



CARL T.C. GUTIERREZ  
GOVERNOR OF GUAM

NOV 20 2001

The Honorable Joanne M. S. Brown  
Legislative Secretary  
I Mina Bente Sais na Liheslaturan Guåhan  
Twenty-Sixth Guam Legislature  
Suite 200  
130 Aspal Street  
Hagåtña, Guam 96910

OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGMENT RECEIPT	
Received By	<u>[Signature]</u>
Time	<u>3:27 PM</u>
Date	<u>11/21/01</u>

Dear Legislative Secretary Brown:

Enclosed please find Substitute Bill No. 162 (COR) "AN ACT TO ADD CHAPTER 51 TO TITLE 12, GUAM CODE ANNOTATED REGARDING THE ISSUANCE OF BONDS AND OTHER OBLIGATIONS OF THE GOVERNMENT OF GUAM AND ITS AGENCIES, AUTHORITIES AND INSTRUMENTALITIES FOR THE SOLE PURPOSE OF REFUNDING PRIOR BONDS AND OTHER OBLIGATIONS TO ACHIEVE DEBT SERVICE SAVINGS AND TO SET ASIDE CERTAIN AMOUNTS IN AN 'EDUCATION FACILITIES FUND' AND TO ADD SECTION 1508.1 TO ARTICLE 5, CHAPTER 1, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING THE ISSUANCE OF BONDS OF THE GOVERNMENT OF GUAM FOR THE PURPOSE OF FINANCING CERTAIN WATER AND SEWER SYSTEM IMPROVEMENT PROJECTS" which was I have signed into law as **Public Law No. 26-58**.

**I. Bond refinancing:**

I have signed this legislation in order to authorize the Guam Economic Development Authority (GEDA) to refinance Three (3) issues of government of Guam bonds in order to take advantage of some significant savings. The original Bill No. 165 authorized GEDA to take advantage of these savings in any case where debt service savings would be 2% or higher, however, the final legislation restricts the savings to Three (3) bond issues.

The following savings will be realized:

1. \$4.6 Million overall through the life of the bond issues.
2. \$8.6 Million held in reserve by BOH and BOG will be released and are allocated as follows:

0584

- a. Education Facilities Fund - \$2.3 Million.
- b. New money for GWA for FY 2002 capital outlay requirements - \$6.0 Million.
- c. Medicaid and Medically Indigent Program Assistant - \$4.2 Million.
- d. Outstanding government of Guam agencies power bills for 2001 payment to GPA - \$1.7 Million.
- e. \$400,000 to DOA for the service maintenance to the AS400 System.

This legislation also authorizes the funding and carryover for federal grants and aid; the use of 2001 lapses for GPA arrearage; the use of 2001 lapses for annual leave payments, creation of UOG capital improvements fund to receive \$500,000 from the Guam Highway Fund; a diversion of fees above \$50,000 for GEDA into Public Works for repair of school buses.

## **II. Failure to appropriate from the Medicaid and Medically Indigent Program Assistance Payment Fund:**

Although the Legislature created a new fund, the Medicaid and Medically Indigent Program Assistance Payment Fund, there is no appropriation from this fund. This means that money that could be available to pay for Medicaid and the MIP program, yet has not been appropriated and will not be available until an appropriation has been made.

## **III. Elimination of Best Practices amendments, modern investment practices for the Government of Guam Retirement Fund:**

There is, however, one provision in this legislation that will be very, very costly to the retirees and other beneficiaries of the Government of Guam Retirement Fund. While savings are realized in the first sections of this legislation, and that money used for important purposes, a totally unrelated rider was placed on this legislation that will deprive the retirees and other beneficiaries of the Retirement Fund from potential investment proceeds.

Less than two months ago, on September 27, 2001, the Legislature voted to provide the Retirement Fund with the ability to incorporate modern investment practices into the management of our retirement system. The legislative statement included with these changes stated:

**“This Act is designed to replace laws that inhibit or prevent use of modern investment practices. In the long run, these outmoded laws result in billions of dollars of lost opportunities for investment income (emphasis added). The lost income could be used to increase pension benefits, lower contributions rates, or some combination. The immediate beneficiaries would be the retirement system’s members and beneficiaries, but the ultimate beneficiary would be the local taxpayers. Taxpayers could offer employees either a better pension for the same cost or the same pension for a lower cost.”**

Legislative Secretary  
SB162;PL26-58  
November, 2001  
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The provisions referred to by this statement are Sections 11 through 28 of Chapter IV of Public Law No. 26-35, the first Budget Act. Sections 11 through 28 eliminated the outmoded laws on our books that are resulting in the loss of many, many dollars to our Retirement Fund. The reason for this is due to loss of investment opportunities by restrictions that are not relevant to modern investment practices.

Section 10 of this legislation, Substitute Bill No. 162, adds a rider that **repeals** the same provisions passed less than two months ago, the provisions that were designed to enhance the investments of our Retirement Fund. **This is an outrage to the retirees and other beneficiaries of this Fund.** It can only be seen as a disservice to our retirees. It is a non-germane and unrelated amendment added as a rider in the dead of night. In fact, the staff of the Guam Economic Development Authority witnessed the unrelated "midnight rider" being added to the GEDA legislation. Senator Ben Pangelinan introduced the amendment to eliminate the Best Practices for the investments of the Retirement Fund. On the legislative floor, Senator Lou Leon Guerrero asked about the amendment and was told by Senator Pangelinan, essentially, "do not ask for a public explanation of the amendment, just go along with it." This rider did not have a public hearing; it removes millions of dollars from the Government of Guam Retirement Fund, as stated by the very same legislature when the provisions were passed in Public Law No. 26-35.

The removal of modern investment practices, the Best Practices amendments of Sections 11-28 of Chapter IV of Public Law No. 26-35, will result in as much as \$20 Million in lost potential investment for the Retirement Fund. What can possibly be the motivation to do this to our retirees? It action is unbelievable. It is an attempt to kill our retirees, again, with legislative interference into the best management of our retirement funds.

I urge the Legislature to restore the Best Practices sections immediately, and to treat our retirees as human beings and not as political pawns.

Very truly yours,

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


Attachments: original bill for vetoed legislation or  
copy of bill for signed or overridden legislation  
and legislation enacted without signature

cc: The Honorable Antonio R. Unpingco  
Speaker

**MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN**  
**2001 (FIRST) Regular Session**

**CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN**

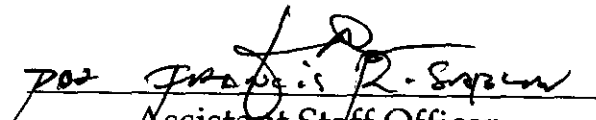
This is to certify that Substitute Bill No. 162 (COR) "AN ACT TO ADD CHAPTER 51 TO TITLE 12, GUAM CODE ANNOTATED REGARDING THE ISSUANCE OF BONDS AND OTHER OBLIGATIONS OF THE GOVERNMENT OF GUAM AND ITS AGENCIES, AUTHORITIES AND INSTRUMENTALITIES FOR THE SOLE PURPOSE OF REFUNDING PRIOR BONDS AND OTHER OBLIGATIONS TO ACHIEVE DEBT SERVICE SAVINGS AND TO SET ASIDE CERTAIN AMOUNTS IN AN 'EDUCATION FACILITIES FUND' AND TO ADD SECTION 1508.1 TO ARTICLE 5, CHAPTER 1, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING THE ISSUANCE OF BONDS OF THE GOVERNMENT OF GUAM FOR THE PURPOSE OF FINANCING CERTAIN WATER AND SEWER SYSTEM IMPROVEMENT PROJECTS," was on the 20<sup>th</sup> day of November, 2001, duly and regularly passed.

  
\_\_\_\_\_  
**ANTONIO R. UNPINGCO**  
Speaker

Attested:

  
\_\_\_\_\_  
**JOANNE M.S. BROWN**  
Senator and Legislative Secretary

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This Act was received by *I Maga'lahen Guåhan* this 20 day of NOV, 2001,  
at 5:15 o'clock p.M.

  
\_\_\_\_\_  
Assistant Staff Officer  
*Maga'lahi's Office*

APPROVED:

  
\_\_\_\_\_  
**CARL T. C. GUTIERREZ**  
*I Maga'lahen Guåhan*

Date: 11-20-01

Public Law No. 26-58

**MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN**  
**2001 (FIRST) Regular Session**

**Bill No. 162 (COR)**

As substituted by the Committee on Tourism,  
Transportation and Economic Development,  
further substituted on the floor and amended  
in the Committee of the Whole.

Introduced by:

L. F. Kasperbauer  
T. C. Ada  
F. P. Camacho  
K. S. Moylan  
J. F. Ada  
F. B. Aguon, Jr.  
J. M.S. Brown  
E. B. Calvo  
M. C. Charfauros  
Mark Forbes  
V. C. Pangelinan  
A. L.G. Santos  
A. R. Unpingco  
J. T. Won Pat

**AN ACT TO ADD CHAPTER 51 TO TITLE 12,  
GUAM CODE ANNOTATED REGARDING THE  
ISSUANCE OF BONDS AND OTHER  
OBLIGATIONS OF THE GOVERNMENT OF  
GUAM AND ITS AGENCIES, AUTHORITIES AND  
INSTRUMENTALITIES FOR THE SOLE PURPOSE  
OF REFUNDING PRIOR BONDS AND OTHER  
OBLIGATIONS TO ACHIEVE DEBT SERVICE  
SAVINGS AND TO SET ASIDE CERTAIN  
AMOUNTS IN AN "EDUCATION FACILITIES  
FUND" AND TO ADD SECTION 1508.1 TO**

ARTICLE 5, CHAPTER 1, TITLE 5, GUAM CODE  
ANNOTATED, RELATIVE TO AUTHORIZING  
THE ISSUANCE OF BONDS OF THE  
GOVERNMENT OF GUAM FOR THE PURPOSE OF  
FINANCING CERTAIN WATER AND SEWER  
SYSTEM IMPROVEMENT PROJECTS.

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan*  
3 finds that as a result of the present state of Guam's economy any and all  
4 means of reducing the cost of operating the government of Guam including  
5 its agencies, authorities and instrumentalities must be explored.

6 *I Liheslaturan Guåhan* also finds that as a result of successive downward  
7 interest rate adjustments by the Federal Reserve, windows of opportunity will  
8 arise for which the government of Guam may realize significant interest and  
9 cash flow savings by refinancing or refunding many of its debts. Such  
10 windows of opportunity are often open for relatively short periods of time  
11 precluding the government of Guam from taking advantage of them due, in  
12 part, to the cumbersome review and approval process.

13 *I Liheslaturan Guåhan* further finds that present law requires a lengthy  
14 scrutiny and approval process for debt issues as a result of three (3) primary  
15 concerns:

- 16 (1) the impact of increasing the obligations of the government of  
17 Guam,  
18 (2) the need and uses for such prospective funds and

1 (3) whether the government can afford the debt service  
2 requirements for the duration of the term.

3 *I Liheslaturan Guåhan* further finds that if the Guam Economic  
4 Development Authority ("GEDA") is authorized, as windows of opportunity  
5 open, to arrange for the refinancing of any and all obligations of the  
6 government of Guam where it is possible to achieve debt service savings by  
7 lowering interest and/or debt service costs, then substantial savings can be  
8 realized.

9 It is the intent of *I Liheslaturan Guåhan* to authorize GEDA, within  
10 certain limitations, to arrange for the refinancing of any and all existing  
11 obligations of the government of Guam to lower interest and /or debt service  
12 costs.

13 *I Liheslaturan Guåhan* further finds that a need exists for certain water  
14 and sewer system projects of the government of Guam and that it is desirable  
15 to finance such water and sewer system projects through the issuance of  
16 bonds of the government of Guam.

17 **Section 2. Authorization to Refinance Existing Obligations.** Chapter  
18 51 is hereby *added* to Title 12 of the Guam Code Annotated to read as follows:

19 **"CHAPTER 51.**

20 **Authorization to Refund Obligations to Achieve Savings.**

21 **Section 51101. Definitions.**

22 **Section 51102. Authorization and Approval of Issuance,**  
23 **Terms and Conditions of Bonds of the**

1                   **Government for the Sole Purpose of**  
2                   **Achieving Debt Service Savings.**

3           **Section 51103.       Approval of Issuance, Terms and**  
4                   **Conditions of Bonds of Agencies,**  
5                   **Authorities and Instrumentalities of the**  
6                   **Government for the Sole Purpose of**  
7                   **Achieving Debt Service Savings.**

8           **Section 51104.       Permitted Investments.**

9           **Section 51105.       Financial Contracts to Achieve Savings.**

10          **Section 51106.       Local Sale of Bonds.**

11          **Section 51107.       Education Facilities Fund.**

12          **Section 51101.   Definitions.**     The definitions set forth herein  
13 shall govern the construction and interpretation of this Chapter:

14                   (a) *'Prior bond'* means for purposes of this Chapter the  
15 following obligations which are to be redeemed or otherwise  
16 retired with the proceeds of refunding bonds and investment  
17 earnings thereon:

18                               (1) Loans made pursuant to Public Law No. 24-59, *as*  
19                               *amended*, for the Guam Memorial Hospital Authority,

20                               (2) Loans made pursuant to Public Law No. 25-72, *as*  
21                               *amended*, for the purpose of funding the voluntary  
22 separation programs, and

23                               (3) The 1989 Government of Guam Water System  
24 Revenue Bonds, Series 1989.



1           (b) *'Refunding bond'* means a bond authorized or  
2 approved pursuant to this Chapter for the purpose of providing  
3 moneys to redeem or otherwise retire prior bonds, funding any  
4 necessary bond reserves or paying expenses incurred in  
5 connection with the issuance of such refunding bonds.

6           (c) *'Yield'* shall have the same meaning as when used in  
7 Section 148 of the Internal Revenue Code of 1986, as amended.  
8 That is, *'yield'* means the annual discount rate which, when used  
9 to discount all payments of debt service on an issue of bonds to  
10 the date of issuance of the bonds, using a semiannual  
11 compounding interval, results in the aggregate present value of  
12 such payments being equal to an amount equal to the re-offering  
13 price to the public of such bonds less fees to be paid for credit  
14 enhancement of such bonds from proceeds thereof.

15           (d) *'Debt service'* means the scheduled principal of and  
16 interest on bonds plus fees to be paid (other than from bond  
17 proceeds) for credit enhancement of such bonds and the net  
18 amounts to be paid or received under any financial contract  
19 entered into under Section 51105 of this Chapter. For purposes of  
20 this definition, any prior bonds bearing interest at a variable rate  
21 shall be assumed to bear interest at the then-current interest rate  
22 on such bonds.

23           (e) *'Debt service savings'* means the percentage by which  
24 the present value of debt service on the refunding bonds is less

1 than the present value of debt service on the prior bonds, taking  
2 into account any moneys transferred from the refunded bonds to  
3 the refunding bonds and taking into account any moneys  
4 contributed to either or both bond issues. Present value shall be  
5 calculated for this purpose using the yield on the refunding bonds  
6 as the discount rate.

7 (f) 'Bond' means any bond, note or other evidence of  
8 indebtedness.

9 (g) 'GEDA' means the Guam Economic Development  
10 Authority.

11 **Section 51102. Authorization and Approval of Issuance, Terms**  
12 **and Conditions of Bonds of the Government for the Sole Purpose of**  
13 **Achieving Debt Service Savings.** *I Maga'lahaen Guåhan* is authorized to  
14 issue on behalf of the government of Guam one or more issues of bonds  
15 of the government consisting of refunding bonds, subject to the  
16 following requirements, limitations, terms and conditions, which shall  
17 apply separately to each such issue of refunding bonds:

18 (a) The issuance of the refunding bonds shall not cause a  
19 violation of the debt limitation provisions of 48 USC 1423a (§11 of  
20 the Organic Act of Guam).

21 (b) All obligations of the government to pay debt service  
22 on, and the redemption price of, the prior bonds shall be  
23 discharged concurrently with the issuance of the refunding bonds.

1           Thereafter, the prior bonds shall be payable solely from and  
2           secured solely by an escrow established for such purpose.

3           (c)    The debt service savings resulting from the issuance of  
4           the refunding bonds shall be not less than two percent (2%);  
5           provided that such requirement shall not apply to refunding  
6           bonds issued to refinance bonds issued pursuant to:

7                   (i)   Public Law No. 24-59, *as amended*, relating to a  
8                   loan made by the Bank of Guam to the Guam Memorial  
9                   Hospital Authority *and*

10                   (ii)   Public Law No. 25-72, *as amended*, relating to a  
11                   loan made by the Bank of Hawaii to the government of  
12                   Guam for the purpose of funding the voluntary separation  
13                   program.

14           (d)   The aggregate amount of scheduled debt service on  
15           the refunding bonds in each year to and including the final  
16           maturity of the refunding bonds shall be less than or equal to the  
17           maximum annual debt service on the prior bonds and the final  
18           scheduled maturity date of such refunding bonds shall be not  
19           more than five (5) years after the final scheduled maturity date of  
20           the prior bonds.

21           (e)   The refunding bonds shall be payable from and  
22           secured by the same source or sources of revenues as the prior  
23           bonds refunded all or any portion of by the issue and the amounts  
24           to be received under any financial contract entered into under

1 Section 51105 of this Chapter and shall not be payable from or  
2 secured by any other source or sources of revenues except as may  
3 be authorized by statute. Any pledge or lien on revenues or other  
4 moneys authorized to be granted with respect to the prior bonds  
5 refunded by the issue is hereby authorized to be granted with  
6 respect to the refunding bonds. If the prior bonds being refunded  
7 are general obligations of the government, the refunding bonds  
8 shall be general obligations of the government.

9 (f) If and to the extent that any refunding bonds are not  
10 payable from and secured by the revenues of any autonomous  
11 agency of the government that were pledged to secure the related  
12 prior bonds, but are payable from and secured by a pledge of  
13 revenues that would otherwise be deposited in the General Fund,  
14 such autonomous agency shall pay to the General Fund on the  
15 dates on which any moneys that would otherwise be deposited in  
16 the General Fund are applied to pay debt service on such  
17 refunding bonds an amount equal to the lesser of (a) the amount  
18 of such moneys so applied to pay debt service and (b) the amount  
19 of such autonomous agency revenues available for such purpose.

20 (g) The proceeds of the refunding bonds may be used to  
21 fund a bond reserve only:

22 (1) to the extent that moneys from any bond reserve  
23 for the prior issue are transferred to the escrow from which  
24 the prior bonds will be paid, and

1                   (2) if the prior bonds had no bond reserve, in an  
2                   amount not greater than maximum annual debt service on  
3                   the related refunding bonds.

4                   (h) The terms and conditions of the refunding bonds shall  
5                   be as determined by *I Maga'lahaen Guåhan* by the execution of a  
6                   certificate or indenture authorizing the issuance of the bonds. The  
7                   certificate or indenture shall contain terms and conditions that are  
8                   consistent with this Chapter, and shall include substantially the  
9                   same additional bond tests, rate covenants and other covenants as  
10                  were applicable with respect to the prior bonds.

11                  (i) Any refunding bonds authorized by this Chapter shall  
12                  constitute valid and binding obligations of the government of  
13                  Guam. All officers charged by law with any duty in the collection  
14                  of any revenues from which debt service on the issue will be  
15                  payable shall do every lawful thing necessary to collect the  
16                  amount necessary for such purpose. The validity of any such  
17                  bonds shall not be affected by the validity or regularity of any  
18                  proceedings for the implementation of the capital improvement  
19                  projects funded by the prior bonds.

20                  (j) Any appropriation of revenues or other moneys made  
21                  by the statute authorizing the issuance of the prior bonds is  
22                  hereby continued as an appropriation with respect to the  
23                  refunding bonds.

1           (k) Notwithstanding any substantive or procedural  
2 provision of Chapter 6, Title 5, Guam Code Annotated, the  
3 government of Guam waives immunity from any suit or action in  
4 contract on the bonds authorized by this Chapter, but does not  
5 waive sovereign immunity as to the personal liability of elected  
6 officials and employees of the government of Guam.

7           (l) The technical form and language of the refunding  
8 bonds, including provisions for execution, exchange, transfer,  
9 registration, paying agency, lost or mutilated bonds, negotiability,  
10 cancellation and other terms, covenants or conditions not  
11 inconsistent with this Chapter and including covenants relating to  
12 the collection of revenues, shall be as specified in the certificate or  
13 indenture executed by *I Maga'lahañ Guåhan* authorizing the  
14 issuance of the refunding bonds. The certificate or indenture may  
15 appoint one or more trustees or other fiduciaries authorized to  
16 receive and hold in trust the proceeds of the bonds and moneys  
17 relating thereto, to protect the rights of bondholders and to  
18 perform such other duties as may be specified in the certificate or  
19 indenture. Trustees on prior bonds may remain as trustees on  
20 refunding bonds without going through a new procurement  
21 process. *I Maga'lahañ Guåhan* is also authorized to execute, on  
22 behalf of the government of Guam, any appropriate agreements,  
23 certificates or other instruments relating to the bonds and the sale  
24 of the bonds.

1 (m) *I Maga'lahaen Guåhan* is authorized to enter into such  
2 contracts or agreements with such banks, insurance companies or  
3 other financial institutions as he determines are necessary or  
4 desirable to improve the security and marketability of any issue of  
5 bonds authorized by this Chapter. Such contracts or agreements  
6 may contain an obligation to reimburse, with interest, any such  
7 banks, insurance companies or other financial institutions for  
8 advances used to pay principal of or interest on the issue. Any  
9 such reimbursement obligation shall be payable solely from the  
10 same sources as debt service on the issue is payable, and any such  
11 advance, if necessary, shall be treated as creating a reimbursement  
12 obligation issued to refund the issue.

13 (n) No employee or elected official of the government of  
14 Guam shall be individually or personally liable for the payment of  
15 any amounts due on any bonds issued under this Chapter, or for  
16 any other liability arising in connection with the bonds; provided,  
17 however, that nothing in this Chapter shall relieve any employee  
18 or elected official from the performance of any ministerial duty  
19 required by law.

20 (o) Section 50103(k), Title 12, Guam Code Annotated,  
21 provides that agencies and instrumentalities of the government of  
22 Guam shall issue bonds and other obligations only by means of  
23 and through the agency of the GEDA. No issue of bonds  
24 authorized by this Chapter shall be sold until the Board of

1 Directors of GEDA has adopted a resolution approving the sale of  
2 such issue.

3 (p) Section 50103(k) also provides that GEDA shall not sell  
4 any bonds without approval by *I Liheslaturan Guåhan* of the terms  
5 and conditions of the issuance of the bonds. *I Liheslaturan Guåhan*  
6 hereby approves the issuance, terms and conditions of the bonds  
7 authorized by this Chapter.

8 **Section 51103. Approval of Issuance, Terms and Conditions of**  
9 **Bonds of Agencies, Authorities and Instrumentalities of the**  
10 **Government for the Sole Purpose of Achieving Debt Service Savings.**

11 Section 50103(k) of Title 12 of the Guam Code Annotated,  
12 provides that agencies, authorities and instrumentalities of the  
13 government of Guam shall issue bonds only by means of and through  
14 the agency of GEDA and that GEDA shall not sell any bond without  
15 approval by *I Liheslaturan Guåhan* of the terms and conditions of the  
16 issuance of the bonds. *I Liheslaturan Guåhan* hereby approves the  
17 issuance, terms and conditions of refunding bonds to be issued by any  
18 agency, authority and instrumentality of the government of Guam,  
19 subject to the following requirements, limitations, terms and conditions,  
20 which shall apply separately to each such issue of refunding bonds:

21 (a) The issuance of the refunding bonds shall not cause a  
22 violation of the debt limitation provisions of 48 USC 1423a (§11 of  
23 the Organic Act of Guam).



1           (b) All obligations of the agency, authority or  
2 instrumentality to pay debt service on, and the redemption price  
3 of, the prior bonds shall be discharged concurrently with the  
4 issuance of the refunding bonds. Thereafter, the prior bonds shall  
5 be payable solely from and secured solely by an escrow  
6 established for such purpose.

7           (c) The debt service savings resulting from the issuance of  
8 the refunding bonds shall be not less than two percent (2%).

9           (d) The aggregate amount of scheduled debt service on  
10 the refunding bonds in each year to and including the final  
11 maturity of the refunding bonds shall be less than or equal to the  
12 maximum annual debt service on the prior bonds, and the final  
13 scheduled maturity date of such refunding bonds shall be not  
14 more than five (5) years after the final scheduled maturity date of  
15 the prior bonds.

16           (e) The proceeds of the refunding bonds may be used to  
17 fund a bond reserve only if and to the extent that moneys from  
18 any bond reserve for the prior issue are transferred to the escrow  
19 from which the prior bonds will be paid.

20           (f) The terms and conditions of the refunding bonds shall  
21 be consistent with this Section, and shall include substantially the  
22 same additional bond tests, rate covenants and other covenants as  
23 were applicable with respect to the prior bonds.

1 (g) No issue of bonds approved by this Section shall be  
2 sold until the Board of Directors of GEDA has adopted a  
3 resolution approving the sale of such issue.

4 **Section 51104. Permitted Investments.** The proceeds of  
5 bonds issued by the government or any agency, authority or  
6 instrumentality thereof under this Chapter, and any revenues relating to  
7 such bonds, may be invested in, but only in, the types of investments  
8 permitted by the certificate or indenture pursuant to which such bonds  
9 are issued.

10 **Section 51105. Financial Contracts to Achieve Savings.** Any  
11 agency, authority or instrumentality of the government and *I Maga'lahaen*  
12 *Guåhan* on behalf of the government of Guam, in connection with, or  
13 incidental to, the issuance of bonds under this Chapter, or the carrying  
14 of any investment or program of investment under this Chapter, may  
15 enter into any contracts which GEDA determines to be necessary or  
16 appropriate to place the obligation or investment of the agency,  
17 authority or instrumentality of the government, as represented by the  
18 bonds, investment or program of investment and the contract or  
19 contracts, in whole or in part, on the interest rate, currency, cash-flow,  
20 or other basis desired by GEDA in the furtherance of the purposes of  
21 this Chapter, including, without limitation, contracts commonly known  
22 as interest rate swap agreements, currency swap agreements, forward  
23 payment conversion agreements, futures, or contracts providing for  
24 payments based on levels of, or changes in, interest rates, currency

1 exchange rates, or contracts to exchange cash flows or a series of  
2 payments, or contracts, including, without limitation, interest rate floors  
3 or caps, options, put or call to hedge payment, currency, rate, spread, or  
4 similar exposure. These contracts or arrangements may also be entered  
5 into by GEDA in connection with, or incidental to, entering into or  
6 maintaining any agreement which secures bonds. These contracts and  
7 arrangements shall be entered into with the parties, selected by the  
8 means, and contain the payment, security, default, remedy, and other  
9 terms and conditions, determined by GEDA, after giving due  
10 consideration for the creditworthiness of the counterparties, where  
11 applicable, including any rating by a nationally recognized rating  
12 agency or any other criteria as may be appropriate.

13 **Section 51106. Local Sale of Bonds.** GEDA shall undertake its  
14 best efforts to cause a portion of any bonds issued pursuant to this  
15 Chapter, to be offered for sale in Guam, as well as in other jurisdictions,  
16 if and to the extent that such offer and any sales resulting from such  
17 offer do not increase the cost to the government of Guam of issuing and  
18 repaying such bonds.

19 **Section 51107. Education Facilities Fund.** There is hereby  
20 created an Education Facilities Fund (the 'Fund'). The Fund shall be a  
21 special fund of the government of Guam and shall be used for the sole  
22 purpose of constructing or renovating education facilities. Expenditures  
23 from the Fund shall be by appropriation of *I Liheslaturan Guåhan*. The  
24 Fund shall initially be funded in an amount not to exceed Two Million

1 Three Hundred Thousand Dollars (\$2,300,000) at the time or times and  
2 to the extent that amount constitutes revenues derived by the  
3 government under 48 U.S.C. §1421h (§30 of the Organic Act of Guam)  
4 and previously deposited in a debt service fund with respect to prior  
5 bonds are made available by the refunding of such prior bonds  
6 pursuant to this Chapter. Thereafter, the Fund shall be funded by  
7 appropriation of *I Liheslaturan Guåhan*. The Fund shall be managed by  
8 the Guam Economic Development Authority. Investment income on  
9 the assets of the Fund shall be deposited in the Fund."

10 **Section 3. Authorization to Issue New Money Bonds.** Section 1508.1  
11 is hereby *added* to Article 5, Chapter 1, Title 5 of the Guam Code Annotated to  
12 read as follows:

13 **"Section 1508.1. Water System Bonds of 2001. (a) Authorization**  
14 **of Issuance of Bonds.** *I Maga'lahaen Guåhan* is authorized to issue  
15 on behalf of the government of Guam an issue of bonds of the  
16 government which may be issued as part of a larger issue  
17 including bonds issued pursuant to Chapter 51, Title 12 of the  
18 Guam Code Annotated in an aggregate principal amount not to  
19 exceed Six Million Dollars (\$6,000,000) for a maximum term of ten  
20 (10) years and with a true interest cost not to exceed five and one-  
21 half percent (5.5%) per annum for the purpose of implementing  
22 the Water System Projects enumerated in Subsection (i) of this  
23 Section, *provided*, however, that any such issue of bonds shall not  
24 cause a violation of the debt limitation of 48 U.S.C. §1423a.

1           **(b) Terms and Conditions Determined by Certificate or**  
2 **Indenture.** The terms and conditions of the bonds shall be as  
3 determined by *I Maga'lahen Guåhan* by the execution of one or  
4 more certificates or indentures authorizing the issuance of the  
5 bonds in substantially the form presented to *I Liheslaturan Guåhan*.  
6 Any such certificate or indenture may also authorize persons so  
7 designated to execute, on behalf of the government of Guam, any  
8 appropriate agreements or other documents relating to the bonds  
9 and the sale of the bonds. The certificates or indentures shall  
10 contain such terms and conditions as are consistent with this  
11 Section.

12           **(c) Valid and Binding Obligation.** The bonds authorized  
13 by this Section shall constitute the valid and legally binding  
14 limited obligations of the government of Guam payable from and  
15 secured by a pledge of the revenues described in Subsection (d) of  
16 this Section. All officers charged by law with any duty in the  
17 collection of any revenues from which debt service on the bonds is  
18 payable shall do every lawful thing necessary to collect the money  
19 necessary for such purpose. The validity of any such bonds shall  
20 not be affected by the validity or regularity of any proceedings for  
21 the implementation of Water System Projects funded by the debt  
22 or debts.

23           **(d) Pledge of Section 30 Revenues.** All or any part of  
24 the revenues derived by the government of Guam under Section

1 30 of the Organic Act may be pledged to secure the repayment of  
2 any bonds issued pursuant to this Section and pay costs incurred  
3 in the creation of such debts, subject to any previously created lien  
4 on or pledge of such revenues. Any pledge made to secure the  
5 bonds shall be valid and binding from the time the pledge is  
6 made. The revenues pledged and thereafter received by the  
7 government of Guam or by any trustee, depository or custodian  
8 shall be deposited in a separate account and shall be immediately  
9 subject to the lien of such pledge without physical delivery thereof  
10 or further act, and the lien of such pledge shall be valid and  
11 binding against all parties having claims of any kind in tort,  
12 contract or otherwise, against the government of Guam, such  
13 trustee, depository or custodian, irrespective of whether the  
14 parties have notice thereof. The certificate or indenture by which  
15 such pledge is created need not be recorded. All revenues  
16 pledged are hereby continuously appropriated for the purpose for  
17 which they have been pledged.

18 **(e) Waiver of Immunity; No Personal Liability.**  
19 Notwithstanding any substantive or procedural provision of the  
20 Government Claims Act, Chapter 6 of Title 5 of the Guam Code  
21 Annotated, the government of Guam waives immunity from any  
22 suit or action in contract on the bonds issued pursuant to this  
23 Section, but does not waive sovereign immunity as to the personal  
24 liability of elected officials and full-time employees of the

1 government of Guam. No employee or elected official of the  
2 government of Guam shall be individually or personally liable for  
3 the payment of any amounts due on any bonds issued under this  
4 Section, or for any other liability arising in connection with the  
5 bonds; provided, however, that nothing in this Section shall  
6 relieve any employee or elected official from the performance of  
7 any ministerial duty required by law.

8 **(f) Form of Bonds; Covenants; Appointment of Trustee.**

9 The technical form and language of the bonds, including  
10 provisions for execution, exchange, transfer, registration, paying  
11 agency, lost or mutilated bonds, negotiability, cancellation and  
12 other terms and conditions not inconsistent with this Section, shall  
13 be as specified in a certificate or indenture approved by *I*  
14 *Maga'lahaen Guåhan*, authorizing the issuance of the bonds. The  
15 certificate or indenture may appoint one or more trustees or other  
16 fiduciaries authorized to receive and hold in trust the proceeds of  
17 the bonds and revenues related thereto, to protect the rights of  
18 bondholders and to perform such other duties as may be specified  
19 in the certificate or indenture. *I Maga'lahaen Guåhan* is also  
20 authorized to execute, on behalf of the government of Guam, any  
21 appropriate agreements, certificates or other instruments relating  
22 to the bonds and the sale of the bonds.

23 **(g) Authorization for Credit Enhancement.** *I Maga'lahaen*  
24 *Guåhan* is authorized to enter into such contracts or agreements

1 with such banks, insurance companies or other financial  
2 institutions as he determines are necessary or desirable to improve  
3 the security and marketability of the bonds issued pursuant to this  
4 Section. Such contracts or agreements may contain an obligation  
5 to reimburse, with interest, any such banks, insurance companies  
6 or other financial institutions for advances used to pay principal  
7 or interest on the bonds. Any such reimbursement obligation  
8 shall be payable solely from and secured by a pledge of the  
9 revenues described in Subsection (d) of this Section.

10 (h) **Use of Proceeds from the Sale of Bonds.** Proceeds  
11 from the sale of the bonds shall be used solely to pay and are  
12 hereby appropriated to pay the costs of the Water System Projects  
13 described in Subsection (i) of this Section, to fund any necessary  
14 bond reserves, and to pay expenses related to the authorization,  
15 sale and issuance of the bonds, including without limitation,  
16 printing costs, costs of reproducing documents, bond insurance  
17 premiums, underwriting, legal and accounting fees and charges,  
18 fees paid to banks or other financial institutions providing credit  
19 enhancement, costs of credit ratings, fees and charges for  
20 execution, transportation and safekeeping of bonds and other  
21 costs, charges and fees in connection with the issuance, sale and  
22 delivery of the debt or debts.

23 (i) **Water System Projects.** (1) The proceeds of the  
24 bonds issued pursuant to Section 1508.1 of this Act shall be



1 expended on the capital outlays listed in Exhibit A of Public  
2 Law 26-34, not to exceed Six Million Dollars (\$6,000,000).  
3 No proceeds received pursuant to this Section shall be  
4 expended without appropriation by *I Liheslaturan Guåhan*.

5 (2) Section 13 of Public Law 26-34 is hereby repealed  
6 and re-enacted to read:

7 **'Section 13. Revenue Reserves.** (a) The  
8 revenue reserves of One Million Six Hundred  
9 Fifty-five Thousand Eight Hundred Seventy-nine  
10 Dollars (\$1,655,879), which is the difference  
11 between the FY2002 revenue forecast of Thirty-  
12 seven Million Seven Hundred Twelve Thousand  
13 One Hundred Nine Dollars (\$37,712,109) and the  
14 combined total of the authorization in Subsection  
15 (b) herein and the FY2002 funding authorization  
16 of Thirty-five Million Eight Hundred Thirty-nine  
17 Thousand Five Hundred Sixty-four Dollars  
18 (\$35,839,564) shall be deposited in the 'GWA  
19 *Budget Reserve Account*'.

20 (b) Notwithstanding any other provision  
21 of this Act or the Exhibits, Two Hundred Sixteen  
22 Thousand Six Hundred Sixty-six Dollars  
23 (\$216,666.00) of the Fiscal Year 2002 revenues  
24 shall be used as payment on the One Million

1 Three Hundred Thousand Dollars (\$1,300,000) in  
2 debt service owed in Fiscal Year 2002 for the IBM  
3 / J.D. Edwards loan. The Board of Directors  
4 shall make its best efforts to refinance this debt  
5 for a term *not to exceed* sixty (60) months, and  
6 shall inform *I Liheslaturan Guåhan* of its efforts  
7 and the status of the refinancing every twenty  
8 (20) days.'

9 (j) **Policy and Intent.** It is the policy and intent of *I*  
10 *Liheslaturan Guåhan* to ensure that all projects enumerated in  
11 Subsection (i) are completed. In this respect, *I Liheslaturan Guåhan*  
12 gives its consent and authorization to allow the transfer of funds  
13 from a project with a surplus to a project with a shortfall,  
14 provided, however, that *I Liheslaturan Guåhan* shall approve all  
15 transfers. If a project or projects are placed on hold by the General  
16 Manager of Guam Waterworks Authority due to unanticipated  
17 circumstances, a transfer of funds from the project or projects  
18 enumerated in Subsection (i) on hold to another project with a  
19 shortfall is permitted; provided, that prior to any transfer *I*  
20 *Liheslaturan Guåhan* shall approve all transfers.

21 (k) **Approval of Guam Economic Development**  
22 **Authority Required.** Section 50103(k), Title 12, Guam  
23 Code Annotated, provides that agencies and instrumentalities of  
24 the government of Guam shall issue bonds and other obligations

1 only by means of and through the agency of the Guam Economic  
2 Development Authority ("GEDA"). No issue of bonds authorized  
3 by this Section shall be sold until the Board of Directors of GEDA  
4 has adopted a resolution approving the sale of such bonds.

5 (l) **Approval of Terms and Conditions.** Section 50103(k)  
6 also provides that GEDA shall not sell any bonds without  
7 approval by *I Liheslaturan Guåhan* of the terms and conditions of  
8 the issuance of the bonds. *I Liheslaturan Guåhan* hereby approves  
9 the issuance, terms and conditions of the bonds authorized by this  
10 Section.

11 (m) **Permitted Investments.** The proceeds of bonds  
12 issued by the government pursuant to this Section, and any  
13 revenues relating to such bonds, may be invested in, but only in,  
14 the types of investments permitted by the certificate or indenture  
15 pursuant to which such bonds are issued.

16 (n) **Local Sale of Bonds.** GEDA shall undertake its best  
17 efforts to cause a portion of any bonds issued pursuant to this  
18 Section, to be offered for sale in Guam, as well as in other  
19 jurisdictions, if and to the extent that such offer and any sales  
20 resulting from such offer do not increase the cost to the  
21 government of Guam of issuing and repaying such bonds."

22 **Section 4. Medicaid and Medically Indigent Program Assistance**  
23 **Payment Fund.** There is hereby created a Medicaid and Medically Indigent  
24 Program Assistance Payment Fund (the "Fund"). The Fund shall be a special

1 fund of the government of Guam and shall be used for the sole purpose of  
2 covering any program shortfall in the Medically Indigent Program and Public  
3 Assistance Program of the Department of Public Health and Social Services.  
4 An amount not to exceed Four Million Two Hundred Thousand Dollars  
5 (\$4,200,000) shall be deposited into the Fund at the time or times and to the  
6 extent that amounts constituting revenues derived by the government under  
7 48 U.S.C. §1421h (§30 of the Organic Act of Guam) and previously deposited  
8 in a debt service fund with respect to prior bonds are made available by the  
9 refunding of such prior bonds pursuant to this Chapter. Expenditures from  
10 the Fund shall be by appropriation of *I Liheslaturan Guåhan*.

11 **Section 5. Appropriations for Guam Power Authority ('GPA')**  
12 **Arrearage.** The sum of One Million Seven Hundred Thousand Dollars  
13 (\$1,700,000) is appropriated from the General Fund to the Department of  
14 Administration for the payment of government of Guam agencies  
15 outstanding power bills in Fiscal Year 2001.

16 **Section 6. Funding and Carryover Authorization for Federal Grants-**  
17 **In-Aid.** (a) Notwithstanding any other provision of law,  
18 departments are authorized to expend funds appropriated in Appendix  
19 B of Public Law 26-35, *as amended*, to cover any shortfall in local  
20 matching requirements of Federal Matching Programs in FY 2002.

21 (b) The local and federal matching funds for programs  
22 appropriated in Appendix B of Public Law 26-35, *as amended*, whose  
23 grant expiration dates extend beyond September 30, 2002, are hereby

1 authorized to be carried over and expended through the period of the  
2 grant award or extension thereof.

3 **Section 7. Authorization to Use FY 2001 Lapses for GPA Arrearage.**

4 Notwithstanding any other provision of law, departments are  
5 authorized to transfer and expend FY 2001 appropriation lapses for the  
6 payment of Guam Power Authority arrearage.

7 **Section 8. Authorization to Use FY 2001 Lapses for Annual Leave**  
8 **Payments.** Notwithstanding any other provision of law, departments are  
9 authorized to transfer and expend FY 2001 appropriation lapses for the  
10 payment of accumulated annual leave of separating employees in FY 2001.

11 **Section 9. Department of Administration Appropriation.** The sum  
12 of Four Hundred Thousand Dollars (\$400,000) is hereby appropriated from  
13 the General Fund to the Department of Administration for the service  
14 maintenance of the AS400 (BACIS) System.

15 **Section 10. Repeal of Modern Investment Practices.** Sections  
16 11 through 28 of Chapter IV of Public Law 26-35 are hereby *repealed*, and  
17 Sections 8104(d), 8139.2, 8139.1, 8141, 8143, 8144(c), 8145, 8146, 8147, 8148,  
18 8149, 8150, 8151, 8152, 8154, 8155, 8156, 8157, 8158, 8159, 8160, 8161, and 8162  
19 of Title 4 of the Guam Code Annotated in existence prior to the enactment of  
20 P.L. 26-35 are hereby reenacted.

21 **Section 11.** Section 26505(a), Article 5, Chapter 26, Division 3 of  
22 Title 11 of the Guam Code Annotated is hereby *repealed and reenacted* to read  
23 as follows:

24 **"Section 26505. Creation of the University of Guam Capital**

1           **Improvements Fund.** (a) There is hereby created, separate and  
2 apart from other funds of the government of Guam, a fund known  
3 as the '*University of Guam Capital Improvements Fund.*' The  
4 University of Guam Capital Improvements Fund shall *not* be  
5 commingled with either the General Fund, the Current Fund of  
6 the University of Guam, or any other fund of the government of  
7 Guam. The University of Guam Capital Improvements Fund shall  
8 be held in an account, or accounts, at a Guam financial institution,  
9 or institutions, separate and apart from all other accounts and  
10 funds of the government of Guam account. The University of  
11 Guam Capital Improvements Fund shall be expended *exclusively*  
12 for the payment of debt service incurred for the design,  
13 construction and collateral equipment of the College of Business  
14 and Public Administration, and for the replacement of the roof of  
15 the Fine Arts Building.

16           There is hereby appropriated annually, beginning with  
17 Fiscal Year 2002, the sum of Five Hundred Thousand Dollars  
18 (\$500,000.00) from the Guam Highway Fund to the University of  
19 Guam Capital Improvements Fund for the purpose of the paying  
20 for the debt service incurred for the design, construction and  
21 collateral equipment of the College of Business and Public  
22 Administration of the University of Guam and the replacement of  
23 the roof of the Fine Arts Building is fully paid. No funds  
24 appropriated herein shall result in a reduction of appropriations

6

# I MINA' BENTE SAIS NA LIHESLATURAN GUAHAN

2001 (FIRST) Regular Session

Date: 11/20/01  
1:50 am

## VOTING SHEET

S Bill No. 162 (COR)

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

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

PL. SF

NAME	YEAS	NAYS	NOT VOTING/ ABSTAINED	OUT DURING ROLL CALL	ABSENT
ADA, Joseph F.	✓				
ADA, Thomas C.	✓				
AGUON, Frank B., Jr.					✓
BROWN, Joanne M. S.	✓				
CALVO, Eddie B.	✓				
CAMACHO, Felix P.	✓				
CHARFAUROS, Mark C.	✓				
FORBES, Mark	✓				
KASPERBAUER, Lawrence F.	✓				
LEON GUERRERO, Lourdes A.			EA		
MOYLAN, Kaleo S.	✓				
PANGELINAN, Vicente C.	✓				
SANTOS, Angel L.G.	✓				
UNPINGCO, Antonio R.	✓				
WON PAT, Judith T.					✓

TOTAL

12   0   1   0   2

CERTIFIED TRUE AND CORRECT:

\_\_\_\_\_  
Clerk of the Legislature

\* 3 Passes = No vote  
EA = Excused Absence



THE OFFICE OF  
**Senator Felix P. Camacho**  
TWENTY-SIXTH GUAM LEGISLATURE

November 14, 2001

The Honorable Antonio R. Unpingco  
Speaker  
I Mina' Bente Sais Na Liheslaturan Guahan  
155 Hessler Street  
Hagatna, Guam 96910

Dear Mr. Speaker:

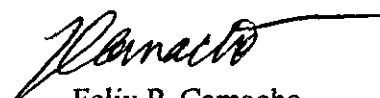
The Committee on Tourism, Transportation and Economic Development, to which was referred **Bill 162(COR)**, "An Act to add a new Chapter 51 to Title 12, Guam Code Annotated Authorizing the Guam Economic Development Authority to refund or refinance existing obligations as a means of saving money and to set aside a portion of the saving on the refunding of general obligation debt in an Educational Facilities Fund," does hereby report back with the recommendation **TO DO PASS AS SUBSTITUTED BY THE COMMITTEE.**

The Committee votes are as follows:

7 To Pass  
       Not To Pass  
1 To Report Out Only  
       To The Inactive File  
       Abstained  
       Off-Island  
       Not Available

A copy of the Committee Report and all pertinent documents are attached for your information and file.

Sincerely,

  
Felix P. Camacho

Committee on  
Tourism, Transportation  
& Economic Development



# VOTING SHEET

**BILL 162(COR)**

RECOMMENDATION TO						
COMMITTEE MEMBERS	SIGNATURE	TO PASS	NOT TO PASS	TO REPORT OUT ONLY	ABSTAIN	INACTIVE FILE
Senator Felix Camacho	<i>Felix Camacho</i>	✓				
Senator Kaleo Moylan	<i>Kaleo Moylan</i>	✓				
Speaker Antonio Unpingco	<i>Antonio Unpingco</i>	✓				
Vice Speaker Larry Kasperbauer	<i>Larry Kasperbauer</i>	x				
Senator Joseph Ada	<i>Joseph Ada</i>	✓				
Senator Mark Forbes	<i>Mark Forbes</i>	✓				
Senator Eddie Baza Calvo						
Senator Mark Charfauros						
Senator Ben Pangelinan						
Senator Tom Ada	<i>Tom Ada</i>	✓				
Senator Lou Leon Guerrero	<i>Lou Leon Guerrero</i>			✓		

**COMMITTEE REPORT**

**ON**

**Bill 162(COR)**

**An Act to add a new Chapter 51 to Title 12, Guam Code Annotated Authorizing the Guam Economic Development Authority to refund or refinance existing obligations as a means of saving money and to set aside a portion of the saving on the refunding of general obligation debt in an Educational Facilities Fund**

**COMMITTEE MEMBERS**

**Chairman: Felix P. Camacho**

**Vice Chairman: Kaleo Moylan**

**Ex-Officio Member: Antonio R. Unpingco**

**Larry Kasperbauer**

**Joseph Ada**

**Mark Forbes**

**Eddie Baza Calvo**

**Mark Charfauros**

**Ben Pangelinan**

**Tom Ada**

**Lou Leon Guerrero**

**COMMITTEE REPORT  
TOURISM, TRANSPORTATION AND ECONOMIC  
DEVELOPMENT**

**Bill 162(COR)**

**An Act to add a new Chapter 51 to Title 12, Guam Code Annotated Authorizing the Guam Economic Development Authority to refund or refinance existing obligations as a means of saving money and to set aside a portion of the saving on the refunding of general obligation debt in an Educational Facilities Fund**

**I. PUBLIC HEARING**

The Committee on Tourism, Transportation and Economic Development held a public hearing on November 14, 2001, at 1 p.m. to hear testimony on Bill 162(COR).

The hearing was called to order by Senator Felix P. Camacho, Chairman of the Committee on Tourism, Transportation and Economic Development. Members present included Vice Speaker Larry Kasperbauer.

Present to testify were Ms. Alicia Pinaula, Rhoda Ngiraingas and Mr. Jesus Cruz.

**II. TESTIMONY**

**Ms. Alicia Pinaula, Mt. Santa Rosa Parent-Teacher Organization President**

Ms. Pinaula said she was present to testify in support of Bill 162 and the \$2.3 million it would provide to start building a new school. She said the bill would create construction jobs, school jobs, and other benefits associated with the bond refinancing.

She told the committee that she and other parents hoped the bill would be passed with Bill 161, to help build a new school for Pagat. Ms. Pinaula said the school is crowded.

She asked the committee to please pass the bill, to provide \$2.3 million for a school that the community is desperately in need of.

**Ms. Rhoda Ngiraingas, Mt. Santa Rosa Elementary School**

Ms. Roda, treasurer of the Mt. Santa Rosa PTO, also testified in support of Bill 162. She noted that she was representing other parents who were unable to attend the hearing.

**Mr. Jesus Cruz, Mt. Santa Rosa Elementary School**

Mr. Cruz said he supported the bill and asked senators to pass the measure.

Senator Camacho thanked the parents for their concern and for attending the hearing. Vice Speaker Kasperbauer also thanked them for testifying at the hearing. He said it can be easy to forget the children and the community depends on parents and teachers to speak up to get things done.

### **III. FINDINGS**

The Committee finds that Bill 162(COR) is a much-needed measure that will save the government of Guam millions of dollars and infuse funds into our economy to help stimulate economic growth and support our future educational facilities.

### **IV. RECOMMENDATIONS**

The Committee on Tourism, Transportation and Economic Development hereby reports out Bill No. 162(COR) as substituted by the Committee with the recommendation ***TO DO PASS.***

**MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN**  
**2001 (FIRST) Regular Session**

**Bill No. 162 (COR)**

As substituted by the Committee on  
Tourism, Transportation and Economic  
Development.

Introduced by:

L. F. Kasperbauer  
T. C. Ada

---

**AN ACT TO *ADD* CHAPTER 51 TO TITLE 12, GUAM  
CODE ANNOTATED REGARDING THE ISSUANCE  
OF BONDS AND OTHER OBLIGATIONS OF  
GOVERNMENT OF GUAM AND ITS AGENCIES,  
AUTHORITIES AND INSTRUMENTALITIES FOR  
THE SOLE PURPOSE OF REFUNDING PRIOR  
BONDS AND OTHER OBLIGATIONS TO ACHIEVE  
DEBT SERVICE SAVINGS AND TO SET ASIDE  
CERTAIN AMOUNTS IN AN "EDUCATION  
FACILITIES FUND" AND TO *ADD* SECTION 1508.1  
TO ARTICLE 5, CHAPTER 1, TITLE 5, GUAM CODE  
ANNOTATED, RELATIVE TO AUTHORIZING THE  
ISSUANCE OF BONDS OF THE GOVERNMENT OF  
GUAM FOR THE PURPOSE OF FINANCING  
CERTAIN WATER AND SEWER SYSTEM  
IMPROVEMENT PROJECTS.**

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

2        **Section 1. Legislative Findings and Intent.**     *I Liheslaturan Guåhan* finds  
3        that as a result of the present state of Guam's economy any and all means of reducing

1 the cost of operating the government of Guam including its agencies, authorities and  
2 instrumentalities must be explored.

3 *I Liheslaturan Guåhan* also finds that as a result of successive downward  
4 interest rate adjustments by the Federal Reserve, windows of opportunity will arise  
5 for which the government of Guam may realize significant interest and cash flow  
6 savings by refinancing or refunding many of its debts. Such windows of opportunity  
7 are often open for relatively short periods of time precluding the government of Guam  
8 from taking advantage of them due, in part, to the cumbersome review and approval  
9 process.

10 *I Liheslaturan Guåhan* further finds that present law requires a lengthy scrutiny  
11 and approval process for debt issues as a result of three (3) primary concerns:

- 12 (1) the impact of increasing the obligations of the government of  
13 Guam,
- 14 (2) the need and uses for such prospective funds and
- 15 (3) whether the Government can afford the debt service requirements  
16 for the duration of the term.

17 *I Liheslaturan Guåhan* further finds that if the Guam Economic Development  
18 Authority ("GEDA") is authorized, as windows of opportunity open, to arrange for  
19 the refinancing of any and all obligations of the government of Guam where it is  
20 possible to achieve debt service savings by lowering interest and/or debt service  
21 costs, then substantial savings can be realized.

22 It is the intent of *I Liheslaturan Guåhan* to authorize GEDA, within certain  
23 limitations, to arrange for the refinancing of any and all existing obligations of the  
24 government of Guam to lower interest and /or debt service costs.

1 *I Liheslaturan Guåhan* further finds that a need exists for certain capital  
2 improvements to the water and sewer system of the government of Guam and that it is  
3 desirable to finance such capital improvements through the issuance of bonds of the  
4 government of Guam.

5 **Section 2. Authorization to Refinance Existing Obligations.** Chapter  
6 51 is hereby *added* to Title 12 of the Guam Code Annotated to read as follows:

7 **"CHAPTER 51.**

8 **Authorization to Refund Obligations to Achieve Savings.**

9 **Section 51101. Definitions.**

10 **Section 51102. Authorization and Approval of Issuance,**  
11 **Terms and Conditions of Bonds of the**  
12 **Government for the Sole Purpose of**  
13 **Achieving Debt Service Savings.**

14 **Section 51103. Approval of Issuance, Terms and Conditions**  
15 **of Bonds of Agencies, Authorities and**  
16 **Instrumentalities of the Government for the**  
17 **Sole Purpose of Achieving Debt Service**  
18 **Savings.**

19 **Section 51104. Permitted Investments.**

20 **Section 51105. Financial Contracts to Achieve Savings.**

21 **Section 51106. Local Sale of Bonds.**

22 **Section 51107. Education Facilities Fund.**

23 **Section 51101. Definitions.** The definitions set forth herein  
24 shall govern the construction and interpretation of this Chapter:

1           (a) *'Prior bond'* means a bond which has been issued by the  
2 government of Guam or one of its agencies, authorities or  
3 instrumentalities and which is to be redeemed or otherwise retired with  
4 the proceeds of refunding bonds and investment earnings thereon.

5           (b) *'Refunding bond'* means a bond authorized or approved  
6 pursuant to this Chapter for the purpose of providing moneys to redeem  
7 or otherwise retire prior bonds, funding any necessary bond reserves or  
8 paying expenses incurred in connection with the issuance of such  
9 refunding bonds.

10          (c) *'Yield'* shall have the same meaning as when used in Section  
11 148 of the Internal Revenue Code of 1986, as amended. That is, *yield*"  
12 means the annual discount rate which, when used to discount all  
13 payments of debt service on an issue of bonds to the date of issuance of  
14 the bonds, using a semiannual compounding interval, results in the  
15 aggregate present value of such payments being equal to an amount  
16 equal to the re-offering price to the public of such bonds less fees to be  
17 paid for credit enhancement of such bonds from proceeds thereof.

18          (d) *'Debt service'* means the scheduled principal of and interest  
19 on bonds plus fees to be paid (other than from bond proceeds) for credit  
20 enhancement of such bonds and the net amounts to be paid or received  
21 under any financial contract entered into under Section 51105 of this  
22 Chapter. For purposes of this definition, any prior bonds bearing interest  
23 at a variable rate shall be assumed to bear interest at the then-current  
24 interest rate on such bonds.



1 (e) *'Debt service savings'* means the percentage by which the  
2 present value of debt service on the refunding bonds is less than the  
3 present value of debt service on the prior bonds, taking into account any  
4 moneys transferred from the refunded bonds to the refunding bonds and  
5 taking into account any moneys contributed to either or both bond issues.  
6 Present value shall be calculated for this purpose using the yield on the  
7 refunding bonds as the discount rate.

8 (f) *'Bond'* means any bond, note or other evidence of  
9 indebtedness.

10 (g) *'GEDA'* means the Guam Economic Development Authority.

11 **Section 51102. Authorization and Approval of Issuance, Terms**  
12 **and Conditions of Bonds of the Government for the Sole Purpose of**  
13 **Achieving Debt Service Savings.** *I Maga'lahaen Guåhan* is authorized to  
14 issue on behalf of the government of Guam one or more issues of bonds of the  
15 government consisting of refunding bonds, subject to the following  
16 requirements, limitations, terms and conditions, which shall apply separately to  
17 each such issue of refunding bonds:

18 (a) The issuance of the refunding bonds shall not cause a  
19 violation of the debt limitation provisions of 48 USC 1423a (§11 of the  
20 Organic Act of Guam).

21 (b) All obligation of the government to pay debt service on, and  
22 the redemption price of, the prior bonds shall be discharged concurrently  
23 with the issuance of the refunding bonds. Thereafter, the prior bonds  
24 shall be payable solely from and secured solely by an escrow established  
25 for such purpose.

1 (c) The debt service savings resulting from the issuance of the  
2 refunding bonds shall be not less than two percent (2%); provided that  
3 such requirement shall not apply to refunding bonds issued to refinance  
4 bonds issued pursuant to:

5 (i) Public Law No. 24-59, *as amended*, relating to a loan  
6 made by the Bank of Guam to the Guam Memorial Hospital  
7 Authority *and*

8 (ii) Public Law No. 25-72, *as amended*, relating to a loan  
9 made by the Bank of Hawaii to the government of Guam for the  
10 purpose of funding the voluntary separation program.

11 (d) The aggregate amount of scheduled debt service on the  
12 refunding bonds in each year to and including the final maturity of the  
13 refunding bonds shall be less than or equal to the maximum annual debt  
14 service on the prior bonds and the final scheduled maturity date of such  
15 refunding bonds shall be not more than five (5) years after the final  
16 scheduled maturity date of the prior bonds.

17 (e) The refunding bonds shall be payable from and secured by  
18 the same source or sources of revenues as the prior bonds refunded all or  
19 any portion of by the issue and the amounts to be received under any  
20 financial contract entered into under Section 51105 of this Chapter and  
21 shall not be payable from or secured by any other source or sources of  
22 revenues except as may be authorized by statute. Any pledge or lien on  
23 revenues or other moneys authorized to be granted with respect to the  
24 prior bonds refunded by the issue is hereby authorized to be granted with  
25 respect to the refunding bonds. If the prior bonds being refunded are

1 general obligations of the government, the refunding bonds shall be  
2 general obligations of the government.

3 (f) If and to the extent that any refunding bonds are not payable  
4 from and secured by the revenues of any autonomous agency of the  
5 government that were pledged to secure the related prior bonds, but are  
6 payable from and secured by a pledge of revenues that would otherwise  
7 be deposited in the General Fund, such autonomous agency shall pay to  
8 the General Fund on the dates on which any moneys that would  
9 otherwise be deposited in the General Fund are applied to pay debt  
10 service on such refunding bonds an amount equal to the lesser of (a) the  
11 amount of such moneys so applied to pay debt service and (b) the  
12 amount of such autonomous agency revenues available for such purpose.

13 (g) The proceeds of the refunding bonds may be used to fund a  
14 bond reserve only:

15 (1) to the extent that moneys from any bond reserve for  
16 the prior issue are transferred to the escrow from which the prior  
17 bonds will be paid, and

18 (2) if the prior bonds had no bond reserve, in an amount  
19 not greater than maximum annual debt service on the related  
20 refunding bonds.

21 (h) The terms and conditions of the refunding bonds shall be as  
22 determined by *I Maga'lahaen Guãhan* by the execution of a certificate or  
23 indenture authorizing the issuance of the bonds. The certificate or  
24 indenture shall contain terms and conditions that are consistent with this  
25 Chapter, and shall include substantially the same additional bonds tests,

1 rate covenants and other covenants as were applicable with respect to the  
2 prior bonds.

3 (i) Any refunding bonds authorized by this Chapter shall  
4 constitute the valid and binding obligations of the government of Guam.  
5 All officers charged by law with any duty in the collection of any  
6 revenues from which debt service on the issue will be payable shall do  
7 every lawful thing necessary to collect the amount necessary for such  
8 purpose. The validity of any such bonds shall not be affected by the  
9 validity or regularity of any proceedings for the implementation of the  
10 capital improvement projects funded by the prior bonds.

11 (j) Any appropriation of revenues or other moneys made by the  
12 statute authorizing the issuance of the prior bonds is hereby continued as  
13 an appropriation with respect to the refunding bonds.

14 (k) Notwithstanding any substantive or procedural provision of  
15 Chapter 6, Title 5, Guam Code Annotated, the government of Guam  
16 waives immunity from any suit or action in contract on the bonds  
17 authorized by this Chapter, but does not waive sovereign immunity as to  
18 the personal liability of elected officials and employees of the  
19 government of Guam.

20 (l) The technical form and language of the refunding bonds,  
21 including provisions for execution, exchange, transfer, registration,  
22 paying agency, lost or mutilated bonds, negotiability, cancellation and  
23 other terms, covenants or conditions not inconsistent with this Chapter  
24 and including covenants relating to the collection of revenues, shall be as  
25 specified in the certificate or indenture executed by *I Maga'laha*

1 *Guåhan* authorizing the issuance of the refunding bonds. The certificate  
2 or indenture may appoint one or more trustees or other fiduciaries  
3 authorized to receive and hold in trust the proceeds of the bonds and  
4 moneys relating thereto, to protect the rights of bondholders and to  
5 perform such other duties as may be specified in the certificate or  
6 indenture. *I Maga'lahren Guåhan* is also authorized to execute, on behalf  
7 of the government of Guam, any appropriate agreements, certificates or  
8 other instruments relating to the bonds and the sale of the bonds.

9 (m) *I Maga'lahren Guåhan* is authorized to enter into such  
10 contracts or agreements with such banks, insurance companies or other  
11 financial institutions as he determines are necessary or desirable to  
12 improve the security and marketability of any issue of bonds authorized  
13 by this Chapter. Such contracts or agreements may contain an obligation  
14 to reimburse, with interest, any such banks, insurance companies or other  
15 financial institutions for advances used to pay principal of or interest on  
16 the issue. Any such reimbursement obligation shall be payable solely  
17 from the same sources as debt service on the issue is payable, and any  
18 such advance, if necessary, shall be treated as creating a reimbursement  
19 obligation issued to refund the issue.

20 (n) No employee or elected official of the government of Guam  
21 shall be individually or personally liable for the payment of any amounts  
22 due on any bonds issued under this Chapter, or for any other liability  
23 arising in connection with the bonds; provided, however, that nothing in  
24 this Chapter shall relieve any employee or elected official from the  
25 performance of any ministerial duty required by law.

1                   (o) Section 50103(k), Title 12, Guam Code Annotated, provides  
2                   that agencies and instrumentalities of the government of Guam shall  
3                   issue bonds and other obligations only by means of and through the  
4                   agency of the GEDA. No issue of bonds authorized by this Chapter shall  
5                   be sold until the board of directors of GEDA has adopted a resolution  
6                   approving the sale of such issue.

7                   (p) Section 50103(k) also provides that GEDA shall not sell any  
8                   bonds without approval by *I Liheslaturan Guåhan* of the terms and  
9                   conditions of the issuance of the bonds. *I Liheslaturan Guåhan* hereby  
10                  approves the issuance, terms and conditions of the bonds authorized by  
11                  this Chapter.

12                  **Section 51103. Approval of Issuance, Terms and Conditions of**  
13                  **Bonds of Agencies, Authorities and Instrumentalities of the Government**  
14                  **for the Sole Purpose of Achieving Debt Service Savings.** Section  
15                  50103(k) of Title 12 of the Guam Code Annotated, provides that agencies,  
16                  authorities and instrumentalities of the government of Guam shall issue bonds  
17                  only by means of and through the agency of GEDA and that GEDA shall not  
18                  sell any bond without approval by *I Liheslaturan Guåhan* of the terms and  
19                  conditions of the issuance of the bonds. *I Liheslaturan Guåhan* hereby  
20                  approves the issuance, terms and conditions of refunding bonds to be issued by  
21                  any agency, authority and instrumentality of the government of Guam, subject  
22                  to the following requirements, limitations, terms and conditions, which shall  
23                  apply separately to each such issue of refunding bonds:

1           (a) The issuance of the refunding bonds shall not cause a  
2 violation of the debt limitation provisions of 48 USC 1423a (§11 of the  
3 Organic Act of Guam).

4           (b) All obligation of the agency, authority or instrumentality to  
5 pay debt service on, and the redemption price of, the prior bonds shall be  
6 discharged concurrently with the issuance of the refunding bonds.  
7 Thereafter, the prior bonds shall be payable solely from and secured  
8 solely by an escrow established for such purpose.

9           (c) The debt service savings resulting from the issuance of the  
10 refunding bonds shall be not less than two percent (2%).

11           (d) The aggregate amount of scheduled debt service on the  
12 refunding bonds in each year to and including the final maturity of the  
13 refunding bonds shall be less than or equal to the maximum annual debt  
14 service on the prior bonds, and the final scheduled maturity date of such  
15 refunding bonds shall be not more than five (5) years after the final  
16 scheduled maturity date of the prior bonds.

17           (e) The proceeds of the refunding bonds may be used to fund a  
18 bond reserve only if and to the extent that moneys from any bond reserve  
19 for the prior issue are transferred to the escrow from which the prior  
20 bonds will be paid.

21           (f) The terms and conditions of the refunding bonds shall be  
22 consistent with this Section, and shall include substantially the same  
23 additional bonds tests, rate covenants and other covenants as were  
24 applicable with respect to the prior bonds.

1 (g) No issue of bonds approved by this Section shall be sold  
2 until the board of directors of GEDA has adopted a resolution approving  
3 the sale of such issue.

4 **Section 51104. Permitted Investments.** The proceeds of  
5 bonds issued by the Government or any agency, authority or instrumentality  
6 thereof under this Chapter, and any revenues relating to such bonds, may be  
7 invested in, but only in, the types of investments permitted by the certificate or  
8 indenture pursuant to which such bonds are issued.

9 **Section 51105. Financial Contracts to Achieve Savings.** Any  
10 agency, authority or instrumentality of the government and *I Maga'laha*  
11 *Guåhan* on behalf of the government of Guam, in connection with, or  
12 incidental to, the issuance of bonds under this Chapter, or the carrying of any  
13 investment or program of investment under this Chapter, may enter into any  
14 contracts which GEDA determines to be necessary or appropriate to place the  
15 obligation or investment of the agency, authority or instrumentality or the  
16 government, as represented by the bonds, investment or program of investment  
17 and the contract or contracts, in whole or in part, on the interest rate, currency,  
18 cash-flow, or other basis desired by GEDA in the furtherance of the purposes  
19 of this Chapter, including, without limitation, contracts commonly known as  
20 interest rate swap agreements, currency swap agreements, forward payment  
21 conversion agreements, futures, or contracts providing for payments based on  
22 levels of, or changes in, interest rates, currency exchange rates, or contracts to  
23 exchange cash flows or a series of payments, or contracts, including, without  
24 limitation, interest rate floors or caps, options, put or call to hedge payment,  
25 currency, rate, spread, or similar exposure. These contracts or arrangements



1 may also be entered into by GEDA in connection with, or incidental to,  
2 entering into or maintaining any agreement which secures bonds. These  
3 contracts and arrangements shall be entered into with the parties, selected by  
4 the means, and contain the payment, security, default, remedy, and other terms  
5 and conditions, determined by GEDA, after giving due consideration for the  
6 creditworthiness of the counterparties, where applicable, including any rating  
7 by a nationally recognized rating agency or any other criteria as may be  
8 appropriate.

9 **Section 51106. Local Sale of Bonds.** GEDA shall undertake its  
10 best efforts to cause a portion of any bonds issued pursuant to this Chapter, to  
11 be offered for sale in Guam, as well as in other jurisdictions, if and to the extent  
12 that such offer and any sales resulting from such offer do not increase the cost  
13 to the government of Guam of issuing and repaying such bonds.

14 **Section 51107. Education Facilities Fund.** There is hereby  
15 created an Education Facilities Fund (the "Fund"). The Fund shall be a special  
16 fund of the Government of Guam and shall be used for the sole purpose of  
17 constructing or renovating education facilities. Expenditures from the Fund  
18 shall be by appropriation of *I Liheslaturan Guåhan*. The Fund shall initially be  
19 funded in an amount not to exceed Two Million Three Hundred Thousand  
20 Dollars (\$2,300,000) at the time or times and to the extent that amounts  
21 constituting revenues derived by the government under 48 U.S.C. §1421h (§30  
22 of the Organic Act of Guam) and previously deposited in a debt service fund  
23 with respect to prior bonds are made available by the refunding of such prior  
24 bonds pursuant to this Chapter. Thereafter, the Fund shall be funded by  
25 appropriation of *I Liheslaturan Guåhan*. The Fund shall be managed by the

1 Guam Economic Development Authority. Investment income on the assets of  
2 the Fund shall be deposited in the Fund."

3 **Section 3. Authorization to Issue New Money Bonds.** Section 1508.1

4 is hereby *added* to Article 5, Chapter 1, Title 5 of the, Guam Code Annotated to read  
5 as follows:

6 **"Section 1508.1. Water System Bonds of 2001.**

7 **(a) Authorization of Issuance of Bonds.** *I Maga'lahaen Guåhan*

8 is authorized to issue on behalf of the government of Guam an issue of bonds  
9 of the government (which may be issued as part of a larger issue including  
10 bonds issued pursuant to Chapter 51, Title 12 of the Guam Code Annotated in  
11 an aggregate principal amount not to exceed Six Million Dollars (\$6,000,000)  
12 for a maximum term of ten (10) years and with a true interest cost not to exceed  
13 five and one-half percent (5.5%) per annum for the purpose of implementing  
14 the Water System Projects enumerated in Subsection (j) of this Section,  
15 *provided*, however, that any such issue of bonds shall not cause a violation of  
16 the debt limitation of 48 U.S.C. §1423a.

17 **(b) Terms and Conditions Determined by Certificate or**  
18 **Indenture.** The terms and conditions of the bonds shall be as

19 determined by *I Maga'lahaen Guåhan* by the execution of one or more  
20 certificates or indentures authorizing the issuance of the bonds in substantially  
21 the form presented to *I Liheslaturan Guåhan*. Any such certificate or indenture  
22 may also authorize persons so designated to execute, on behalf of the  
23 government of Guam, any appropriate agreements or other documents relating  
24 to the bonds and the sale of the bonds. The certificates or indentures shall  
25 contain such terms and conditions as are consistent with this Section.

1           **(c) Valid and Binding Obligation.**       The bonds authorized by  
2 this Section shall constitute the valid and legally binding limited obligations of  
3 the government of Guam payable from and secured by a pledge of the revenues  
4 described in Subsection (d) of this Section. All officers charged by law with  
5 any duty in the collection of any revenues from which debt service on the  
6 bonds is payable shall do every lawful thing necessary to collect the money  
7 necessary for such purpose. The validity of any such bonds shall not be  
8 affected by the validity or regularity of any proceedings for the implementation  
9 of Water System Projects funded by the debt or debts.

10           **(d) Pledge of Section 30 Revenues.**   All or any part of the  
11 revenues derived by the government of Guam under Section 30 of the Organic  
12 Act may be pledged to secure the repayment of any bonds issued pursuant to  
13 this Section and pay costs incurred in the creation of such debts, subject to any  
14 previously created lien on or pledge of such revenues. Any pledge made to  
15 secure the bonds shall be valid and binding from the time the pledge is made.  
16 The revenues pledged and thereafter received by the government of Guam or  
17 by any trustee, depository or custodian shall be deposited in a separate account  
18 and shall be immediately subject to the lien of such pledge without physical  
19 delivery thereof or further act, and the lien of such pledge shall be valid and  
20 binding against all parties having claims of any kind in tort, contract or  
21 otherwise, against the government of Guam, such trustee, depository or  
22 custodian, irrespective of whether the parties have notice thereof. The  
23 certificate or indenture by which such pledge is created need not be recorded.  
24 All revenues pledged are hereby continuously appropriated for the purpose for  
25 which they have been pledged.

1           **(e) Reimbursement of the General Fund by the Guam**  
2 **Waterworks Authority ("GWA") and the Guam Memorial Hospital**  
3 **Authority ("GMHA").** Both the Guam Waterworks Authority ("GWA") and  
4 the Guam Memorial Hospital Authority ("GMHA") shall pay to the General  
5 Fund on the dates on which any moneys that would otherwise be deposited in  
6 the General Fund are applied to pay debt service on the bonds an amount equal  
7 to the lesser of (a) the amount of such moneys so applied to pay debt service  
8 and (b) the amount of such GWA and GMHA revenues available for such  
9 purpose.

10           **(f) Waiver of Immunity; No Personal Liability.**

11           Notwithstanding any substantive or procedural provision of the  
12 Government Claims Act, Chapter 6 of Title 5 of the Guam Code Annotated, the  
13 government of Guam waives immunity from any suit or action in contract on  
14 the bonds issued pursuant to this Section, but does not waive sovereign  
15 immunity as to the personal liability of elected officials and full-time  
16 employees of the government of Guam. No employee or elected official of the  
17 government of Guam shall be individually or personally liable for the payment  
18 of any amounts due on any bonds issued under this Section, or for any other  
19 liability arising in connection with the bonds; provided, however, that nothing  
20 in this Section shall relieve any employee or elected official from the  
21 performance of any ministerial duty required by law.

22           **(g) Form of Bonds; Covenants; Appointment of Trustee.**

23           The technical form and language of the bonds, including provisions for  
24 execution, exchange, transfer, registration, paying agency, lost or mutilated  
25 bonds, negotiability, cancellation and other terms and conditions not

1 inconsistent with this Section, shall be as specified in a certificate or indenture  
2 approved by *I Maga'lahaen Guåhan*, authorizing the issuance of the bonds. The  
3 certificate or indenture may appoint one or more trustees or other fiduciaries  
4 authorized to receive and hold in trust the proceeds of the bonds and revenues  
5 related thereto, to protect the rights of bondholders and to perform such other  
6 duties as may be specified in the certificate or indenture. *I Maga'lahaen Guåhan*  
7 is also authorized to execute, on behalf of the government of Guam, any  
8 appropriate agreements, certificates or other instruments relating to the bonds  
9 and the sale of the bonds.

10 **(h) Authorization for Credit Enhancement.** *I Maga'lahaen*  
11 *Guåhan* is authorized to enter into such contracts or agreements with such  
12 banks, insurance companies or other financial institutions as he determines are  
13 necessary or desirable to improve the security and marketability of the bonds  
14 issued pursuant to this Section. Such contracts or agreements may contain an  
15 obligation to reimburse, with interest, any such banks, insurance companies or  
16 other financial institutions for advances used to pay principal or interest on the  
17 bonds. Any such reimbursement obligation shall be payable solely from and  
18 secured by a pledge of the revenues described in subsection (d) of this Section.

19 **(i) Use of Proceeds from the Sale of Bonds.** All Water System  
20 Projects to be funded in accordance with the provisions of this Section must be  
21 reviewed and approved by *I Maga'lahaen Guåhan* prior to their  
22 implementation. Proceeds from the sale of the bonds shall be used solely to  
23 pay and are hereby appropriated to pay the costs of the Water System Projects  
24 described in Subsection (j) of this Section, to fund any necessary bond reserves,  
25 and to pay expenses related to the authorization, sale and issuance of the bonds,

1 including without limitation, printing costs, costs of reproducing documents,  
2 bond insurance premiums, underwriting, legal and accounting fees and charges,  
3 fees paid to banks or other financial institutions providing credit enhancement,  
4 costs of credit ratings, fees and charges for execution, transportation and  
5 safekeeping of bonds and other costs, charges and fees in connection with the  
6 issuance, sale and delivery of the debt or debts.

7 **(j) Water System Projects.** The Water System Projects  
8 ("Projects") contained in the Guam Waterworks Authority Fiscal Year 2002  
9 capital budget list, as authorized, not to exceed the Six Million Dollars  
10 (\$6,000,000) in new money contained in Section 1508.1 of this Act.

11 **(k) Policy and Intent.** It is the policy and intent of *I*  
12 *Liheslaturan Guåhan* to ensure that all projects enumerated in Subsection (j)  
13 are completed. In this respect, *I Liheslaturan Guåhan* gives its consent and  
14 authorization to allow the transfer of funds from a project with a surplus to a  
15 project with a shortfall, provided, however, that *I Liheslaturan Guåhan* be  
16 informed in writing prior to any transfer. If a project or projects are placed on  
17 hold by the General Manager of Guam Waterworks Authority due to an  
18 unanticipated circumstance, a transfer of funds from the project or projects  
19 enumerated in Subsection (j) on hold to another project with a shortfall is  
20 permitted; provided, that prior to any transfer *I Liheslaturan Guåhan* be  
21 informed in writing of the reasons why such a project so enumerated in  
22 Subsection (j) is on hold.

23 **(l) Approval of Guam Economic Development Authority**  
24 **Required.** Section 50103(k), Title 12, Guam Code Annotated, provides  
25 that agencies and instrumentalities of the government of Guam shall issue

1 bonds and other obligations only by means of and through the agency of the  
2 Guam Economic Development Authority ("GEDA"). No issue of bonds  
3 authorized by this Section shall be sold until the board of directors of GEDA  
4 has adopted a resolution approving the sale of such bonds.

5 **(m) Approval of Terms and Conditions.** Section 50103(k) also  
6 provides that GEDA shall not sell any bonds without approval by *I*  
7 *Liheslaturan Guåhan* of the terms and conditions of the issuance of the bonds.  
8 *I Liheslaturan Guåhan* hereby approves the issuance, terms and conditions of  
9 the bonds authorized by this Section.

10 **(n) Permitted Investments.** The proceeds of bonds issued by  
11 the Government pursuant to this Section, and any revenues relating to such  
12 bonds, may be invested in, but only in, the types of investments permitted by  
13 the certificate or indenture pursuant to which such bonds are issued.

14 **(o) Local Sale of Bonds.** GEDA shall undertake its best efforts to  
15 cause a portion of any bonds issued pursuant to this Section, to be offered for  
16 sale in Guam, as well as in other jurisdictions, if and to the extent that such  
17 offer and any sales resulting from such offer do not increase the cost to the  
18 government of Guam of issuing and repaying such bonds."

19 **Section 4. Medicaid and Medically Indigent Program Assistance**  
20 **Payment Fund.** There is hereby created a Medicaid and Medically Indigent  
21 Program Assistance Payment Fund (the "Fund"). The Fund shall be a special fund of  
22 the government of Guam and shall be used for the sole purpose of covering  
23 anticipated program shortfall contained in the Medicaid and Medically Indigent  
24 Programs administered by the Department of Public Health and Social Services.  
25 Expenditures from the Fund shall be by appropriation of *I Liheslaturan Guåhan*. The

1 Fund shall initially be funded in an amount not to exceed Four Million Six Hundred  
2 Thousand Dollars (\$4,600,000) at the time or times and to the extent that amounts  
3 constituting revenues derived by the government under 48 U.S.C. §1421h (§30 of the  
4 Organic Act of Guam) and previously deposited in a debt service fund with respect to  
5 prior bonds are made available by the refunding of such prior bonds pursuant to this  
6 Chapter. Thereafter, the Fund shall be funded by appropriation of *I Liheslaturan*  
7 *Guåhan.*"

8       **Section 5. Public Works Repayment Fund.** There is hereby created a  
9 Public Works Repayment Fund (the "Fund"). The Fund shall be a special fund of the  
10 government of Guam and shall be used for the sole purpose of paying to the Guam  
11 Power Authority ("GPA") outstanding arrearage due to GPA. Expenditures from the  
12 Fund shall be by appropriation of *I Liheslaturan Guåhan.* The Fund shall initially be  
13 funded in an amount not to exceed One Million Seven Hundred Thousand Dollars  
14 (\$1,700,000) at the time or times and to the extent that amounts constituting revenues  
15 derived by the government under 48 U.S.C. §1421h (§30 of the Organic Act of  
16 Guam) and previously deposited in a debt service fund with respect to prior bonds are  
17 made available by the refunding of such prior bonds pursuant to this Chapter.  
18 Thereafter, the Fund shall be funded by appropriation of *I Liheslaturan Guåhan.*"

19       **Section 6. Severability.** If any provision of this Law or its application  
20 to any person or circumstance is found to be invalid or contrary to law, such  
21 invalidity shall not affect other provisions or applications of this Law which can be  
22 given effect without the invalid provisions or application, and to this end the  
23 provisions of this Law are severable.





# MINA ' BENTE SAIS NA LIHESLATURAN GUAHAN

Kumitehan Areklamento, Hinanao Gubetnamenson Hinirát, Rifotma yan Rinueba,  
yan Asunton Fidirát, Taotao Hiyong yan Hinirát

*Senadot Mark Forbes, Gehilu  
Kabisiyon Mayurát*

23 OCT 2004

## MEMORANDUM

TO: Chairman  
Committee on Tourism, Transportation and Economic Development

FROM: Chairman  
Committee on Rules, General Governmental Operations, Reorganization and Reform, and Federal, Foreign and General Affairs

SUBJECT: Principal Referral - Bill No. 162 (COR)

The above bill is referred to your Committee as the Principal Committee, in accordance with Section 6.04.05.01. of the Standing Rules. Your Committee is the Committee authorized to perform the public hearing on this bill and to amend or substitute the bill, as well as report the bill out to the Body. It is recommended that you schedule a public hearing at your earliest convenience.

Thank you for your attention to this matter.

**MARK FORBES**

Attachment

AUG 23 2001

**MINA' BENTE SAIS NA LIHESLATURAN GUÅHAN**  
**2001 (FIRST) Regular Session**

Bill No. 162 (COR)

Introduced by:

L.F. Kasperbauer *LK*  
T.C. Ada *TC*

**AN ACT TO ADD A NEW CHAPTER 51 TO TITLE 12, GUAM CODE ANNOTATED AUTHORIZING THE GUAM ECONOMIC DEVELOPMENT AUTHORITY TO REFUND OR REFINANCE EXISTING OBLIGATIONS AS A MEANS OF SAVING MONEY AND TO SET ASIDE A PORTION OF THE SAVING ON THE REFUDING OF GENERAL OBLIGATION DEBT IN AN "EDUCATION FACILITIES FUND".**

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

2

3 **Section 1. Legislative finding and intent.**

4 *I Liheslaturan Guåhan* finds that as a result of present state of Guam's  
5 economy any and all means of reducing the cost of operating the Government of  
6 Guam including its autonomous agencies must be explored.

7 *I Liheslaturan Guåhan* also finds that as a result of successive downward  
8 interest rate adjustments by the Federal Reserve, windows of opportunity will  
9 arise for which the Government of Guam may realize significant interest and cash  
10 flow savings by refinancing or refunding many of its debts. Such windows of  
11 opportunity are often open for relatively short periods of time precluding the  
12 Government of Guam from taking advantage of them due, in part, to the  
13 cumbersome review and approval process.

1            *I Liheslaturan Guåhan* further finds that present law requires a lengthy  
2 scrutiny and approval process for debt issues as a result of three primary concerns:  
3 (1) the impact of increasing the obligations of the Government of Guam, (2) the  
4 need and uses for such prospective funds and (3) whether the Government can  
5 afford the debt service requirements for the duration of the term.

6            *I Liheslaturan Guåhan* further finds that if the Guam Economic  
7 Development Authority is authorized, as windows of opportunity open, to  
8 refinance any and all obligations of the Government of Guam where it is possible  
9 to lower interests and/or debt service cost without incurring any increase in the  
10 amount of debt the Government presently owes, then substantial savings can be  
11 realized.

12            It is the intent of *I Liheslatura* to authorize the Guam Economic  
13 Development Authority, within certain limitations, to refinance any and all  
14 existing obligations of the Government of Guam to lower interest/debt service  
15 costs.

16

17            **Section 2. Authorization to Refinance Existing obligations.** Chapter 51  
18 is hereby added to Title 12, Guam Code Annotated to read:

19

20

## "Chapter 51

21

### **Authorization to Refund Obligations to Achieve Savings**

22

23            **§51101. Definitions.** The following terms shall have the following  
24 meanings when used in this Chapter:

25

26

(a) "Prior bond" means a bond which has been issued by the Government  
of Guam or one of its agencies, authorities or instrumentalities and which is

=

1 to be redeemed or otherwise retired with the proceeds of refunding bonds  
2 and investment earnings thereon.

3 (b) "Refunding bond" means a bond authorized or approved pursuant to  
4 this Chapter for the purpose of providing moneys to redeem or otherwise  
5 retire prior bonds, funding any necessary bond reserves or paying expenses  
6 incurred in connection with the issuance of such refunding bonds.

7 (c) "Yield" shall have the same meaning as when used in Section 148 of  
8 the Internal Revenue Code of 1986, as amended. That is, "yield" means the  
9 annual discount rate which, when used to discount all payments of debt  
10 service on an issue of bonds to the date of issuance of the bonds (using a  
11 semiannual compounding interval), results in the aggregate present value of  
12 such payments being equal to the re-offering price to the public of such  
13 bonds.

14 (d) "Debt service" means the scheduled principal of and interest on bonds  
15 plus fees to be paid for credit enhancement of such bonds.

16 (e) "Debt service savings" means the percentage by which the present  
17 value of debt service on the refunding bonds is less than the present value of  
18 debt service on the prior bonds. Present value shall be calculated for this  
19 purpose using the yield on the refunding bonds as the discount rate.

20 (f) "Obligation of the Government of Guam" means for purposes of this  
21 Act, any debt or obligation of the Government of Guam or any of its  
22 instrumentalities including such obligations issued in the names of such  
23 instrumentalities.

24  
25 **§51102. Authorization and Approval of Issuance, Terms and**  
26 **Conditions of Bonds of the Government for the Sole Purpose of Achieving**

1 **Debt Service Savings.** *I Maga'lahaen Guahån* is authorized to issue on behalf of  
2 the Government of Guam one or more issues of bonds of the government  
3 consisting of refunding bonds, subject to the following requirements, limitations,  
4 terms and conditions, which shall apply separately to each such issue of refunding  
5 bonds:

6 (a) The issuance of the refunding bonds shall not cause a violation of the  
7 debt limitation provisions of 48 USC 1423a (§11 of the Organic Act of  
8 Guam).

9 (b) All obligation of the government to pay debt service on, and the  
10 redemption price of, the prior bonds shall be discharged concurrently with  
11 the issuance of the refunding bonds. Thereafter, the prior bonds shall be  
12 payable solely from and secured solely by an escrow established for such  
13 purpose.

14 (c) The debt service savings resulting from the issuance of the refunding  
15 bonds shall be not less than two percent (2%).

16 (d) The aggregate amount of debt service on the refunding bonds in each  
17 year to and including the final maturity of the refunding bonds shall be less  
18 than or equal to the amount of debt service for such year on the prior bonds.

19 (e) The refunding bonds shall be payable from and secured by the same  
20 source or sources of revenues as the prior bonds refunded by the issue. Any  
21 pledge or lien on revenues or other moneys authorized to be granted with  
22 respect to the prior bonds refunded by the issue is hereby authorized to be  
23 granted with respect to the refunding bonds. If the prior bonds being  
24 refunded are general obligations of the government, the refunding bonds  
25 shall be general obligations of the government.

1 (f) The proceeds of the refunding bonds may be used to fund a bond  
2 reserve only if and to the extent that moneys from any bond reserve for the  
3 prior issue are transferred to the escrow from which the prior bonds will be  
4 paid.

5 (g) The terms and conditions of the refunding bonds shall be as  
6 determined by the *I Maga'laha*n by the execution of a certificate or  
7 indenture authorizing the issuance of the bonds. The certificate or indenture  
8 shall contain terms and conditions that are consistent with this Chapter, and  
9 shall include substantially the same additional bonds tests, rate covenants  
10 and other covenants as were applicable with respect to the prior bonds.

11 (h) Any refunding bonds authorized by this Chapter shall constitute the  
12 valid and binding obligations of the Government of Guam. All officers  
13 charged by law with any duty in the collection of any revenues from which  
14 debt service on the issue will be payable shall do every lawful thing  
15 necessary to collect the amount necessary for such purpose. The validity of  
16 any such bonds shall not be affected by the validity or regularity of any  
17 proceedings for the implementation of the capital improvement projects  
18 funded by the prior bonds.

19 (i) Any appropriation of revenues or other moneys made by the statute  
20 authorizing the issuance of the prior bonds is hereby continued as an  
21 appropriation with respect to the refunding bonds.

22 (j) Notwithstanding any substantive or procedural provision of Chapter  
23 6, Title 5, Guam Code Annotated, the Government of Guam waives  
24 immunity from any suit or action in contract on the bonds authorized by this  
25 Chapter, but does not waive sovereign immunity as to the personal liability  
26 of elected officials and employees of the Government of Guam.

1 (k) The technical form and language of the refunding bonds, including  
2 provisions for execution, exchange, transfer, registration, paying agency,  
3 lost or mutilated bonds, negotiability, cancellation and other terms,  
4 covenants or conditions not inconsistent with this Chapter and including  
5 covenants relating to the collection of revenues, shall be as specified in the  
6 certificate or indenture executed by the *I Maga'laha*n authorizing the  
7 issuance of the refunding bonds. The certificate or indenture may appoint  
8 one or more trustees or other fiduciaries authorized to receive and hold in  
9 trust the proceeds of the bonds and moneys relating thereto, to protect the  
10 rights of bondholders and to perform such other duties as may be specified  
11 in the certificate or indenture. The *I Maga'laha*n is also authorized to  
12 execute, on behalf of the Government of Guam, any appropriate  
13 agreements, certificates or other instruments relating to the bonds and the  
14 sale of the bonds.

15 (l) The *I Maga'laha*n is authorized to enter into such contracts or  
16 agreements with such banks, insurance companies or other financial  
17 institutions as he determines are necessary or desirable to improve the  
18 security and marketability of any issue of bonds authorized by this Chapter.  
19 Such contracts or agreements may contain an obligation to reimburse, with  
20 interest, any such banks, insurance companies or other financial institutions  
21 for advances used to pay principal of or interest on the issue. Any such  
22 reimbursement obligation shall be payable solely from the same sources as  
23 debt service on the issue is payable, and any such advance, if necessary,  
24 shall be treated as creating a reimbursement obligation issued to refund the  
25 issue.

1 (m) No employee or elected official of the Government of Guam shall be  
2 individually or personally liable for the payment of any amounts due on any  
3 bonds issued under this Chapter, or for any other liability arising in  
4 connection with the bonds; provided, however, that nothing in this Chapter  
5 shall relieve any employee or elected official from the performance of any  
6 ministerial duty required by law.

7 (n) §50103(k), Title 12, Guam Code Annotated, provides that agencies  
8 and instrumentalities of the Government of Guam shall issue bonds and  
9 other obligations only by means of and through the agency of the Guam  
10 Economic Development Authority ("GEDA"). No issue of bonds  
11 authorized by this subsection (b) shall be sold until the board of directors of  
12 GEDA has adopted a resolution approving the sale of such issue.

13 (o) Said §50103(k) also provides that GEDA shall not sell any bond  
14 without approval by *I Liheslatura* of the terms and conditions of the  
15 issuance of the bonds. *I Liheslatura* hereby approves the issuance, terms  
16 and conditions of the bonds authorized by this Chapter.

17  
18 **§51103. Approval of Issuance, Terms and Conditions of Bonds of**  
19 **Agencies, Authorities and Instrumentalities of the Government for the Sole**  
20 **Purpose of Achieving Debt Service Savings.** §50103(k), Title 12, Guam Code  
21 Annotated, provides that agencies and instrumentalities of the Government of  
22 Guam shall issue bonds and other obligations only by means of and through the  
23 agency of the Guam Economic Development Authority ("GEDA") and that GEDA  
24 shall not sell any bond without approval by *I Liheslatura* of the terms and  
25 conditions of the issuance of the bonds. *I Liheslatura* hereby approves the  
26 issuance, terms and conditions of refunding bonds to be issued by any agency,



1 authority and instrumentality of the Government of Guam, subject to the following  
2 requirements, limitations, terms and conditions, which shall apply separately to  
3 each such issue of refunding bonds:

4 (a) The issuance of the refunding bonds shall not cause a violation of the  
5 debt limitation provisions of 48 USC 1423a (§11 of the Organic Act of  
6 Guam).

7 (b) All obligation of the agency, authority or instrumentality to pay debt  
8 service on, and the redemption price of, the prior bonds shall be discharged  
9 concurrently with the issuance of the refunding bonds. Thereafter, the prior  
10 bonds shall be payable solely from and secured solely by an escrow  
11 established for such purpose.

12 (c) The debt service savings resulting from the issuance of the refunding  
13 bonds shall be not less than two percent (2%).

14 (d) The aggregate amount of debt service on the refunding bonds in each  
15 year to and including the final maturity of the refunding bonds shall be less  
16 than or equal to the amount of debt service for such year on the prior bonds

17 (e) The proceeds of the refunding bonds may be used to fund a bond  
18 reserve only if and to the extent that moneys from any bond reserve for the  
19 prior issue are transferred to the escrow from which the prior bonds will be  
20 paid.

21 (f) The terms and conditions of the refunding bonds shall be consistent  
22 with this subsection (c), and shall include substantially the same additional  
23 bonds tests, rate covenants and other covenants as were applicable with  
24 respect to the prior bonds.

1 (g) No issue of bonds approved by this subsection (c) shall be sold until  
2 the board of directors of GEDA has adopted a resolution approving the sale  
3 of such issue.  
4

5 **§51104. Permitted Investments.** The proceeds of bonds issued by the  
6 government, and any revenues relating to such bonds, may be invested in, but only  
7 in, the types of investments permitted by the certificate or indenture pursuant to  
8 which such bonds are issued.  
9

10 **§51105. Local Sale of Bonds.** The *I Maga'laha*n of Guam shall undertake  
11 his best efforts to cause a portion of any bonds issued pursuant to this Chapter, to  
12 be offered for sale in Guam, as well as in other jurisdictions, if and to the extent  
13 that such offer and any sales resulting from such offer do not increase the cost to  
14 the Government of Guam of issuing and repaying such bonds.  
15

16 **§51106. Education Facilities Fund.** There is hereby created an Education  
17 Facilities Fund (The "Fund"). The Fund shall be a special fund of the Government  
18 of Guam and used for the sole purpose of constructing or renovating education  
19 facilities. Expenditures from the Fund shall be by appropriation of *I Liheslaturan*  
20 *Guåhan*. The fund shall be funded by depositing Fifty Percent (50%) of the *debt*  
21 *service savings* derived from refunding *General Obligation Debt* authorized by  
22 Chapter 51 of Title 12, Guam Code Annotated. The Fund shall be managed by the  
23 Guam Economic Development Authority. Investment income on the assets of the  
24 Fund shall remain in the Fund.



THE OFFICE OF  
**Senator Felix P. Camacho**  
TWENTY-SIXTH GUAM LEGISLATURE

Public Hearing  
1 p.m. Wednesday, November 14, 2001

AGENDA

- I. Call to Order
- II. Announcement and Introduction of Members
- III. Confirmation Hearing: Lorenzo Aflague to the Guam International Airport Authority
- IV. Legislative Measure: BILL NO. 210
- V. Legislative Measure: BILL NO. 162
- VI. Legislative Measure: BILL NO. 209
- VII. Remarks
- VIII. Adjournment



THE OFFICE OF  
**Senator**

**Felix P. Camacho**

TWENTY-SIXTH GUAM LEGISLATURE

Suite 15B • 777 Route 4 • Sinajana, Guam 96926 • Phones 1.671 472-3544 / 45 / 46 • Fax 1.671 472-3534

# TESTIMONY SIGN-IN SHEET

COMMITTEE ON TOURISM, TRANSPORTATION  
AND ECONOMIC DEVELOPMENT

## BILL NO. 162(COR) REGARDING GOVERNMENT REFINANCING

NAME : <i>Alicia Pinarola</i>	ORGANIZATION : <i>DPO Pres. Mt. Sta. Rosa Elem.</i>
CONTACT : <i>632-8597</i>	MAILING ADDRESS : <i>PO BOX 23641 GMP 96921</i>
NAME : <i>JESUS CRUZ</i>	ORGANIZATION : <i>MT. STA ROSA Elem School</i>
CONTACT : <i>734-7810</i>	MAILING ADDRESS : <i>P.O. BOX 26984 GWF Family</i>
NAME : <i>RHODA NGIRANGAS</i>	ORGANIZATION : <i>MT. Santa Rosa Elem.</i>
CONTACT : <i>637-6271</i>	MAILING ADDRESS : <i>P.O. BOX 6820 TAM, GU 96931</i>
NAME :	ORGANIZATION :
CONTACT :	MAILING ADDRESS :
NAME :	ORGANIZATION :
CONTACT :	MAILING ADDRESS :
NAME :	ORGANIZATION :
CONTACT :	MAILING ADDRESS :
NAME :	ORGANIZATION :
CONTACT :	MAILING ADDRESS :



November 14, 2001

Testimony of Mr. Edward Untalan  
Administrator  
Guam Economic Development Authority  
On Bill No. 162

I would like to thank Senator Camacho and the members of the Committee on Tourism, Transportation and Economic Development for the opportunity to provide testimony today on Bill No. 162, introduced by Senators Kasperbauer and Ada. Bill No. 162 **"AN ACT TO ADD A NEW CHAPTER 51 TO TITLE 12, GUAM CODE ANNOTATED AUTHORIZING THE GUAM ECONOMIC DEVELOPMENT AUTHORITY TO REFUND OR REFINANCE EXISTING OBLIGATIONS AS A MEANS OF SAVING MONEY AND TO SET ASIDE A PORTION OF THE SAVING ON THE REFUNDING OF GENERAL OBLIGATION DEBT IN AN "EDUCATION FACILITIES FUND."**

The Guam Economic Development Authority (GEDA) fully supports the findings and intent of Bill No. 162. However, a common element exists with the findings and intent of Bill 162 and Bill 210 in that both bills ultimately seek the same objective and might possibly cause some confusion by adding two new Chapter 51's to Title 12 of the Guam Code Annotated. With this in mind, GEDA has worked with Bond Counsel to merge the intents of Bill 162 into Bill 210 in an effort to consolidate the objectives of both bills. The revisions from Bond Counsel have been forwarded to Senator Camacho office for review.

Bill 162 has companion legislation proposed in the form of Bill 161. GEDA, on November 1, 2001, provided testimony in support of the findings and intent of Bill 161. GEDA believes that the approach to merge the objectives of Bill 162 into Bill 210 provides a ready source of funding to initiate the programs envisioned in the "Education Facilities Fund" which is created in Bill 161. We support any and all measures to address capital projects which would improve the environment in which our children are educated. GEDA also believes that the actions addressed in Bill 210 are the most viable means to achieve those goals.

I would again like to thank the members of the Committee on Tourism, Transportation and Economic Development for the opportunity to provide testimony today. Thank you.

Guam USA ~ The Ultimate Destination



A.B. Won Pat

(ATURIDAT PUETTON BATKON AIREN GUAHAN ENTENASIONAT)  
GUAM INTERNATIONAL AIRPORT AUTHORITY

November 14, 2001

### Testimony for Bill 162 and 210

After reviewing Bills 162 and 210 we find that they are similar in content. We are in favor of bill 210, particularly in section of financial contracts, as it would provide the Airport authority with various mechanisms which include swap agreements to refund our bonds.

Gerald P. Yingling  
Executive Manager

---

P.O. Box 8770, Tamuning, GU 96931, Tel: (671) 646-0300 thru 0302, Fax: (671) 646-8823





THE OFFICE OF  
**Senator Felix P. Camacho**  
TWENTY-SIXTH GUAM LEGISLATURE

November 9, 2001

**MEMORANDUM**

To: All Members, Committee on Tourism, Transportation and Economic  
Development

From: The Chairman

Subject: Committee Public Hearing

Hafa Adai! This is to inform you that the Committee on Tourism, Transportation and Economic Development will be conducting a public hearing at 1 p.m. on Wednesday, November 14<sup>th</sup> at the Legislature's Public Hearing Room. The Committee will hear testimony on Bills 210 and 162 regarding government refinancing and Bill 209 regarding GVB transfer authority. The committee also will hear testimony on the confirmation of Lorenzo Aflague to the Guam International Airport Authority.

Should you have any questions, please feel free to contact my office at the numbers listed above.

Thank you,

  
Felix P. Camacho

Cc: All Senators  
Clerk of the Legislature  
Protocol  
Archives  
Media



THE OFFICE OF  
**Senator Felix P. Camacho**  
TWENTY-SIXTH GUAM LEGISLATURE

November 13, 2001

**MEMORANDUM**

To: All Members, Committee on Tourism, Transportation and Economic Development

From: The Chairman

Subject: Reminder Notice

Hafa Adai! This is to remind you that that the Committee on Tourism, Transportation and Economic Development will be conducting a public hearing at 1 p.m. tomorrow at the Legislature's Public Hearing Room. The Committee will hear testimony on Bills 210 and 162 regarding government refinancing and Bill 209 regarding GVB transfer authority. The committee also will hear testimony on the confirmation of Lorenzo Aflague to the Guam International Airport Authority.

Should you have any questions, please feel free to contact my office at the numbers listed above.

Thank you,

  
Felix P. Camacho

Cc: All Senators  
Clerk of the Legislature  
Protocol  
Archives  
Media



# LOCAL

## GOVERNMENT MEETINGS

Editor's note: Government meeting submissions will be tightly edited. Meetings will run on a space-available basis. Deadline is noon Friday for publication Saturday, Sunday and Monday, and noon Monday through Thursday for next-day publication. In the event of a local holiday, deadline will be noon the previous weekday.

**Nov. 12:** Veterans Day holiday. No meetings are scheduled.

**GCC BOARD OF TRUSTEES:** Semimonthly meeting 6 p.m. Nov. 14, president's office conference room, Mangilao. For special accommodations, call 735-5584 or TDD 734-8324/5236.

**COMMITTEE ON TOURISM, TRANSPORTATION AND ECONOMIC DEVELOPMENT:** Public hearing 1 p.m. Nov. 14, 1 Uheskaturan Guahan public hearing room, Hagåtña. Bills 210, 162, 209; also confirmation of Lorenzo Aflague to GIAA board. Public invited. For special accommodations, call Bernadette Meno, 472-3544.

**ALCOHOL BEVERAGE CONTROL BOARD:** 5 p.m. Nov. 14, Department of Rev & Tax director's conference room, second floor, Building 13-01, Mariner Ave., Tiyan. For special accommodations, call 475-1790.

**GHURA BOARD OF COMMISSIONERS:** 5 p.m. Nov. 14, GHURA conference room. For special accommodations, call Michael Duenas, 477-9851/4 or TTY/TDD 472-3701.

**COUNCIL ON THE ARTS & HUMANITIES AGENCY BOARD:** 4 p.m. Nov. 15, CAHA conference room, 703 Central Ave., Tiyan. For special accommodations, call Jackie Balbas, 475-2242/3.

**BOARD OF EXAMINERS FOR PHARMACY:** 8 a.m. Nov. 15, Health Professional Licensing office, 1302 E. Sunset Blvd., Tiyan. Agenda copies available at 1304 E. Sunset Blvd. For special accommodations, call 475-0251/2.

**PORT AUTHORITY OF GUAM BOARD OF DIRECTORS:** 10 a.m. Nov. 15, board conference room, Cabras Island, Piti. Agenda copies will be available. For special accommodations, call Simeon Delos



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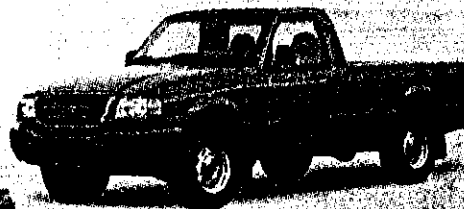


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Ranger SuperCab V6 XLT



F-150 Super Cab 4x4 XLT



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### SHOP IN GUAM'S LARGEST INDOOR SHOWROOM.

**MINA' BENTE SAIS NA LIHESLATURAN GUÅHAN**  
**2001 (FIRST) Regular Session**

Bill No. 162 (COR)

Introduced by:

L.F. Kasperbauer *LK*  
T.C. Ada *TC*

**AN ACT TO ADD A NEW CHAPTER 51 TO TITLE 12, GUAM  
CODE ANNOTATED AUTHORIZING THE GUAM  
ECONOMIC DEVELOPMENT AUTHORITY TO REFUND OR  
REFINANCE EXISTING OBLIGATIONS AS A MEANS OF  
SAVING MONEY AND TO SET ASIDE A PORTION OF THE  
SAVING ON THE REFUDING OF GENERAL OBLIGATION  
DEBT IN AN "EDUCATION FACILITIES FUND".**

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

**Section 1. Legislative finding and intent.**

*I Liheslaturan Guåhan* finds that as a result of present state of Guam's economy any and all means of reducing the cost of operating the Government of Guam including its autonomous agencies must be explored.

*I Liheslaturan Guåhan* also finds that as a result of successive downward interest rate adjustments by the Federal Reserve, windows of opportunity will arise for which the Government of Guam may realize significant interest and cash flow savings by refinancing or refunding many of its debts. Such windows of opportunity are often open for relatively short periods of time precluding the Government of Guam from taking advantage of them due, in part, to the cumbersome review and approval process.



1 to be redeemed or otherwise retired with the proceeds of refunding bonds  
2 and investment earnings thereon.

3 (b) "Refunding bond" means a bond authorized or approved pursuant to  
4 this Chapter for the purpose of providing moneys to redeem or otherwise  
5 retire prior bonds, funding any necessary bond reserves or paying expenses  
6 incurred in connection with the issuance of such refunding bonds.

7 (c) "Yield" shall have the same meaning as when used in Section 148 of  
8 the Internal Revenue Code of 1986, as amended. That is, "yield" means the  
9 annual discount rate which, when used to discount all payments of debt  
10 service on an issue of bonds to the date of issuance of the bonds (using a  
11 semiannual compounding interval), results in the aggregate present value of  
12 such payments being equal to the re-offering price to the public of such  
13 bonds.

14 (d) "Debt service" means the scheduled principal of and interest on bonds  
15 plus fees to be paid for credit enhancement of such bonds.

16 (e) "Debt service savings" means the percentage by which the present  
17 value of debt service on the refunding bonds is less than the present value of  
18 debt service on the prior bonds. Present value shall be calculated for this  
19 purpose using the yield on the refunding bonds as the discount rate.

20 (f) "Obligation of the Government of Guam" means for purposes of this  
21 Act, any debt or obligation of the Government of Guam or any of its  
22 instrumentalities including such obligations issued in the names of such  
23 instrumentalities.

24  
25 **§51102. Authorization and Approval of Issuance, Terms and**  
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4 terms and conditions, which shall apply separately to each such issue of refunding  
5 bonds:

6 (a) The issuance of the refunding bonds shall not cause a violation of the  
7 debt limitation provisions of 48 USC 1423a (§11 of the Organic Act of  
8 Guam).

9 (b) All obligation of the government to pay debt service on, and the  
10 redemption price of, the prior bonds shall be discharged concurrently with  
11 the issuance of the refunding bonds. Thereafter, the prior bonds shall be  
12 payable solely from and secured solely by an escrow established for such  
13 purpose.

14 (c) The debt service savings resulting from the issuance of the refunding  
15 bonds shall be not less than two percent (2%).

16 (d) The aggregate amount of debt service on the refunding bonds in each  
17 year to and including the final maturity of the refunding bonds shall be less  
18 than or equal to the amount of debt service for such year on the prior bonds.

19 (e) The refunding bonds shall be payable from and secured by the same  
20 source or sources of revenues as the prior bonds refunded by the issue. Any  
21 pledge or lien on revenues or other moneys authorized to be granted with  
22 respect to the prior bonds refunded by the issue is hereby authorized to be  
23 granted with respect to the refunding bonds. If the prior bonds being  
24 refunded are general obligations of the government, the refunding bonds  
25 shall be general obligations of the government.

1 (f) The proceeds of the refunding bonds may be used to fund a bond  
2 reserve only if and to the extent that moneys from any bond reserve for the  
3 prior issue are transferred to the escrow from which the prior bonds will be  
4 paid.

5 (g) The terms and conditions of the refunding bonds shall be as  
6 determined by the *I Maga'laha*n by the execution of a certificate or  
7 indenture authorizing the issuance of the bonds. The certificate or indenture  
8 shall contain terms and conditions that are consistent with this Chapter, and  
9 shall include substantially the same additional bonds tests, rate covenants  
10 and other covenants as were applicable with respect to the prior bonds.

11 (h) Any refunding bonds authorized by this Chapter shall constitute the  
12 valid and binding obligations of the Government of Guam. All officers  
13 charged by law with any duty in the collection of any revenues from which  
14 debt service on the issue will be payable shall do every lawful thing  
15 necessary to collect the amount necessary for such purpose. The validity of  
16 any such bonds shall not be affected by the validity or regularity of any  
17 proceedings for the implementation of the capital improvement projects  
18 funded by the prior bonds.

19 (i) Any appropriation of revenues or other moneys made by the statute  
20 authorizing the issuance of the prior bonds is hereby continued as an  
21 appropriation with respect to the refunding bonds.

22 (j) Notwithstanding any substantive or procedural provision of Chapter  
23 6, Title 5, Guam Code Annotated, the Government of Guam waives  
24 immunity from any suit or action in contract on the bonds authorized by this  
25 Chapter, but does not waive sovereign immunity as to the personal liability  
26 of elected officials and employees of the Government of Guam.

1           **(k)** The technical form and language of the refunding bonds, including  
2 provisions for execution, exchange, transfer, registration, paying agency,  
3 lost or mutilated bonds, negotiability, cancellation and other terms,  
4 covenants or conditions not inconsistent with this Chapter and including  
5 covenants relating to the collection of revenues, shall be as specified in the  
6 certificate or indenture executed by the *I Maga'laha*n authorizing the  
7 issuance of the refunding bonds. The certificate or indenture may appoint  
8 one or more trustees or other fiduciaries authorized to receive and hold in  
9 trust the proceeds of the bonds and moneys relating thereto, to protect the  
10 rights of bondholders and to perform such other duties as may be specified  
11 in the certificate or indenture. The *I Maga'laha*n is also authorized to  
12 execute, on behalf of the Government of Guam, any appropriate  
13 agreements, certificates or other instruments relating to the bonds and the  
14 sale of the bonds.

15           **(l)** The *I Maga'laha*n is authorized to enter into such contracts or  
16 agreements with such banks, insurance companies or other financial  
17 institutions as he determines are necessary or desirable to improve the  
18 security and marketability of any issue of bonds authorized by this Chapter.  
19 Such contracts or agreements may contain an obligation to reimburse, with  
20 interest, any such banks, insurance companies or other financial institutions  
21 for advances used to pay principal of or interest on the issue. Any such  
22 reimbursement obligation shall be payable solely from the same sources as  
23 debt service on the issue is payable, and any such advance, if necessary,  
24 shall be treated as creating a reimbursement obligation issued to refund the  
25 issue.

1 (m) No employee or elected official of the Government of Guam shall be  
2 individually or personally liable for the payment of any amounts due on any  
3 bonds issued under this Chapter, or for any other liability arising in  
4 connection with the bonds; provided, however, that nothing in this Chapter  
5 shall relieve any employee or elected official from the performance of any  
6 ministerial duty required by law.

7 (n) §50103(k), Title 12, Guam Code Annotated, provides that agencies  
8 and instrumentalities of the Government of Guam shall issue bonds and  
9 other obligations only by means of and through the agency of the Guam  
10 Economic Development Authority ("GEDA"). No issue of bonds  
11 authorized by this subsection (b) shall be sold until the board of directors of  
12 GEDA has adopted a resolution approving the sale of such issue.

13 (o) Said §50103(k) also provides that GEDA shall not sell any bond  
14 without approval by *I Liheslatura* of the terms and conditions of the  
15 issuance of the bonds. *I Liheslatura* hereby approves the issuance, terms  
16 and conditions of the bonds authorized by this Chapter.

17  
18 **§51103. Approval of Issuance, Terms and Conditions of Bonds of**  
19 **Agencies, Authorities and Instrumentalities of the Government for the Sole**  
20 **Purpose of Achieving Debt Service Savings.** §50103(k), Title 12, Guam Code  
21 Annotated, provides that agencies and instrumentalities of the Government of  
22 Guam shall issue bonds and other obligations only by means of and through the  
23 agency of the Guam Economic Development Authority ("GEDA") and that GEDA  
24 shall not sell any bond without approval by *I Liheslatura* of the terms and  
25 conditions of the issuance of the bonds. *I Liheslatura* hereby approves the  
26 issuance, terms and conditions of refunding bonds to be issued by any agency,



1 authority and instrumentality of the Government of Guam, subject to the following  
2 requirements, limitations, terms and conditions, which shall apply separately to  
3 each such issue of refunding bonds:

4 (a) The issuance of the refunding bonds shall not cause a violation of the  
5 debt limitation provisions of 48 USC 1423a (§11 of the Organic Act of  
6 Guam).

7 (b) All obligation of the agency, authority or instrumentality to pay debt  
8 service on, and the redemption price of, the prior bonds shall be discharged  
9 concurrently with the issuance of the refunding bonds. Thereafter, the prior  
10 bonds shall be payable solely from and secured solely by an escrow  
11 established for such purpose.

12 (c) The debt service savings resulting from the issuance of the refunding  
13 bonds shall be not less than two percent (2%).

14 (d) The aggregate amount of debt service on the refunding bonds in each  
15 year to and including the final maturity of the refunding bonds shall be less  
16 than or equal to the amount of debt service for such year on the prior bonds

17 (e) The proceeds of the refunding bonds may be used to fund a bond  
18 reserve only if and to the extent that moneys from any bond reserve for the  
19 prior issue are transferred to the escrow from which the prior bonds will be  
20 paid.

21 (f) The terms and conditions of the refunding bonds shall be consistent  
22 with this subsection (c), and shall include substantially the same additional  
23 bonds tests, rate covenants and other covenants as were applicable with  
24 respect to the prior bonds.

1 (g) No issue of bonds approved by this subsection (c) shall be sold until  
2 the board of directors of GEDA has adopted a resolution approving the sale  
3 of such issue.  
4

5 **§51104. Permitted Investments.** The proceeds of bonds issued by the  
6 government, and any revenues relating to such bonds, may be invested in, but only  
7 in, the types of investments permitted by the certificate or indenture pursuant to  
8 which such bonds are issued.  
9

10 **§51105. Local Sale of Bonds.** The *I Maga'laha*n of Guam shall undertake  
11 his best efforts to cause a portion of any bonds issued pursuant to this Chapter, to  
12 be offered for sale in Guam, as well as in other jurisdictions, if and to the extent  
13 that such offer and any sales resulting from such offer do not increase the cost to  
14 the Government of Guam of issuing and repaying such bonds.  
15

16 **§51106. Education Facilities Fund.** There is hereby created an Education  
17 Facilities Fund (The "Fund"). The Fund shall be a special fund of the Government  
18 of Guam and used for the sole purpose of constructing or renovating education  
19 facilities. Expenditures from the Fund shall be by appropriation of *I Liheslaturan*  
20 *Guåhan*. The fund shall be funded by depositing Fifty Percent (50%) of the *debt*  
21 *service savings* derived from refunding *General Obligation Debt* authorized by  
22 Chapter 51 of Title 12, Guam Code Annotated. The Fund shall be managed by the  
23 Guam Economic Development Authority. Investment income on the assets of the  
24 Fund shall remain in the Fund.