam facilities should be restricted --- no management of medium and maximum security facilities. The contract should contain clause that the facility will become accredited by the American Corrections Association after a specified time limit of no more than three (3) years, in terms of security, quality of staff, food, medical requirements, air, light, space, plumbing and fire safety. The contract must provide education, vocational training, substance abuse education and treatment.

Your law should require a Request For Proposal for all private vendors to respond.

These are just a few of the concerns. We have limited knowledge of privatization, but we are willing to share this knowledge.

We thank you for considering this matter.

Dangkolo na Agradesimientol

Sinceru,

A handwritten signature in black ink, appearing to read 'C. Holloway, Sr.', with a long horizontal flourish extending to the right.

**CALVIN E. HOLLOWAY, SR.
Assistant Attorney General/Legal Counsel
Department of Corrections**

cc: Director, Department of Corrections

Wanted: A Model Law for Regulating Privatization

by Richard Crane*

Editor's Note: Richard Crane, a frequent contributor to these pages, probably knows more about the legal problems of contracting for correctional services than any other lawyer in the country. He has advised major private providers of correctional services, many jurisdictions contracting for correctional services, and government agencies examining the policy issues around privatization in corrections.

In this ground-breaking article, Mr. Crane offers his views on the need for statutory control over the private prison movement. While readers may take issue with some of what follows, Crane raises some very important points. CLR welcomes letters to the editor commenting on this proposal, and comments may also be sent directly to the author, whose address is given below.

This article and the model statutory provisions it proposes should become the springboard for thoughtful discussion of the issues the author raises. We would like to see (and the lawyer within us would like to participate in) a very focused conference intended to examine these proposals and move them, or modifications of them, toward adoption by state legislatures. B.C.

Until recently contracting for private prisons was a relatively straightforward matter. True, there were early concerns about the constitutionality of delegating the authority to incarcerate inmates to private companies. But a comfort level was reached on that issue, often through legislation which simply authorized a corrections department to contract for services. Other issues, while tedious, were not that difficult to resolve.

However, as competition has increased and the market has grown, new issues never before considered have arisen. These include speculative construction, housing of out-of-state inmates, private company/county partnerships, use of force on out-of-state inmates, the cost of apprehending escapees, and more. While these matters are not necessarily of constitutional magnitude, they can be troublesome

*Richard Crane is a Nashville attorney with extensive experience in contracting and privatization in corrections. He can be reached at 2200 Hillsboro Road, Suite 310, Nashville, TN 37212; phone: (615) 298-3719.

and should be addressed legislatively.

In response to the problems I am encountering, I have attempted to develop a single piece of legislation that will address privatization of jail/prison operation from soup to nuts. In all likelihood, I have missed an item or two. However, if what follows provokes examination of the issues I address and suggestions for additional issues, I will have succeeded. I hope readers of this article will point out areas which need to be included. In the meantime, what follows is my proposed statute; each section is preceded by my summary and comments.

Authority to Contract

Section 1.1: Before any contract for correctional services can be entered, the basic authority to contract is needed. This section provides such authority, eliminating the need to argue that such contracting authority is implied. In general, this act deals with contracts for the full range of correctional services. However, I have tried to write it so that it is equally appropriate when contracting for discrete areas such as food service or health care.

SECTION 1. STATE AND LOCAL CORRECTIONAL FACILITIES, PRIVATE CONTRACTS

(1) The Department of Corrections and any County or other political subdivision otherwise authorized to operate a correctional facility is hereby authorized to enter into contracts with each other, a tax exempt entity, another state or county therein, and/or a private entity to finance, acquire, construct, lease, and/or provide full or partial correctional services. As used herein, the term "correctional services" shall mean those services necessary for the operation of a correctional facility, including, but not limited to the provision of food, clothing, security, and health care.

Bond Financing

Section 1.2: This section attempts to satisfy a group rarely satisfied — bond attorneys — by addressing certain areas of bond financing that will help the state or county get a higher bond rating.

(2) The Director of Corrections and the governing bodies of any political subdivision are hereby authorized to contract with tax-exempt entities to provide for the payment of the principal, premium, if any, interest, and trustees'

and paying agents' fees on bonds issued to finance the acquisition and/or construction of correctional facilities authorized under this Act, to be secured by a lien on and pledge of one or more of the following: (1) all revenues derived from payments to be made by the Department for the housing of prisoners; (2) all revenues derived from payments to be made by political subdivisions for the housing of prisoners; (3) any other revenues authorized by the Legislature or the governing body, respectively. It shall not be necessary to the perfection of the lien and pledge for such purposes that the Trustee in connection with such bond issue or the holders of the bonds take possession of the collateral security.

RFP Requirement

Section 1.3: The benefits to be had from privatization come from competition in the marketplace, which is supposed to keep the price of services down and their quality up. A growing phenomenon — companies building speculative prisons in states where they know that a need exists — threatens these benefits. When on-spec facilities are available, political pressure is brought to bear on the department of corrections, pushing them to contract for housing their inmates in this very nice correctional facility which just happens to be located in, for instance, the Speaker of the House's district. Competition is taken out of the process.

America traditionally has had a public monopoly in corrections. There is no sense in trading this for a private monopoly, which has little or no incentive to be any more efficient than its public predecessor. To keep competition in the process, this section requires that requests for proposals (RFPs) be issued before any contract is entered into with a private prison contractor. But, this alone will not solve the problem if the State does not get out in front of the curve. An RFP for 1,200 beds available next week is no better than handing the contract over to the speculative builder.

(3) No contract shall be entered into with a tax-exempt entity or private prison contractor for the provision of correctional services except through the issuance of a request for proposals.

See *PRIVATIZATION*, next page

PRIVATIZATION, from page 83

Likewise, no contract shall be entered into with a county that has subcontracted with a private prison contractor for operation of the facility except through the issuance of a request for proposals. Contracts entered into under this subsection shall be with the entity submitting the best overall proposal pursuant to the request for proposals.

The prohibition in 1.7B against a contractor's benefiting from inmate labor is not intended to prevent inmates from working in traditional prison housekeeping/maintenance tasks. The statute addresses direct monetary benefits to the contractor. Use of inmates to do work in the prison benefits the state by keeping the cost of the contract down. It also provides for an apples-to-apples cost comparison between the public and private sector since the public sector uses inmates for these jobs.

Unless legislation addresses the force issue, serious questions exist as to how force (beyond the levels which any person may legally use it) may be legally used by private contractors.

Use of Public Lands

Section 1.4: This section merely provides legal authority for the use of public lands and buildings by a private contractor awarded a contract pursuant to the above section.

(4) Contracts awarded under the provisions of this Act may include the lease or use of public lands or buildings.

Contract Terms

Section 1.5: This section sets minimum and maximum terms for correctional service contracts. A three-year minimum is proposed to allow the private company ample time to "show its stuff." On the other hand, a maximum term of five years is suggested, so that the company doesn't get too comfortable or entrenched.

(5) Contracts awarded under this Act for the full or partial provision of correctional services shall be for a period of not less than three (3), nor more than five (5) years, subject to the requirement of annual appropriation of funds by the State or political subdivision.

Provider Qualifications

Sections 1.6 and 1.7: Section 1.6 provides qualifications where the correctional services to be ordered are either full or partial. Section 1.7 adds additional qualifications where contracts are awarded for full correctional services. In both cases, the standards are intended to be bare minimums; far more specific requirements would be contained in the RFPs. Some would put more specific requirements in the legislation, but I feel this is better handled by the executive branch.

(6) No contract for full or partial correctional services may be entered into unless the entity providing the services demonstrates, at a minimum, that it has:

- A. Management personnel with the qualifications and experience necessary to carry out the terms of the contract;
- B. Sufficient financial resources to provide indemnification for liability arising from operation of the correctional facility;
- C. The ability to meet applicable court orders, correctional standards, and constitutional requirements; and
- D. Liability insurance adequate to protect the State, the political subdivision(s) wherein the facility is located, and their officers and employees from all claims and losses incurred as a result of the operation of the facility.

(7) No contracts shall be awarded for full correctional services unless the entity offering the services offers, at a minimum:

- A. Adequate internal and perimeter security to protect the public, employees, and inmates;
- B. Work and/or training opportunities for sentenced inmates; provided, however, that the contractor shall not benefit financially from the labor of inmates;
- C. Imposition of inmate discipline only in accordance with applicable rules and procedures; and
- D. Adequate food, clothing, housing, and medical care for inmates.

Use of Force

Sections 2.1 and 2.2: These sections authorize the use of force by private contractors on the grounds of the institution, while transporting inmates, and while pursuing escapees from the facility. Some jurisdictions may not want to allow private prison contractors to pursue escapees once they have left the grounds. In that case, this portion should be left out of the legislation. But unless legislation addresses the force issue, serious questions exist as to how force (beyond the levels which any person may legally use it) may be legally used by private contractors. This concern is particularly significant in situations where the private prison is housing inmates from other states.

SECTION 2. USE OF FORCE; PRIVATE PRISON EMPLOYEES; PERSONS FROM OUT OF STATE; POLICE POWERS

(1) Employees of a private prison contractor shall be allowed to use force and shall exercise their powers and authority only:

- A. While on the grounds of an institution operated in whole or in part by their employer;
- B. While transporting inmates; and
- C. While pursuing escapees from such institutions.

(2) An employee of a private prison contractor shall be allowed to carry firearms provided the company and the employee meet all federal, state, and local requirements regarding the possession and carrying of firearms. Such employee shall be allowed to use a firearm only for the following purposes:

- A. To prevent an inmate's escape from the facility or from custody while being transported to or from the facility. As used in this paragraph, "to prevent escape from the facility" shall mean to prevent an inmate from crossing the secure perimeter of the facility.
- B. To prevent an act by an inmate which would cause death or serious bodily harm.

Section 2.3: This section allows employees of private contractors to use firearms if they meet all the training and licensing requirements of the state. Most states have private security firm acts (originally enacted for rent-a-cop companies) that have specific training and licensing requirements. Those sections of state law should be referenced in the legislation. More demanding requirements could obviously be adopted.

See *PRIVATIZATION, next page*

PRIVATIZATION, from page 84

I have taken the opportunity to also address the situation where law enforcement or private transportation company employees enter a state to pick up an inmate. Currently, an unwritten policy of professional courtesy permits those people to carry and use firearms. The act would make it clear that such individuals are authorized to use force while transporting or apprehending inmates under the circumstances set forth in the legislation.

(3) Provided they meet all the training and licensing requirements of the state where they are employed, duly authorized persons who enter this State for the purpose of transporting inmates of other states shall be authorized to use force while transporting or apprehending said inmates and shall be authorized to use deadly force under the circumstances as set forth in Subsection 2 of this Section.

Section 2.4: This section makes it clear that allowing individuals to carry and use firearms does not confer peace officer status on them.

(4) The provision of this Section shall not be construed to confer peace officer status on the private prison contractor or its employees or persons from other states, or to authorize the use of firearms, except in accordance with this Section.

Handling Illegal Inmate Activity

Section 3: A major concern about the private operation of correctional facilities is the handling of illegal actions of inmates housed therein. This is of particular concern when the inmates are from another state. The problem is that the laws dealing with these crimes typically refer to crimes committed in a facility operated by state or local government. This is easily understandable; these laws were typically passed before we had private prisons. Rather than amending every state law which addresses crimes in a correctional facility (e.g., introduction of contraband, assault on correctional officers) Section 3.1 takes the easy way out by stating that any offense that is a crime if committed in a state or local correctional facility is a crime when committed in a private facility.

Frankly, I'm not particularly concerned about the application of corrections-specific criminal laws to inmates in privately operated facilities; general criminal laws usually cover the situations adequately,

Limited Injunction Issued in CCA Case, After Inmate Murder

A substantial lawsuit against Corrections Corporation of America (CCA), and a prison in Ohio run by CCA and housing primarily inmates from the District of Columbia was reviewed in our last issue.

Plaintiffs sought a preliminary injunction around issues of excessive force, failure to protect inmates, and medical care. Issues were also raised concerning the legal authority of CCA to operate the prison under Ohio law. Underlying the force and protection issues were claims that many inmates in the facility were improperly classified, and belonged at a higher-custody institution.

In late February, the judge denied the preliminary injunction request in its entirety. Within days of this decision, an inmate in the prison was stabbed and killed. Upon request of the plaintiffs, the judge reopened the case and issued a 90-day injunction, which requires CCA (1) to reexamine the classification of all inmates who have been involved in violence at the institution and (2) not to take any additional inmates until a stronger means of verifying inmates' initial classification can be put in place.

It is not yet clear what direction the case may take now, ranging from dismissal to some form of settlement, to going to trial, to just lying dormant for a period of time. ■

For instance, say there is a special statute on assault of correctional officers. Even if it were not applicable to inmates in a private facility, the general criminal provisions on assault would apply.

More difficult is the question of escapes from privately operated facilities, so this is addressed specifically. The typical state escape statute refers to escapes from prisons or jails operated by government entities. Where does that leave an escape from a private prison, especially one housing only inmates from other states? I believe it leaves them with no way to prosecute the inmate for escape. See Crane, R., "Escape Laws Haven't Kept Up With Corrections Management Trends," VIII(5) CLR 67 (February/March 1997). I have addressed this problem by proposing an amendment to the state criminal laws on escapes that makes that law broad enough to cover an escape by any person from a place where such person is legally confined or from the lawful custody of any individual having authority to detain or transport the inmate. The reference to transport then covers the transportation situation, including circumstances where an inmate in transit may just be passing through a jurisdiction in the supervision of his public or private guard.

SECTION 3. APPLICATION OF CERTAIN CRIMINAL LAW TO CONTRACTOR-OPERATED FACILITIES

(1) Any offense which would be a crime if committed within a state or local correctional facility shall be a crime

if committed in a facility operated by a private prison contractor.

(2) Section __ of the State Criminal Code is hereby amended to read as follows:

A. Simple Escape shall mean any of the following:

1. The intentional departure, under circumstances wherein human life is not endangered, of a person imprisoned, committed, or detained from a place where such person is legally confined or from the lawful custody of any individual having authority to detain or transport such person.

2. The failure of any legally confined person to return from work release or furlough.

B. Aggravated Escape is the intentional departure, under circumstances wherein human life is endangered, of a person imprisoned, committed, or detained from a place where such person is legally confined or from the lawful custody of any individual having authority to detain or transport such person.

Non-Delegable State Powers

Section 4: This section harks back to the earliest concerns about whether or not the powers and duties of the state are delegable to private contractors. This section lists those areas which may not be delegated. While there is nothing that

See PRIVATIZATION, page 90

PRIVATIZATION, from page 85

definitively holds that these are non-delegable functions, common sense dictates that those functions which relate to an inmate's release from custody ought not be given to an entity which makes money if inmates are not released.

At a minimum, the director would review the location, design, security level, and financing of the facility and the type of inmates to be housed there.

Out-of-state inmates could not be housed in these facilities unless the state certified that it did not need them for its own inmates.

SECTION 4. POWERS AND DUTIES NOT DELEGABLE TO PRIVATE PRISON CONTRACTORS.

No contract for correctional services shall authorize, allow, or imply a delegation of authority or responsibility to any private prison contractor to perform any of the following:

- (1) Calculating inmate release and parole eligibility dates;
- (2) Granting, denying, or revoking sentence credits;
- (3) Approving inmates for furloughs, work release, or parole;
- (4) Approving the type of work inmates may perform, and the wages or sentence credits which may be given the inmates engaging in such work.

Contract Monitoring

Section 5: This section provides for the monitoring of correctional facilities. Normally, this is handled in the contract when a state or county has a private company operating a facility incarcerating its inmates. However, with the rise of facilities which exclusively house out-of-state inmates, it is necessary to provide statutorily for this authority, because it is entirely possible that neither the state nor county would have a contractual relationship allowing them to monitor the facility. Without a section like this, a jurisdiction would have no authority to monitor the operation of a private prison, other than through such things as building codes, public health ordinances, etc.

In theory, the sending jurisdiction should be monitoring how its inmates are being handled and to assure the private

provider is meeting the terms of the contract. Realistically, when hundreds if not thousands of miles separate the jurisdiction from its inmates, this sort of monitoring is apt to be weak.

In a bow to those who are concerned about the additional cost of this monitoring, the legislation provides that the monitoring

agency will be reimbursed by the operating entity for the salary and expenses of the monitor. However, given the benefits to the economy of those jurisdictions with facilities housing out-of-state inmates, this may be somewhat shortsighted.

SECTION 5. MONITORING OF CONTRACTS

- (1) The Director of Corrections or his/her designee shall monitor the performance of all correctional facilities incarcerating inmates under the jurisdiction of the Department of Corrections.
- (2) The Sheriff or his designee shall monitor the performance of all correctional facilities incarcerating that County's inmates.
- (3) All contracts for the housing of State or County inmates shall contain a provision granting the Director of Corrections, the Sheriff, or their designees unlimited access to the facility for monitoring purposes.
- (4) The Director of Corrections shall have the right to appoint a monitor to inspect any in-State facility housing out-of-state inmates and the monitor shall have unlimited access to the facility. The State shall be reimbursed by the operating entity for that portion of the salary and expenses of the monitor attributable to monitoring the particular facility.
- (5) In all cases, monitoring shall consist of ensuring that all State laws and contractual obligations applicable to the correctional facility are being met.

Emergency Contracting

Section 6: This would allow the director of corrections or the sheriff to enter into contracts on an emergency basis

without going through the RFP process when an overcrowding situation exists. However, such contracts would be limited to a maximum of two years so as not to promote the speculative construction of facilities meant to subvert the bidding process.

SECTION 6. CONTRACTS WITH OTHER JURISDICTIONS

If the Director of Corrections or Sheriff, as the case may be, determines that an overcrowding situation exists which presents a danger to the operation of the facility under his/her jurisdiction and that suitable State or County correctional facilities are not available, he/she may enter into an agreement with the proper authorities of the United States, this or another state, a political subdivision of this or another state, or a private prison contractor to provide for the safe-keeping, care, subsistence, proper government, discipline, and treatment of State inmates. Such contracts may be let without formal bid or requests for proposals provided that the beds are available immediately or will be available within ninety (90) days of entering the contract and, further, that the term of the contract is for no more than one (1) year, with an option to renew for one (1) additional one-year term, and provided further, that all other requirements of this Act are met.

State Review and Approval of Construction

Section 7: This section is the heart of my attempt to prevent the building of speculative facilities for the purpose of either subverting the competitive process or for the housing of out-of-state inmates. In either case, the department of corrections would have some say in the construction of such facilities.

This section provides that no correctional institution can be constructed without review and comment by the director of corrections. I have stopped short of requiring a certificate of need, as is often required in the hospital industry. But, at a minimum, the director would review the location, design, security level, and financing of the facility and the type of inmates to be housed there. Out-of-state inmates could not be housed in these facilities unless the state certified that it did not need them for its own inmates. The director of corrections would also be required to certify the custody levels of facilities housing these inmates.

PRIVATIZATION, from page 90

SECTION 7. FACILITY CONSTRUCTION; HOUSING OF FEDERAL OR OUT-OF-STATE INMATES WITHIN THE STATE

(1) No correctional facility shall be constructed, nor shall any facility be renovated for the purpose of creating a correctional facility within the State without review and comment by the Director of Corrections. Review of requests for construction shall, at a minimum, include:

A. Consideration of the location, design, security level, and financing of the Facility, and

B. The nature of the inmates to be housed in the facility.

(2) Counties and private prison contractors may incarcerate federal or out-of-state inmates in a correctional facility located within the State; provided that the Director of Corrections has certified that the State does not need some or all of the capacity of the facility for State inmates. Such certification shall be obtained bi-annually. The Director shall also certify the custody level(s) of any facility housing federal or out-of-state inmates.

Reimbursement to Law Enforcement Agencies

Section 7.3: This section provides for reimbursement by the operator of the correctional facility for expenses incurred by law enforcement agencies as a result of an escape by an out-of-state inmate. It has been suggested that the expense of prosecution and incarceration also be included. However, I believe this would be going too far. We don't charge General Motors for the prosecution and incarceration of employees it brings to our state when it opens a plant and I don't think that we ought to do it for other industries.

(3) The State and/or local governing body shall be reimbursed by the operator of the correctional facility for any expenses incurred, other than the expense of prosecution or incarceration, as a result of an escape by a federal or out-of-state inmate incarcerated within the State.

(4) Employees of facilities housing federal or out-of-state inmates shall meet such training requirements as are set forth by law or regulations for employees of State or County correctional facilities. Should no such requirements exist, the Director may by rule establish the training requirements for employees of these facilities.

(5) Use of force at facilities housing federal or out-of-state inmates shall be governed by the provisions of Section 2, above.

Liability Insurance

Section 7.6: Private contractors routinely carry insurance to protect themselves and the entity whose inmates they are housing. This section requires private prison contractors to add coverage to protect the state and the political subdivision where the facility is located. While the exposure to liability is small, it is a risk which would not be there, but for the privately operated facility.

(6) If operated by a private prison contractor, the contractor shall, at all times, have a policy of liability insurance ade-

quiring inmates be returned to their state of origin.

Probably of more impact is the migration of families to the area where out-of-state inmates are housed. I am beginning to see jurisdictions whose social service agencies are stretched very thin because of this additional burden. It would be hoped that the economic impact of the facility would provide sufficient additional revenues for the jurisdiction to provide these services. However, no study of this has yet been undertaken.

(8) No federal or out-of-state inmate shall be released in this State, unless the State has a detainer on the inmate or has accepted custody of the inmate pursuant to an interstate compact. In every other case, federal or out-of-state

Today, almost all contracts for out-of-state inmates provide that the inmates must be returned to the sending state before their release, but a desire to save a few bucks could change this practice in the future.

quate to protect the State, the political subdivision(s) wherein the facility is located, and their officers and employees from all claims and losses incurred as a result of the operation of the facility.

Emergency Plans

Section 7.7: This section deals with an area that is of grave concern to many. Specifically, how will the private company housing out-of-state inmates handle escapes, riots, and other emergency situations. This section requires that they have a written plan approved by the department for dealing with these situations.

(7) A facility housing federal or out-of-state inmates shall have in place a written plan approved by the Department of Corrections regarding the handling of escapes, riots, and other emergency situations.

Release of Out-of-State Inmates

Section 7.8: This section deals with another area of concern and that is the release of out-of-state inmates within the state upon completion of their sentences. Today, almost all contracts for out-of-state inmates provide that the inmates must be returned to the sending state before their release, but a desire to save a few bucks could change this practice in the future. This section prevents this from happening by

inmates shall be returned to the custody of the sending jurisdiction, or such other jurisdiction as has agreed to accept custody of the inmate, prior to the inmate's release from custody.

Section 7.9 and 7.10: These sections deal with allowing out-of-state inmates to leave the grounds of the facility temporarily. The statute makes it clear that they may not be allowed to do so, except under certain enumerated circumstances. On the other hand, the statute provides the flexibility to use out-of-state inmates on public works projects approved by the county where the facility is located. There have been situations where inmates were housed in a jurisdiction that needed their assistance in dealing with a natural disaster (e.g. flooding), but the inmates were prevented from helping, because they could not be allowed beyond the facility perimeter. This would remedy such situations.

(9) A facility housing federal or out-of-state inmates shall not allow any such inmate to leave the premises of the facility, except to comply with an order to appear in a court of competent jurisdiction, to receive medical care not available at the facility, to comply with the provisions of Section 8 of this Act, or to work as provided in Section 10 of this Act.

See PRIVATIZATION, next page

*LITERATURE, from page 89*Gangs**The Gang Crackdown in Massachusetts' Prisons: Arbitrary and Harsh Treatment Can Only Make Matters Worse**

by Phillip Kassel

24(1) *New England Journal on Civil and Criminal Confinement* 37 (Winter 1998)

Although Kassel is a staff attorney with the Massachusetts Correctional Legal Services and has represented prisoners

arbitrary criteria are utilized, correctional staff are not trained properly in this detection, and there are few procedural safeguards to ensure that non-gang members are not targeted as such. He concludes that rather than placing perceived gang members in one institution, prison and public safety would be served better by treating all inmates, including gang members, fairly, based upon their behavior while in prison, and by providing educational and training programs. This is an excellent critique of a policy that may need rethinking.

Reprint: New England School of Law, 154 Stuart Street, Boston, MA 02116.

those who conduct correctional-related research. This is just one more example of the type and amount of government information available over the Internet.

To Access: <http://www.ojp.usdoj.gov/cpo>.

Grant Information**Violent Offender Incarceration and Truth-in-Sentencing Incentive Grants: Frequently Asked Questions**

by Larry Meachum,

U.S. Department of Justice, Office of Justice Programs, Corrections Programs Office. Revised 12/1/97, 37 p.

This publication, by the Director of the Corrections Program Office, is informative not only for the facility administrator who is contemplating a grant proposal but for all correctional professionals. The most frequently asked questions about research in violent offender incarceration and truth-in-sentencing incentive grants revolve around issues of which these professionals should be aware. These grants provide funding to states to build or expand on bed capacity for Part 1 offenders, nonviolent offenders and criminal aliens, and jails. It outlines who may apply for the funding, how much money is available, which state agency or department will be awarded the funds, eligibility requirements, and definitions of such terms as "sentence length," "time served," "violent crime," etc. This publication really does provide all the information one would need to know before applying for these grants. Administrators who are not familiar with this publication operate at a distinct disadvantage.

Copies: U.S. Department of Justice, Office of Justice Programs, Corrections Programs Office, Washington, DC 20531. ■

There are major difficulties in identifying gang members.

accused of gang membership, his is a balanced presentation that warrants attention and concern. He discusses the public policy impact of the Massachusetts Department of Corrections policy whereby inmates of Massachusetts prisons thought to be associated with gangs are placed in solitary confinement in one facility, Massachusetts Correctional Institution-Cedar Junction (MCI-CJ). The Department believed that prisoners with a gang affiliation, or security threat groups (STGs), presented a security threat that would be lessened by placing them in restrictive housing and prohibiting them from transferring to an institution with less than a medium security classification. Approximately 90% of the STG inmates residing at MCI-CJ are Latinos.

Kassel finds that the policy is guided by misinformation about gangs and, rather than increasing security, will strengthen the gang connection of those targeted as members. He argues that there are major difficulties in identifying gang members,

Corrections Information**Corrections Update**

by the U.S. Department of Justice, Office of Justice Programs, Corrections Program Office

This is an electronic newsletter that deals with correctional issues. The first issue was published July 29, 1997, and 11 issues have been published thus far. The topics covered vary from issue to issue, but have included upcoming Correctional Program Office events, grant activities and solicitations of grant proposals, reports of various correctional-related association meetings and notices of upcoming meetings, notices of BJS (Bureau of Justice Statistics) and other correctional-related reports, and corrections programs and training sessions.

It states that it is an information brief for state adult and juvenile corrections administrators and state criminal justice planning agency administrators. It is also useful for correctional practitioners and

PRIVATIZATION, from page 90

(10) A private prison contractor may allow federal or out-of-state inmates to work on public works projects outside the facility provided all of the following conditions are satisfied:

- A. The public works project must be in and for the county where the prison is located or in a county adjacent to the county where the prison is located, or in and for a municipality in the county where the prison is located or an adjacent county;
- B. The public works project has been

authorized by the Department of Corrections and the county or municipal authorities where the public works project is located.

Exception for Federal Prisons; Interstate Transfers

Sections 7.11 and 7.12: Finally, the act provides that it is inapplicable to facilities operated within the state by the Federal Bureau of Prisons and that the act may be used as authority for the interstate transfer of inmates in lieu of the Interstate Compact on Corrections. The latter has been a prob-

lem in at least one state (Pennsylvania), which has taken the position that inmates may only be brought in from out of state pursuant to the Compact. While I do not read the Compact as being that restrictive, this ensures that this act may be used as an alternative means of incarcerating out-of-state inmates within the state.

(11) The provisions of this Act shall not apply to facilities operated within the State by the Federal Bureau of Prisons.

(12) The provisions of this Act may be used in lieu of the provisions of the Interstate Compact on Corrections. ■



Notice of Public Hearing

Committee on Rules, Government Reform and Federal Affairs
Senator Mark Forbes, Chairman
10 A.M. FRIDAY, SEPTEMBER 11, 1998

Bill No. 736 "An act to reduce the Legislative budget for the upcoming fiscal year and to use the savings to fund a drug rehabilitation center and coordinate drug intervention and rehabilitation efforts and for other purposes."

Bill No. 737 "An act to allow for a new prison facility to be built, using a Build-Operate-Transfer model."

Hearing will take place in the Conference Room
Office of Senator Mark Forbes, I Liheslaturan Guåhan
Hagåtña, Guam
The Public is Invited to Participate

Individuals requiring special accommodations, auxiliary aids or services are asked to contact the Office of Senator Forbes at 472-3512.



Salpan Bureau Chief (Full Time)

Serves as news coordinator for the Pacific Daily News Salpan Bureau. Responsible for planning and coordinating coverage of CNMI issues and events, for directing photographers and staff writers sent to assist in coverage. Works closely with the local editor on Guam to ensure complete and complementary coverage. Responsible for gathering accurate, timely information and writing stories on topics, people, events and other matters of community and regional interest in the CNMI. Proficiency in English, grammar and punctuation and in editing, AP and local PDN style. A well-rounded knowledge of Guam, the CNMI and the region, and a B.A. in Journalism, minimum 1 year experience working in a newsroom required.

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REQUEST FOR PROPOSALS

The University of Guam Small Business Development Center is soliciting proposals from qualified architectural and engineering firms to provide services to conduct a study entitled, "UNIVERSITY OF GUAM SMALL BUSINESS INCUBATOR ARCHITECTURAL AND ENGINEERING STUDY." A federal grant from the U.S. Department of Commerce Economic Development Administration has been awarded to conduct this study.

Request for proposals documents may be obtained at the Small Business Development Center, warehouse B Room #3 University of Guam, Mangilao, Monday-Friday, between the hours of 8:00 a.m. and 5:00 p.m., commencing Thursday, September 10, 1998.

A pre-proposal conference is scheduled for 10:00 a.m., Friday September 18, 1998, at the Small Business Development Center Offices in Warehouse B Room #3 University of Guam, Mangilao.

All proposals must be submitted to the University of Guam Small Business Development Center at the above address no later than 4:00 p.m. Tuesday, October 6, 1998, Guam Standard Time.

/s/ Mr. David O'Brien, Interim Director

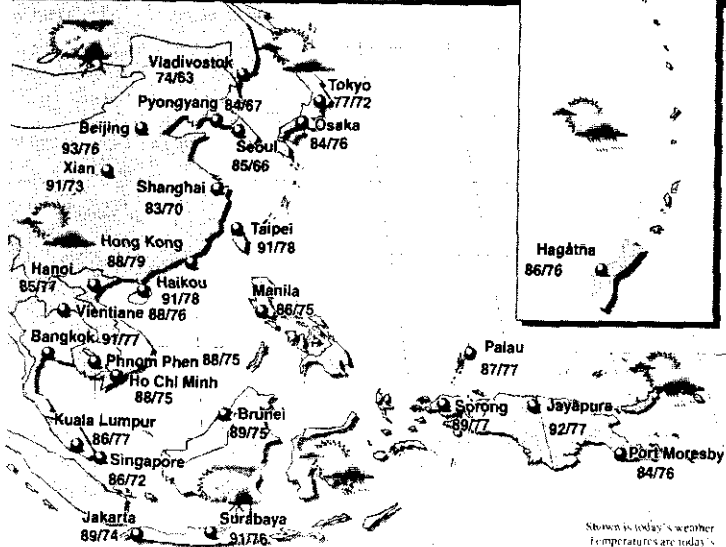
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5-Day forecast for Guam

Today	UV Index today	Tonight	Monday	Tuesday	Wednesday	Thursday
Clouds, sun and showers. Slight to moderate seas; surf 3-5 feet.	4-5 2-3 Minimal, 4-6 Moderate, 7-8 High, 9-10+ Very High. The higher the UV Index number, the greater the need for eye and skin protection. Comfort Index 4-5 Rating on a scale of 1-10, where 1 is least comfortable and 10 is most comfortable for today, based upon temperature, wind and humidity.	Partly to mostly cloudy with showers. Slight to moderate seas; surf 3-5 feet.	Mixed clouds and sunshine; a few showers. Slight to moderate seas; surf 3-5 feet.	Intervals of clouds and sunshine, a chance of a shower or two. Slight to moderate seas; surf 3-5 feet.	Mixed clouds and sunshine; perhaps a shower. Slight to moderate seas; surf 3-5 feet.	Cloudy to partly sunny with showers likely. Slight to moderate seas; surf 3-5 feet.
High 86 Winds VAR 8-16		Low 76 Winds VAR 8-16	High 88, Low 78 Winds SE 10-20	High 90, Low 78 Winds SE 10-20	High 90, Low 78 Winds SE 10-20	High 88, Low 78 Winds SE 10-20

Pacific forecast for today



Shown is today's weather temperatures are today's highs and tonight's lows

Marine life from yesterday evening



Shown is the weather system as of 5 p.m. yesterday.

World cities

City	Today		Monday		City	Today		Monday					
	Hi	Lo	Hi	Lo		Hi	Lo	Hi	Lo				
Amsterdam	65	39	c	71	55	pc	Nassau	91	77	pc	92	78	pc
Baghdad	107	67	s	104	70	sh	Paris	66	61	c	72	51	pc
Berlin	67	36	c	77	58	pc	Rio de Janeiro	76	67	pc	81	68	pc
Bermuda	85	80	pc	88	79	pc	Riyadh	105	80	s	109	82	pc
Copenhagen	65	37	r	75	58	pc	Rome	82	66	pc	89	67	pc
Jerusalem	83	60	s	83	62	pc	Sydney	62	47	pc	65	50	s
Kuwait	108	82	s	111	81	pc	Tel Aviv	88	67	s	88	69	pc
London	66	61	r	73	56	sh	Toronto	81	56	pc	76	51	pc
Madrid	89	57	r	84	66	pc	Vienna	72	57	pc	81	62	pc
Mexico City	69	57	c	77	58	s	Warsaw	70	57	sh	75	58	pc
Moscow	58	45	pc	68	34	s							

Micronesia

City	Today		Monday		City	Today		Monday					
	Hi	Lo	Hi	Lo		Hi	Lo	Hi	Lo				
Bikini	86	73	pc	88	78	pc	Palau	87	77	s	87	79	pc
Chuuk	87	72	pc	88	75	pc	Pohnpei	90	77	pc	88	74	pc
Kiritimati	88	76	pc	87	78	pc	Rota	86	76	sh	88	75	pc
Kosrae	86	76	pc	87	78	pc	Saipan	83	75	pc	83	75	pc
Kwajalein	86	75	pc	87	77	pc	Tinian	90	76	pc	89	76	pc
Majuro	88	76	pc	86	78	pc	Yap	88	78	s	88	79	pc
Ngerulmud	87	71	pc	89	75	s							

Weather (W): s=sunny, pc=partly cloudy, c=cloudy, sh=showers, l=hurderstorms, r=rain, sf=snow flurries, sn=snow, f=ice.

Tides

Apra Harbor	Sep. 6	Sep. 7
First high	6:40 a.m. 2.5 ft	7:31 a.m. 2.5 ft
First low	1:03 a.m. 1.0 ft	1:46 a.m. 0.8 ft
Second high	8:03 p.m. 2.5 ft	8:32 p.m. 2.5 ft
Second low	1:24 p.m. -0.2 ft	2:07 p.m. -0.1 ft

Sunrise/set

Sunrise today	6:11 a.m.
Sunset today	6:29 p.m.
Sunrise tomorrow	6:11 a.m.
Sunset tomorrow	6:29 p.m.

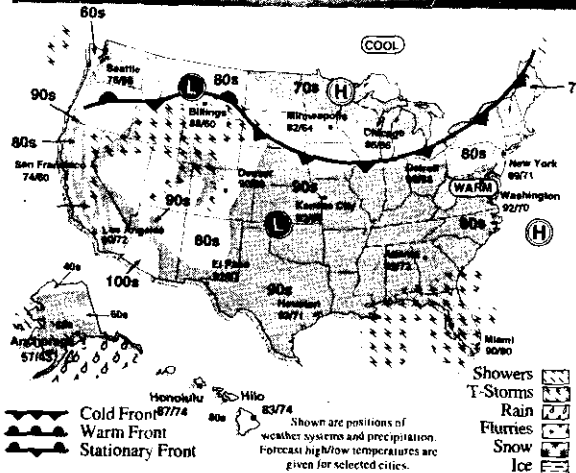
Rainfall

Yesterday	0.13"
Month to date	2.03"
Year to date	23.06"

Moon phases

Full	Last	New	First
Sep. 6	Sep. 13	Sep. 21	Sep. 29

U.S. forecast for today



Shown are positions of weather systems and precipitation. Forecast high/low temperatures are given for selected cities.

- Shower
- T-Storm
- Rain
- Flurries
- Snow
- Ice

GOVERNMENT MEETINGS

COMMITTEE ON FINANCE & TAXATION: Public hearing 9 a.m., Sept. 8, office of Vice Speaker, 155 Hester St., Hagåtña. Department of Rev. & Tax Bills 535, 679, 704, 706, 734. Citizens Advisory Board meeting 2 p.m. on Bill 721. For more information call 472-3557/8.

COMMITTEE ON RULES, GOVERNMENT REFORM & FEDERAL AFFAIRS: Continuation of Sept. 3 hearing 10 a.m., Sept. 8, Sen. Forbes' conference room. Bills 699, 610, 713, 728, 730, 731. Those with disabilities who need special accommodations, etc., should call 472-3512.

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MASS TRANSIT AUTHORITY BOARD OF DIRECTORS: 6 p.m., Sept. 8, center's conference room, Hagåtña. Those with disabilities who need special accommodations, etc., should call

Romana Perez, 475-4682 or TDD 475-4601.

CIVIL SERVICE COMMISSION BOARD: 5:30 p.m., Sept. 8, CSC conference room, 490 Chalon Palasio, Agaña Heights. Adverse action appeal of Salvador S. Sanchez vs. DepCor; signing of decision and order; adverse action appeal of Barbara Mierme vs. Department of Agriculture; signing of decision and order; general business; executive session.

HOUSING CORPORATION & RENTAL CORPORATION BOARD OF DIRECTORS: 10 a.m., Sept. 8, Building 6-5000 E. Sunset Blvd., Tiyán. Agenda copies available at corporation's office upon request.

MAYORS COUNCIL OF GUAM: Rescheduled meeting 10 a.m., Sept. 9, council's conference room, RB complex, Adelup.

HOUSING CORPORATION & RENTAL CORPORATION BOARD

▲ See Government meetings. Page 7

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Guam rates, every 4 weeks

Daily & Sunday:
By carrier: \$13.50. By Motor Rt.: \$14.50.
Sunday Only:
By carrier: \$2.84. By Motor Rt.: \$3.12.

Off-island rates, every 4 weeks

First Class mail to U.S. mainland:
Daily & Sunday: \$66.55
Surface mail to U.S. mainland
Daily & Sunday: \$24.26

Other rates available on request

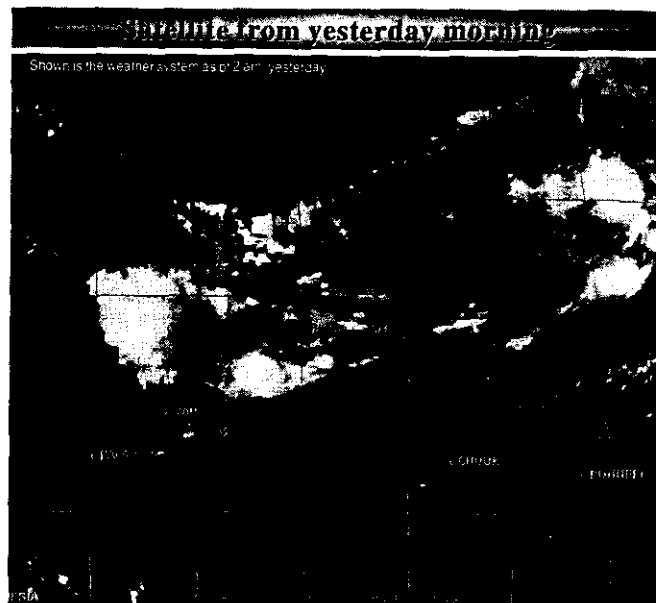
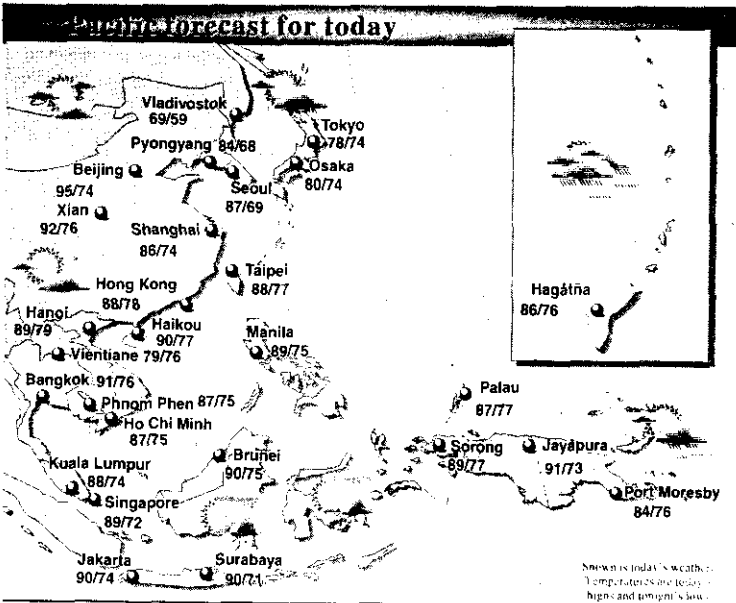
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ALMANAC

For an updated weather forecast call 711, 477-2991, 477-5992, or listen to NOAA weather radio WXM85 on VHF frequency 162.40 MHz (channel 2). National Weather Service Guam Homepage: <http://www.nws.noaa.gov/pr/guam>

5-Day forecast for Guam

Today	UV Index today	Tonight	Tuesday	Wednesday	Thursday	Friday
<p>Cloudy to partly sunny with a few showers. Slight to moderate seas; surf 3-5 feet.</p>	<p>1 2 3 4 5 6 7 8 9</p> <p>0-2 Minimal, 3-4 Low, 5-6 Moderate, 7-8 High, 9-10 Very High.</p> <p>The higher the UV Index number, the greater the need for eye and skin protection.</p> <p>Comfort Index</p> <p>1 2 3 4 5 6 7 8 9</p> <p>Rating on a scale of 1-10, where 1 is least comfortable and 10 is most comfortable for today, based upon temperature, wind and humidity.</p>	<p>Partly to mostly cloudy with showers. Slight to moderate seas; surf 3-5 feet.</p>	<p>Intervals of clouds and sunshine; a couple of showers. Slight to moderate seas; surf 3-5 feet.</p>	<p>Intervals of clouds and sunshine; a chance of a shower or two. Slight to moderate seas; surf 3-5 feet.</p>	<p>Clouds and some sunshine with showers likely. Slight to moderate seas; surf 3-5 feet.</p>	<p>Mixed clouds and sunshine with a shower or two possible. Slight to moderate seas; surf 3-5 feet.</p>
<p>High 86</p> <p>Winds SE 10-20</p>		<p>Low 76</p> <p>Winds SE 10-20</p>	<p>High 88, Low 78</p> <p>Winds SE 10-20</p>	<p>High 90, Low 78</p> <p>Winds SE 10-20</p>	<p>High 88, Low 78</p> <p>Winds SE 10-20</p>	<p>High 90, Low 80</p> <p>Winds VAR 8-16</p>



World cities

City	Today		Tuesday		City	Today		Tuesday	
	Hi	Lo	Hi	Lo		Hi	Lo	Hi	Lo
Amsterdam	69	59	r	71	53	pc	90	77	pc
Bahdad	104	67	c	104	70	sh	69	53	c
Berlin	73	61	c	75	58	pc	81	68	pc
Bermuda	35	78	c	86	79	pc	106	80	s
Copenhagen	68	60	c	73	57	c	84	63	s
Jerusalem	84	61	s	84	63	pc	65	47	s
Kuwait	109	77	s	110	80	pc	88	68	s
London	68	60	r	71	51	pc	70	51	c
Madrid	81	58	s	88	65	s	74	61	pc
Mexico City	70	58	c	77	59	s	69	57	sh
Moscow	83	49	pc	68	45	pc			

Micronesia

City	Today		Tuesday		City	Today		Tuesday	
	Hi	Lo	Hi	Lo		Hi	Lo	Hi	Lo
Bikini	87	76	pc	87	77	pc	87	77	pc
Chuuk	88	72	pc	89	75	pc	88	73	pc
Koror	86	75	c	87	78	pc	86	75	sh
Koror	86	77	pc	87	78	pc	81	75	pc
Kwajalein	87	76	pc	87	77	pc	88	76	c
Majuro	84	75	sh	85	77	c	88	77	pc
Nauru	88	71	s	88	74	pc			

Weather (W): c-sunny, pc-partly cloudy, c-cloudy, sh-showers, t-thunderstorms, r-rain, sf-snow flurries, sn-snow, f-fc.

Tides

Apra Harbor

First low	2:33 a.m.	2:50 p.m.
Second high	4:48 a.m.	4:00 p.m.
Second low	4:52 p.m.	3:52 a.m.
Third high	2:09 p.m.	4:11 p.m.

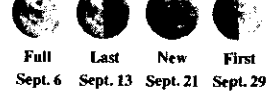
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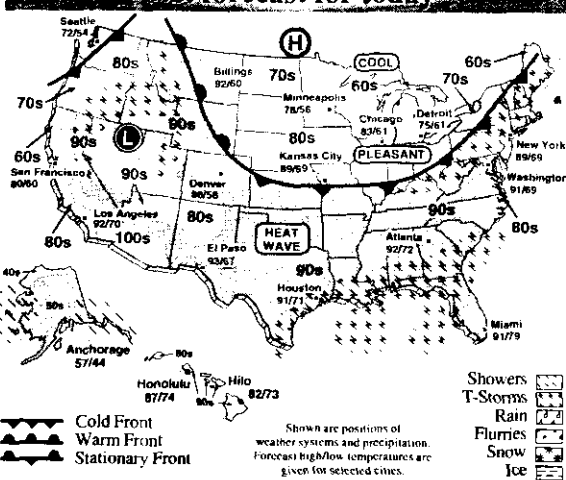
Rainfall

Yesterday 0.72"
 Month to date 3.42"
 Year to date 24.45"

Moon phases



U.S. forecast for today



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MAYORS COUNCIL OF GUAM: Rescheduled meeting 10 a.m., Sept. 9, council's conference room, RJB complex, Adakup.

HOUSING CORPORATION & RENTAL CORPORATION BOARD OF DIRECTORS: Special meeting 5 p.m., Sept. 9, Building 6-5000 E. Sunset Blvd., Tiyon. Agenda copies available at corporation's office upon request.

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GUAM

Man sentenced for drug importation

Joseph Canlas Calalang, 28, was sentenced in U.S. District Court to 17 1/2 years in prison on a charge of importation of methamphetamine, according to a press release by the U.S. Attorney's office. Calalang pleaded guilty Feb. 25 to importation of 1,224.9 grams of methamphetamine. He will have to serve the full sentence because parole has been abolished from the federal system, the press release said. He was turned over to the custody of U.S. Marshals.

DEDEDO

Woman says \$8,000 stolen from purse

An 81-year-old Yigo woman reported to police yesterday morning that \$8,000 was stolen from her purse during her bingo outing, police spokesman Ron Taitano said. The woman reported that she was at the Astumbo Community Center from 8 a.m. to 4 p.m. Sept. 2 playing bingo, Taitano said. She had \$8,000 in her purse but found the money missing when she returned home. Police have no suspects yet. Anyone with information about the crime is urged to call Guam Crime Stoppers at 477-HELP (4357).

HAGATÑA

Bill changes rules for teen-age drivers

A public hearing scheduled for 9 a.m. today at the Guam Legislature will feature Bill 636, which would change the way new drivers get driver's licenses. Under the bill:

▲ New drivers at least 15 1/2 years old would continue to first get a learner's permit and learn to drive with a licensed driver.

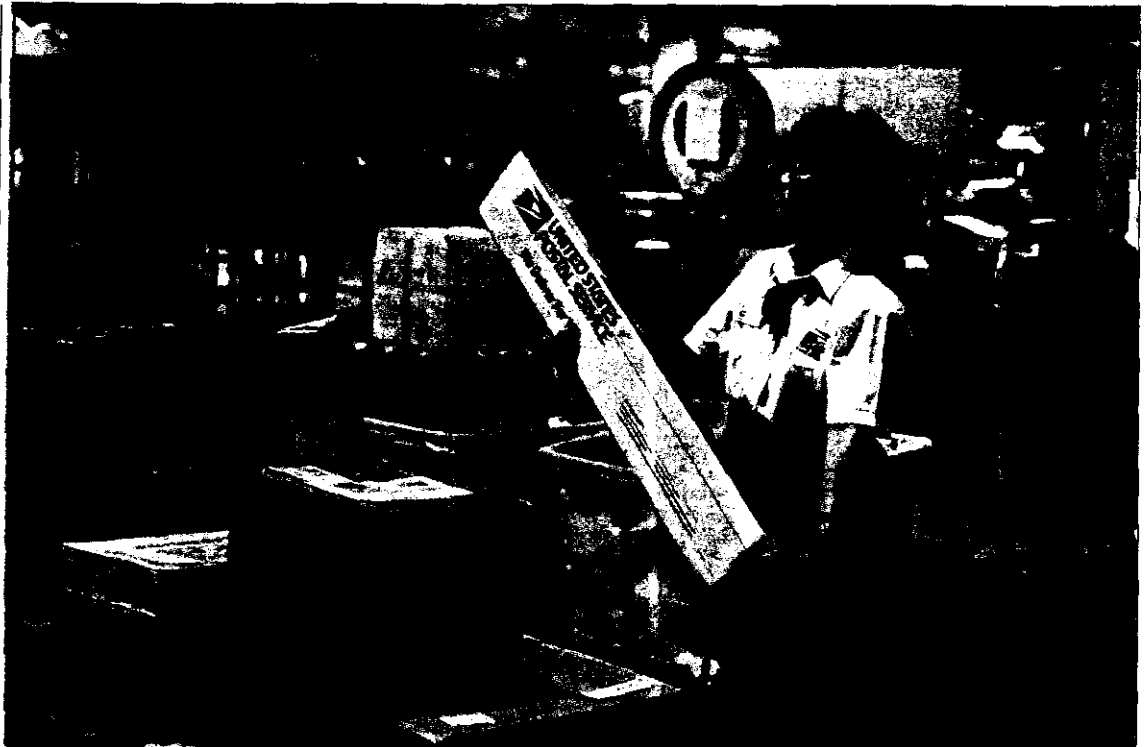
▲ After 50 hours of collision-and conviction-free driving, drivers at least 16 years old could graduate to an intermediate license if they pass a road test and pass a driver's education course. Intermediate drivers younger than 18 would have to be with a parent or guardian if driving between 10 p.m. to 6 a.m. week-nights and midnight to 6 a.m. weekends. Intermediate drivers older than 18 must be with a licensed driver 21 years or older when driving from midnight to 6 a.m. nightly.

▲ After 12 consecutive months without a collision or conviction, an intermediate driver at least 18 years old could graduate to a full license.

Pacific Daily News

Clearing the record

We care about accuracy. If you would like to clear the record, call the Daily News at 477-9711, ext. 412.



Timothy D. Sofranko/Pacific Daily News

Neither rain nor airline strike: Rose Isezaki, a distribution and window clerk at the main Post Office in Barrigada, retrieves a parcel from the back mail room for a customer yesterday af-

ternoon. Parcels sent via air mail have been rerouted through military carriers during the Northwest Airlines strike. Officials said there should be no delay in receiving or sending mail.

Military brings Guam's mail

By Amy Tafko
Pacific Daily News

With no end in sight to the Northwest Airlines strike, the U.S. Postal Service has found alternate carriers to deliver parcel mail to Guam.

There is no backlogged mail waiting to get to Guam, according to Roberta Balajadia, a local Postal Service customer service supervisor.

There also should not be any delays in delivering off-island mail to Guam, she said.

"As Andersen (Air Force Base) gets it, we get it. It's not sitting anywhere," Balajadia said.

The first military delivery of mail, approximately nine tons of mostly parcels, arrived at Andersen on Sat-

urday aboard a regularly scheduled cargo flight. Local postal workers delivered the mail to island addresses on Tuesday, Balajadia said.

"We have a standing agreement with the United States Postal Service that if they have large sums of mail that come through, especially around the holidays, that need to be brought in, we will work with them, and we just carried that over to this situation," said Staff Sgt. Steve Ball, an Air Force spokesman at Andersen.

Although the Postal Service reported no delays in mail service, another Air Force cargo flight carrying mail was scheduled to arrive yesterday but did not, Ball said.

That flight is expected to arrive sometime today, he said.

Letter mail to Guam comes through Honolulu and is normally carried by both Northwest and Continental airlines, Balajadia said.

Continental is now carrying all of the mail — letter and parcel— dispatched in Honolulu, according to Anna Ulloa, the airline's local marketing and sales manager.

Postal Service officials off-island decided to ask the military to help with parcel mail during the Northwest strike, Balajadia said.

Military flights will continue to bring packages from Travis Air Force Base in California as long as the Postal Service deems their help necessary, Ball said.

As Northwest continues to negotiate a pilots contract, local flights have been canceled through Sun-

day, according to station manager Peter Ewert.

Passengers are being re-booked on other flights, he said.

Ewert said he did not know when the strike would end.

"I'm listening to the radio during the day out here, just hoping that a decision will be reached soon," he said.

Negotiators for Northwest and its striking pilots met again with a federal mediator and a Clinton administration official.

Presidential aide Bruce Lindsey remained with negotiators, trying to help a mediator find a way of ending the strike in its 12th day.

The Associated Press contributed to this report.

Public hearing today on drugs, prison

By Leo Babauta
Pacific Daily News

About \$2 million now being spent on senators should be used to build a 24-hour drug rehabilitation center, one senator said.

Bill 736 proposes to do just that. The bill would cut the Legislature's budget by \$2.1 million for the next fiscal year, which starts in October. The savings would build a drug rehabilitation center as well as pay the salary of a government drug czar.

"I don't believe Guam has a full-time, dedicated, 24-hour treatment center for ice," said Sen. Mark Forbes, referring to the drug crystal

methamphetamine. The Sinajana Republican is the author of the bill. "You can't wage a war on ice without a place for people to go to get help and to be given the opportunity to kick the habit."

The bill would establish the Office of the Drug Eradication and Treatment Coordinator, using \$100,000 to hire someone to coordinate drug treatment, education and enforcement on Guam. The drug coordinator would:

▲ Plan and coordinate the use of federal anti-drug funds;

▲ Lead a committee to coordinate drug treatment, education and enforcement;

▲ Create a long-term plan to deal with the drug problem on Guam.

Bill 736 is scheduled for a public hearing today, along with Bill 737, which would allow a private U.S. prison company to build and operate a new 400-bed prison in Mangilao.

Forbes, also the author of Bill 737, said the government can't afford to borrow money for a new prison. Although the Department of Corrections is scheduled to start building a \$3.5 million, 80-bed addition to the prison soon, Forbes said that won't end prison crowding.

He said a new prison is needed, and his bill would allow the Department of Corrections to lease a prison

WHAT'S NEXT

A public hearing on Bill 736, which would pay for a drug rehabilitation center, and Bill 737, which would build a new prison, is scheduled for 10 a.m. today at the conference room of Sen. Mark Forbes at the Legislature building in Hagatña.

built and run by a prison company. There are various ways this could be done, but any contract would have to be approved by the Legislature.

FISCAL NOTE
BUREAU OF BUDGET AND MANAGEMENT RESEARCH

BBMR-F7

Bill Number: 737 (COR)
 Amendatory Bill: N/A

Date Received: Sept. 11, 1998
 Date Reviewed: Sept. 14, 1998

Department/Agency Affected: Corrections
 Department/Agency Head: Angel A.R. Sablan
 Total FY Appropriation to Date: \$15,015,184 (P.L. 24-59)

Bill Title (preamble): AN ACT TO ALLOW FOR A NEW PRISON FACILITY TO BE BUILT, USING A BUILD-OPERATE-TRANSFER MODEL.

Change in Law: N/A

Bill's Impact on Present Program Funding:

Increase _____ Decrease _____ Reallocation _____ No Change X

Bill is for:

Operations _____ Capital Improvement _____ X Other _____

FINANCIAL/PROGRAM IMPACT

ESTIMATED SINGLE-YEAR FUND REQUIREMENTS (Per Bill)			
PROGRAM CATEGORY	GENERAL FUND	OTHER	TOTAL
Public Safety	See Comments		

ESTIMATED MULTI-YEAR FUND REQUIREMENTS (Per Bill)						
FUND	1st	2nd	3rd	4th	5th	TOTAL
GENERAL						
OTHER						
TOTAL						

FUNDS ADEQUATE TO COVER INTENT OF THE BILL? n/a - IF NO, ADD'L AMOUNT REQUIRED \$ _____
 AGENCY/PERSON/DATE CONTACTED: _____

ESTIMATED POTENTIAL MULTI-YEAR REVENUES						
FUND	1st	2nd	3rd	4th	5th	TOTAL
GENERAL FUND						
OTHER						
TOTAL						

ANALYST Nancy L. Mess DATE 9/14/98 DIRECTOR Joseph Rivera DATE 9/14/98
 Joseph E. Rivera, Acting

FOOTNOTES: See attached.
 Comments on Bill No. 737 (COR)

Bill No. 737 is an act which authorizes the Department of Corrections to negotiate with acknowledged private developers, builders and operators of correctional facilities in the United States of America for the construction and possible operation of a medium security correctional facility, with sufficient capacity to accommodate four hundred (400) inmates, in Guam. As negotiated, the proposal detailed herein may take several forms:

- 1. The Department of Corrections may negotiate for the private design and construction of such a facility with the government leasing such facility from the developer for a term not to exceed twenty (20) years, provided that at the end of such term the facility shall revert to the full ownership of the Government of Guam.*
- 2. The Department of Corrections may negotiate for the private construction and operation of such facility, with the government making an annual, quarterly, or monthly payment for such service, provided that the term of such a contract shall not exceed ten (10) years.*
- 3. The Department of Corrections shall negotiate such terms as are in the best interests of the Government of Guam.*

It should be noted that within one hundred and twenty (120) days after the effective date of this act, the Department of Corrections is mandated to submit their proposal to the Legislature concerning the construction of a new prison facility. Based on the foregoing, the fiscal impact of Bill No. 737 cannot be determined at this time.