



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

MAR 04 2002

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	
ACKNOWLEDGEMENT RECEIPT	
Received By	<u>[Signature]</u>
Time	<u>952</u>
Date	<u>3/5/02</u>

Dear Senator Brown:

Enclosed please find Substitute Bill No. 274 (COR) "AN ACT TO RESCIND THE UNAUTHORIZED ACTION OF THE CIVIL SERVICE COMMISSION WITH RESPECT TO AN "ACROSS THE BOARD" WAGE CUT FOR ALL GOVERNMENT OF GUAM WORKERS" which I have signed into law as **Public Law No. 26-73**.

This legislation expresses the complete intent of the Legislature that the option of responding to the cash shortfall now existing in the government by reducing government employee salaries across the board equally by 10% will be opposed by the Legislature 100%. In addition to passing Substitute Bill No. 274, the Legislature's legal counsel has filed a lawsuit in Superior Court to challenge the action of the Civil Service Commission in reducing government salaries by 10%.

It is extremely unfortunate for our island that our representatives have closed the door to a viable solution to the present cash shortfall in the government. Cutting government salaries 10%, combined with an increase of Gross Receipts Tax, would have made up for the shortfall, and would have been one of the least painful ways to carry us through to better economic times. We could have solved this problem together, pulling together and helping each other. Instead, a much more onerous and unpleasant option must now be followed.

I will not oppose already-made-up minds. Some senators have publicly announced that there will be an inevitable override, should this legislation be vetoed. Also, all of the senators have sponsored the bill. Under these circumstances, I am signing the legislation and we will now get on with the remaining option available to respond to our cash shortage, regardless of how unpleasant it may be.

In the next weeks, the government of Guam will prepare for an implementation of the adopted government Lay-Off Procedure, implemented pursuant to law by the Civil

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Legislative Secretary
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March, 2002
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Service Commission in years past. According to that procedure, all non-essential personnel will be selected for lay-off. The order of lay-off will be followed, with unclassified employees being laid-off before classified employees. All classified employees throughout the government will then receive an individual rating which combines points earned for longevity and points earned for satisfactory and outstanding performance ratings during their employment with the government. Those with more points have a better chance of retaining their positions; those with fewer points will not.

All non-essential personnel will be laid off. This means that their employment with the government of Guam will be subject to termination. This will include unclassified employees and classified employees, according to the lay-off procedure. The cuts will be deep, and the economic fallout will be much more serious than the option proposed by the Administration.

Many people will lose their entire purchasing power, and this will ripple throughout the business community. Many will be shifted to the welfare rolls; those with marketable skills will leave island in order to use them. We will lose trained personnel.

I regret this necessary action. Rather than play cat-and-mouse games with payless paydays, or fighting the authority to reduce salaries across the board in court until the last of our money is no longer available, the serious business of lay-offs will commence immediately. Our government will be smaller, but many will be hurt in the process. It did not have to be that way. There is no other legislatively available option at this time, without statutory approval.

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
2002 (SECOND) Regular Session

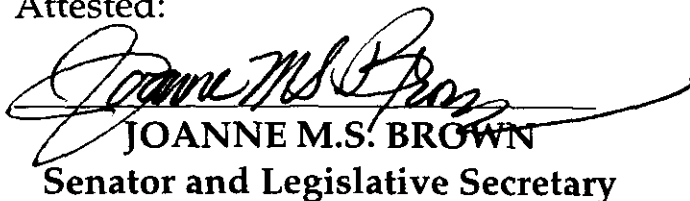
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that Substitute Bill No. 274 (COR) "AN ACT TO RESCIND THE UNAUTHORIZED ACTION OF THE CIVIL SERVICE COMMISSION WITH RESPECT TO AN 'ACROSS THE BOARD' WAGE CUT FOR ALL GOVERNMENT OF GUAM WORKERS," was on the 28th day of February, 2002, duly and regularly passed.



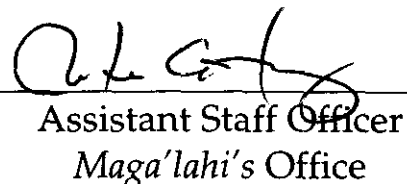
ANTONIO R. UNPINGCO
Speaker

Attested:



JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by *I Maga'lahen Guåhan* this 28 day of Feb, 2002,
at 11:50 o'clock 8 .M.



Assistant Staff Officer
Maga'lahi's Office

APPROVED:



CARL T. C. GUTIERREZ
I Maga'lahen Guåhan

Date: 3-4-02

Public Law No. 26-73

MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN
2002 (SECOND) Regular Session

Bill No. 274 (COR)

As substituted on the Floor
and amended.

Introduced by:

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

**AN ACT TO RESCIND THE UNAUTHORIZED
ACTION OF THE CIVIL SERVICE COMMISSION
WITH RESPECT TO AN "ACROSS THE BOARD"
WAGE CUT FOR ALL GOVERNMENT OF GUAM
WORKERS.**

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

2 **Section 1. Legislative Intent.** *I Liheslaturan Guåhan* finds that under
3 Guam law, neither *I Maga'lahen Guåhan* nor the Guam Civil Service
4 Commission ("CSC") has the legal authority to mandate an across the board
5 ten percent (10%) salary cut as recently ordered by the CSC. *I Liheslaturan*

1 *Guåhan* further finds that the application of a ten percent (10%) across the
2 board salary cut applicable to all government employees is unfair and will be
3 a burden *especially* to the middle and lower wage classified employees of the
4 government who constitute the bulk of our government workforce. *I*
5 *Liheslaturan Guåhan* also finds that the hardships created by such an across the
6 board cut may lead to families being unable to meet essential expenses, such
7 as mortgages and payments, and that the erosion of such a large amount of
8 disposable income will further depress Guam's economy and diminish our
9 capacity to recover from our economic difficulties.

10 **Section 2. Across the Board Salary Reduction Revoked.** The ten
11 percent (10%) across the board salary reduction mandated by the Civil Service
12 Commission on or about February 21, 2002 is hereby revoked, rescinded and
13 made a nullity, without any force or effect.

14 Notwithstanding any interpretation of the statute or rules and
15 regulations to the contrary, and notwithstanding §§ 6301 and 6302 of Title 4 of
16 the Guam Code Annotated, inclusive of all Subsections, the Civil Service
17 Commission has no authority to reduce the salaries of government of Guam
18 employees in an "across the board" fashion, nor in any fashion, or using any
19 methodology similar to that used by the Civil Service Commission on or
20 about February 21, 2002.




MINA' BENTE SAIS NA LIHESLATURAN GUÅHAN
TWENTY-SIXTH GUAM LEGISLATURE
155 Hessler Place, Hagåtña, Guam 96910

2002 (SECOND) Regular Session

I, Antonio R. Unpingco, Speaker of *I Mina'Bente Sais Na Liheslaturan Guåhan*, hereby certify, in conformance with Title 2 Guam Code Annotated § 2103, *Public Hearings Mandatory*, as amended, that an emergency condition exists involving danger to the public health and welfare of the People and therefore waive the statutory requirements for a public hearing on Bill Number 274 (COR), "AN ACT TO RESCIND THE UNAUTHORIZED ACTION OF THE CIVIL SERVICE COMMISSION WITH RESPECT TO AN ACROSS THE BOARD WAGE CUT FOR ALL GOVERNMENT OF GUAM WORKERS," which was introduced on February 27, 2002, and therefore waive the statutory requirements for a public hearing on Bill Number 274 (COR).

Dated: February 28, 2002



ANTONIO R. UNPINGCO
Speaker and Presiding Officer

6

I MINA' BENTE SAIS NA LIHESLATURAN GUAHAN

2002 (SECOND) Regular Session

Date: 2/28/02

VOTING SHEET

5 Bill No. 274 (COR)

Resolution No. _____

Question: _____

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.	✓				
MOYLAN, Kaleo S.	✓				
PANGELINAN, Vicente C.	✓				
SANTOS, Angel L.G.	✓				
UNPINGCO, Antonio R.	✓				
WON PAT, Judith T.	✓				

TOTAL

14 0 0 0 1

CERTIFIED TRUE AND CORRECT:

Clerk of the Legislature

* 3 Passes = No vote
EA = Excused Absence

6/28/02

MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN
2002 (SECOND) Regular Session

Bill No. 274 (COR)

As substituted on the Floor
and amended.

*

Introduced by:

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

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ACTION OF THE CIVIL SERVICE COMMISSION
WITH RESPECT TO AN ACROSS THE BOARD
WAGE CUT FOR ALL GOVERNMENT OF GUAM
WORKERS.**

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

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3 Guam law, neither *I Maga'lahen Guåhan* nor the Guam Civil Service
4 Commission ("CSC") has the legal authority to mandate an across the board
5 ten percent (10%) salary cut as recently ordered by the CSC. *I Liheslaturan*

MINA'BENTE SAIS NA LIHESLATURAN GUAHAN
2002 (SECOND) Regular Session

Bill No. 274 (COR)

Introduced by:

Mark Forbes 
v.c. pangelinan

AN ACT TO RESCIND THE UNAUTHORIZED
ACTION OF THE CIVIL SERVICE COMMISSION
WITH RESPECT TO AN ACROSS THE BOARD
WAGE CUT FOR ALL GOVERNMENT OF GUAM
WORKERS.

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

2 **Section 1. Legislative Intent.** *I Liheslaturan Guahan* finds that
3 under Guam law, neither *I Maga'lahren Guahan* nor the Guam Civil Service
4 Commission has the legal authority to mandate an across the board ten
5 percent (10%) salary cut as recently ordered by the Civil Service Commission.
6 *I Liheslaturan Guahan* further finds that the application of a ten percent across
7 the board salary cut applicable to all government employees is unfair and will
8 be a burden especially to the middle and lower wage classified employees of
9 the government who constitute the bulk of our government workforce. *I*
10 *Liheslaturan Guahan* also finds that the hardships created by such an across the
11 board cut may lead to families being unable to meet essential expenses such



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGMENT RECEIPT	
Received By	<u>[Signature]</u>
Time	<u>4:30 PM</u>
Date	<u>3/7/02</u>

MAR 07 2002

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

Dear Senator Brown:

Enclosed please find Bill No. 247 (COR) "AN ACT TO ADD CHAPTER 51 AND TO AMEND § 50104 BOTH OF TITLE 11 AND TO ADD §§ 4102(a)(17) AND 4102.1 TO TITLE 4, ALL OF THE GUAM CODE ANNOTATED, RELATIVE TO MAXIMIZING REVENUES FROM THE "INCOME TAX REFUND RESERVE FUND" AND FOR OTHER PURPOSES" which I have signed into law as **Public Law No. 26-74**.

In better economic times, this bill would be a good method of managing funds to pay for tax processing and tax refund payments. These are not good economic times. What this legislation would mean is that approximately \$5 Million in cash would have to be set aside every month. With the short cash flow, this would impact on the payment of vendors, payroll, retirement benefits, and other daily obligations of the government. In fact, if this amount of cash each month has to be idle, further cuts of government payments, and even payroll, will need to be made. While this legislation does not take effect until October 1, 2002, this will leave a window of time to revisit the method of cash management contained in this bill. The end result is that this legislation further erodes flexibility of cash management.

This legislation sets up another fund for the payment of income tax refunds. Currently, money to pay income tax refunds is set aside in the "Income Tax Refund Reserve Fund," and paid from that fund. This legislation creates another fund, the "Income Tax Refund Efficient Payment Trust Fund." This second fund is created by placing, at the end of each month, a percentage collected from Payroll Withholding Taxes and income tax collections, along with, at the end of each quarter, a percentage collected from Self-Employed Payroll Withholding Taxes.

The second fund is supposed to gather interest and investment earnings. These interest and investment earnings are then to be used for hiring temporary income tax returns processors for up to 3 months each tax season. The interest is subject to legislative

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Legislative Secretary
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appropriation for this purpose, after a budget for this purpose is submitted to the Legislature.

Finally, when refunds are due to be paid out, money from the second fund, the "Income Tax Refund Efficient Payment Trust Fund", is shifted into the first fund, the "Income Tax Refund Reserve Fund", and then paid out to the taxpayer. The interest and investment earnings do not get shifted to the first fund.

The second fund, or trust fund, and method of hiring seasonal employees to process returns, is effective for next fiscal year, starting October 1, 2002.

The legislation, finally, provides for \$100,000 to be used for extra personnel hired to process the currently due tax returns.

Very truly yours,



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

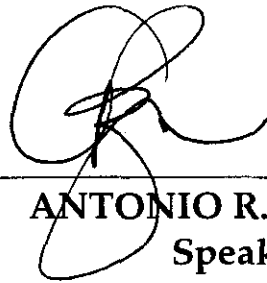
Attachments: original bill for vetoed legislation or
copy of bill for signed or overridden legislation
and legislation enacted without signature

cc: The Honorable Antonio R. Unpingco
Speaker

MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN
2002 (SECOND) Regular Session

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

This is to certify that Bill No. 247 (COR) "AN ACT TO ADD CHAPTER 51 AND TO AMEND § 50104 BOTH OF TITLE 11 AND TO ADD §§ 4102(a)(17) AND 4102.1 TO TITLE 4, ALL OF THE GUAM CODE ANNOTATED, RELATIVE TO MAXIMIZING REVENUES FROM THE 'INCOME TAX REFUND RESERVE FUND' AND FOR OTHER PURPOSES," was on the 28th day of February, 2002, duly and regularly passed.




ANTONIO R. UNPINGCO
Speaker


Attested:


JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by *I Maga'lahaen Guåhan* this 28 day of Feb, 2002,
at 11:50 o'clock P.M.


Assistant Staff Officer
Maga'lahi's Office

APPROVED:


CARL T. C. GUTIERREZ
I Maga'lahaen Guåhan

Date: 3-7-02

Public Law No. 26-74

MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN
2002 (SECOND) Regular Session

Bill No. 247 (COR)

As amended by the Author and
amended on the Floor.

Introduced by:

V. C. Pangelinan

K. S. Moylan

A. R. Unpingco

J. F. Ada

T. C. Ada

F. B. Aguon, Jr.

J. M.S. Brown

E. B. Calvo

F. P. Camacho

M. C. Charfauros

Mark Forbes

L. F. Kasperbauer

L. A. Leon Guerrero

A. L.G. Santos

J. T. Won Pat

**AN ACT TO ADD CHAPTER 51 AND TO AMEND §
50104 BOTH OF TITLE 11 AND TO ADD §§ 4102(a)(17)
AND 4102.1 TO TITLE 4, ALL OF THE GUAM CODE
ANNOTATED, RELATIVE TO MAXIMIZING
REVENUES FROM THE "INCOME TAX REFUND
RESERVE FUND" AND FOR OTHER PURPOSES.**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan*
3 finds that each year, the Department of Revenue and Taxation ("DRT") finds
4 itself in a difficult situation, trying to find ways to promptly process Guam's
5 taxpayers' income tax returns and timely pay the refunds due. Each year,

1 DRT cites shortage of staff as the reason for delays in processing the income
2 tax returns. *However*, through legislative hearings and discussions, the
3 Director of DRT testified that *if* such staff shortages were filled, another cause
4 of delay would be the lack of office equipment, such as computers.

5 Such problems in the delay of processing the income tax returns have
6 greatly burdened Guam's taxpayers financially, as they patiently wait for
7 their income tax returns so critical to making ends meet.

8 Therefore, it is the intent of *I Liheslaturan Guåhan* to develop a program
9 to provide the resources to DRT to promptly process income tax returns, and
10 to issue the refunds to Guam taxpayers.

11 **Section 2.** Chapter 51 is hereby *added* to Division 2 of Title 11 of the
12 Guam Code Annotated to read as follows:

13 **"Chapter 51.**

14 **Income Tax Refund Efficient Payment Trust Fund Act of 2002.**

- | | | |
|----|-----------------------|--------------------------------------|
| 15 | Section 51101. | Creation of the Income Tax |
| 16 | | Return Efficiency Trust Fund. |
| 17 | Section 51102. | Deposit of Funds. |
| 18 | Section 51103. | Expenditures from the |
| 19 | | Trust Fund. |
| 20 | Section 51104. | Contracts. |
| 21 | Section 51105. | Prohibitions Against |
| 22 | | Encumbrances. |
| 23 | Section 51106. | Reports. |
| 24 | Section 51107. | No Transfer Authority. |

1 **Section 51108. Effective Date.**

2 **Section 51101. Creation of the Income Tax Refund Efficient**
3 **Payment Trust Fund.**

4 (a) There is hereby created, separate and apart from all
5 other funds of the government of Guam, a trust fund known as
6 the Income Tax Refund Efficient Payment Trust Fund ('Trust
7 Fund'). The Trust Fund shall *not* be commingled with the General
8 Fund or any other funds of the government of Guam, and it shall
9 be maintained in a separate bank account, administered by the
10 Tax Commissioner. The Trust Fund's interest and investment
11 earnings shall be subject to legislative appropriation and shall be
12 expended *exclusively* for the purposes set forth under § 51103 of
13 this Act.

14 (b) The deposits made to the Trust Fund pursuant to §
15 51102 shall be invested or reinvested into interest bearing
16 instruments, United States treasury notes, investment grade and
17 insured corporate notes, and other like instruments which are
18 readily convertible to cash needed to pay income tax refunds.

19 **Section 51102. Deposit of Funds.**

20 (a) The Director of the Department of Administration
21 ('DOA') shall directly deposit within ten (10) days at the end of
22 each month to the Trust Fund a percentage of the Payroll
23 Withholding Taxes collections for the month equal to its
24 percentage of the budgeted forecasted amount set aside for

1 income tax refunds, earned income tax credits and child tax
2 credits adopted in that fiscal year's budget, so that at the end of
3 the calendar year, the total amount set aside for income tax
4 refunds, earned income tax credits and child tax credits shall have
5 been deposited into the Trust Fund. The funds deposited in the
6 Trust Fund by the Director of DOA shall *automatically* be
7 transferred to the Income Tax Reserve Fund once the Tax
8 Commissioner is ready to make the necessary payments pursuant
9 to § 50105 of Chapter 50, Division 2 of Title 11 of the Guam Code
10 Annotated. The interest and investment earnings shall remain
11 within the Trust Fund.

12 (b) The Director of DOA shall directly deposit within ten
13 (10) days at the end of each quarter to the Trust Fund a percentage
14 of the Self-Employed Payroll Withholding Taxes collections for the
15 quarter equal to its percentage of the budgeted forecasted amount
16 set aside for income tax refunds, earned income tax credits and
17 child tax credits adopted in that fiscal year's budget, so that at the
18 end of the calendar year, the total amount set aside for income tax
19 refunds, earned income tax credits and child tax credits shall have
20 been deposited into the Trust Fund. The funds deposited into the
21 Trust Fund by the Director of DOA shall *automatically* be
22 transferred to the Income Tax Reserve Fund, once the Tax
23 Commissioner is ready to make the necessary payments pursuant
24 to § 50105 of Chapter 50, Division 2 of Title 11 of the Guam Code

1 Annotated. The interest and investment earnings shall remain
2 within the Trust Fund.

3 (c) The Director of DOA shall directly deposit within ten
4 (10) days at the end of each month to the Trust Fund a percentage
5 of income tax collections for the month equal to its percentage of
6 the budgeted forecasted amount set aside for income tax refunds,
7 earned income tax credits and child tax credits adopted in that
8 fiscal year's budget, so that at the end of the calendar year, the
9 total amount set aside for income tax refunds, earned income tax
10 credits and child tax credits shall have been deposited into the
11 Trust Fund. The funds deposited into the Trust Fund by the
12 Director of DOA shall *automatically* be transferred to the Income
13 Tax Reserve Fund, once the Tax Commissioner is ready to make
14 the necessary payments pursuant to § 50105 of Chapter 50,
15 Division 2 of Title 11 of the Guam Code Annotated. The interest
16 and investment earnings shall remain within the Trust Fund.

17 **Section 51103. Expenditures from the Trust Fund.** In order
18 for *I Liheslaturan Guåhan* to make the proper legislative appropriation
19 pursuant to § 51101(a) of this Act, the Tax Commissioner shall submit to
20 *I Liheslaturan Guåhan* on the 15th day of January each year a detailed
21 budget request of itemized cost of allowable expenditure, for an
22 appropriation from the earnings of the Trust Fund. All interest and
23 investment earnings from the Trust Fund pursuant to § 51101(b) of this
24 Act shall be *exclusively* expended for the following purposes:

1 (a) Notwithstanding other provisions of law, the Department of
2 Revenue and Taxation is hereby authorized to either enter into contracts
3 with *temporary* income tax returns processors ('processors'), or to hire
4 seasonal employees, as deemed necessary by the Tax Commissioner
5 anytime during the period of filing dates established by the Internal
6 Revenue Service for a period of *not more than* three (3) months to process
7 income tax returns.

8 (1) The Department of Revenue and Taxation shall
9 prioritize the processing of income tax returns according to their
10 filing date.

11 (2) The Department of Revenue and Taxation shall submit
12 to *I Liheslaturan Guåhan* a monthly report on the status of the
13 income tax processing, which shall include the following:

14 (i) number of income tax returns processed;

15 (ii) number of income tax refunds issued and the
16 total dollar amount;

17 (iii) number of income tax returns waiting to be
18 processed;

19 (iv) expected date of completion for the processing of
20 income tax returns pending; *and*

21 (v) any other pertinent information.

22 (b) proper training of employees hired pursuant to Subsection
23 (a) of this Section.

24 (c) computers and other equipments necessary to quickly
25 process the income tax returns.

1 **Section 51104. Contracts.** *If* the Department of Revenue and
2 Taxation chooses to enter into contracts with temporary income tax
3 returns processors, the Department of Revenue and Taxation shall
4 promulgate rules and regulations governing the contract. The
5 processors under contracts shall be deemed independent contractors
6 and *not* employees of the government of Guam, *nor* shall they be
7 entitled to any benefits otherwise available to government of Guam
8 employees, including, but not limited to, sick leave, annual leave,
9 retirement, worker's compensation, group life insurance, group medical
10 insurance, or periodic or other step increases in wages.

11 **Section 51105. Prohibitions Against Encumbrances.** Any and
12 all expenditures from the Trust Fund shall be for the payment outlined
13 in § 51103, and for no other purpose. The Trust Fund shall *not* be
14 subject to or permit *I Maga'lahren Guåhan* to pledge the Trust Fund for
15 payments or repayments of any government of Guam general fund
16 obligations or obligations of any autonomous agency, public
17 corporation or government instrumentality.

18 **Section 51106. Reports.** The Tax Commissioner and the
19 Director of the Department of Administration shall report to *I*
20 *Maga'lahren Guåhan* and *I Liheslaturan Guåhan* every deposit and the
21 current balance of the Trust Fund within fifteen (15) days of every
22 deposit made to the Trust Fund.

1 **Section 51107. No Transfer Authority.** The money placed
2 in the Trust Fund is *not* subject to any transfer authority of *I Maga'laha*
3 *Guahan*.

4 **Section 51108. Effective Date.** The provisions of the Income
5 Tax Refund Efficient Payment Trust Fund Act of 2002 shall be effective
6 on October 1, 2002."

7 **Section 3.** Section 50104 of Chapter 50, Division 2 of Title 11 of the
8 Guam Code Annotated is hereby *amended* to read as follows:

9 **"Section 50104. Revenues Reserved for Income Tax Refunds,**
10 **Earned Income Tax Credits and Child Tax Credits.**

11 (a) In accordance with the formula provided for in § 50103
12 of this Chapter, the Director of Administration shall set aside all
13 money reserved for income tax refunds, earned income tax credits
14 and child tax credits from income tax receipts."

15 **Section 4.** Section 4102(a)(17) is hereby *added* to Article 1, Chapter 4 of
16 Title 4 of the Guam Code Annotated to read as follows:

17 "(17) persons employed on a seasonal basis."

18 **Section 5.** Section 4102.1 is hereby *added* to Article 1, Chapter 4 of Title
19 4 of the Guam Code Annotated to read as follows:

20 **"Section 4102.1. Seasonal Employment.**

21 (a) **Appropriate Use.** Seasonal employment
22 allows an agency to develop an experienced cadre of employees
23 under career appointment to perform work which recurs

1 predictably year-to-year, with work expected to last *no more than*
2 three (3) months.

3 **(b) Length of Season.** Agencies determine the length
4 of the season, *unless* prescribed by law, subject to the condition
5 that it be clearly tied to nature of the work. The season must be
6 defined as closely as practicable so that an employee will have a
7 reasonable clear idea of how much work that person can expect
8 during the year.

9 **(c) Employment Agreement.** An employment agreement
10 must be executed between the agency and the seasonal employee
11 *prior* to the employee's entering on duty. At a minimum, the
12 agreement must inform the employee:

13 (1) that the employee is subject to periodic release
14 and recall as a condition of employment;

15 (2) the minimum and maximum period the
16 employee can expect to work;

17 (3) the basis on which release and recall procedures
18 will be effected; *and*

19 (4) that there shall be no benefits to which the
20 employee will be entitled while in a non-pay status.

21 **(d) Release and Recall Procedures.** A seasonal employee
22 is released to non-pay status at the end of a season and recalled to
23 duty the next season. Release and recall procedures must be
24 established in advance and uniformly applied. They may be

1 based upon performance, seniority, veterans' reference, other
2 appropriate indices, or a combination of factors. *If* an agency
3 intends to have an employee work less than the minimum amount
4 of time specified in the employment agreement, the agency may
5 develop a new employment agreement to reflect changing
6 circumstances.

7 (e) **Unclassified Service.** It is impracticable for seasonal
8 employees to be under the classified service, as seasonal
9 employment is *not* required on a permanent day-to-day basis.
10 Seasonal employees are only utilized for a short period each year,
11 performing work that is expected to last *no more than* three (3)
12 months. Therefore, seasonal employees shall be under the
13 unclassified service. In addition, seasonal employees shall *not* be
14 entitled to any benefits otherwise available to other government of
15 Guam employees, including, but *not* limited to, sick leave, annual
16 leave, retirement, worker's compensation, group life insurance,
17 group medical insurance, or periodic or other step increases in
18 wages."

19 **Section 6.** Notwithstanding any other law, the Department of Revenue
20 and Taxation is hereby authorized to extend the employment of the
21 individuals hired pursuant to Public Law Number 26-50, and to pay overtime
22 hours for current employees until the appropriation made in § 7 of this Act is
23 fully expended, in order to process outstanding income tax returns.

1 **Section 7.** There is hereby appropriated the sum of One Hundred
2 Thousand Dollars (\$100,000.00) from the General Fund to the Department of
3 Revenue and Taxation to be used for the funding pursuant to Section 6 of this
4 Act.

5 **Section 8. Severability.** *If* any provision of this Law or its
6 application to any person or circumstance is found to be invalid or contrary to
7 law, such invalidity shall *not* affect other provisions or applications of this
8 Law which can be given effect without the invalid provisions or application,
9 and to this end the provisions of this Law are severable.

I MINA' BENTE SAIS NA LIHESLATURAN GUAHAN

2002 (SECOND) Regular Session

Date: 2/28/02

VOTING SHEET

Bill No. 247 (COR)
as amended
 Resolution No. _____

Question: _____

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.	✓				
MOYLAN, Kaleo S.	✓				
PANGELINAN, Vicente C.	✓				
SANTOS, Angel L.G.	✓				
UNPINGCO, Antonio R.	✓				
WON PAT, Judith T.	✓				

TOTAL 14 0 0 0 1

CERTIFIED TRUE AND CORRECT:

 Clerk of the Legislature

* 3 Passes = No vote
 EA = Excused Absence

Senator Kaleo S. Moylan
Chairperson, Committee on Ways and Means
Mina'Bente Sais Na Liheslaturan Guåhan
Twenty-Sixth Guam Legislature

February 14, 2002

Honorable Antonio R. Unpingco
Speaker
Mina'Bente Sais Na Liheslaturan Guåhan
Hagåtña, Guam 96910

VIA: Chairperson, Committee on Rules, General Government Operations,
Reorganization and Reform and Federal, Foreign and General Affairs

Dear Mr. Speaker:

The Committee on Ways and Means, to which was referred **Bill No. 247 (COR)**, "**AN ACT TO ADD CHAPTER 51 TO DIVISION 2 OF TITLE 11, GUAM CODE ANNOTATED, TO ADD SECTIONS 4102(a)(17) AND 4102.1 TO ARTICLE 1, CHAPTER 4 OF TITLE 4 OF THE GUAM CODE ANNOTATED, RELATIVE TO MAXIMIZING REVENUES FROM THE INCOME TAX REFUND RESERVE FUND AND FOR OTHER PURPOSES,**" has had the same under consideration, and now wishes to report back the same with the recommendation to do pass as substituted.

The Committee votes are as follows:

<u> 7 </u>	To Do Pass
<u> - </u>	Not to Pass
<u> - </u>	To Report Out
<u> - </u>	Abstain
<u> - </u>	Inactive File

A copy of the Committee Report and other pertinent documents are attached for your immediate reference and information.

Thank you,



KALEO S. MOYLAN
Chairperson

Enclosure:

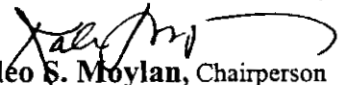

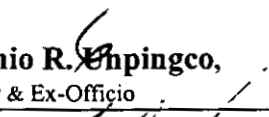

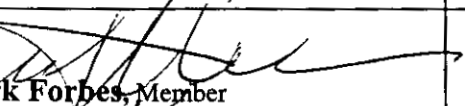

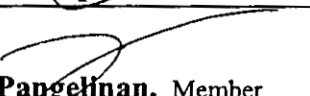
Committee on Ways and Means

Vote Sheet on

Bill No. 247 (COR)

As substituted by the Author.

AN ACT TO ADD CHAPTER 51 TO DIVISION 2 OF TITLE 11, GUAM CODE ANNOTATED, TO ADD SECTIONS 4102(a)(17) AND 4102.1 TO ARTICLE 1, CHAPTER 4 OF TITLE 4 OF THE GUAM CODE ANNOTATED, RELATIVE TO MAXIMIZING REVENUES FROM THE INCOME TAX REFUND RESERVE FUND AND FOR OTHER PURPOSES.

COMMITTEE MEMBER	TO DO PASS	NOT TO PASS	REPORT OUT ONLY	ABSTAIN	INACTIVE FILE
 Kaleo S. Moylan, Chairperson	✓				
 Joanne M.S. Brown, Vice Chairperson	✓				
 Antonio R. Chpingco, Speaker & Ex-Officio	✓				
 Eddie B. Calvo, Member	✓				
Felix P. Camacho, Member					
Mark C. Charfauros, Member					
 Mark Forbes, Member	✓				
 Lawrence F. Kasperbauer, Member	✗				
 Vicente C. Pangellinan, Member	✓				

**Committee on Ways and Means
Report On**

Bill No. 247 (COR)

As substituted by the Author.

AN ACT TO *ADD* CHAPTER 51 TO DIVISION 2 OF TITLE 11, GUAM CODE ANNOTATED, TO *ADD* SECTIONS 4102(a)(17) AND 4102.1 TO ARTICLE 1, CHAPTER 4 OF TITLE 4 OF THE GUAM CODE ANNOTATED, RELATIVE TO MAXIMIZING REVENUES FROM THE INCOME TAX REFUND RESERVE FUND AND FOR OTHER PURPOSES.

PUBLIC HEARING

The Committee on Ways and Means, to which was referred Bill No. 247 (COR), "AN ACT TO *ADD* CHAPTER 51 TO DIVISION 2 OF TITLE 11, GUAM CODE ANNOTATED, TO *ADD* SECTIONS 4102(a)(17) AND 4102.1 TO ARTICLE 1, CHAPTER 4 OF TITLE 4 OF THE GUAM CODE ANNOTATED, RELATIVE TO MAXIMIZING REVENUES FROM THE INCOME TAX REFUND RESERVE FUND AND FOR OTHER PURPOSES," conducted a public hearing on Thursday, February 7, 2002, at the Guam Legislature Public Hearing Room. Senator Kaleo S. Moylan, Chairperson of the Committee on Ways and Means, convened the hearing at 9:00 a.m. Also in attendance was Senator Vicente C. Pangelinan.

TESTIMONY

Submitting testimony were Mr. Charles H. Troutman, Compiler of Laws and Mr. George V., Cruz, Director of the Department of Revenue and Taxation [Attachments 1 and 2]. Mr. Troutman testified saying that under the federal system, handling of tax refunds is part of the general duties of the Secretary of the Treasury. Thus, under the Organic Act, the duty lies with the Governor or his delegate the Director of Revenue & Taxation.

Mr. Troutman went on to say that the Governor could issue regulations regarding refund monies and you should ask the Director of Revenue and Taxation for the details of how he goes about it now. Another problem arises in connection with the trust concept. There cannot be any suggestion that the money is held in trust for the recipients as this is directly in violation of the tax laws. He suggested retitling the bill.

Concluding his remarks, Mr. Troutman said the taxpayer, no matter what the popular image of it being "his or her money", loses possession of the tax pavements when paid to the Treasurer. The person may be entitled to some of it back as excess payments, but only under the conditions sets up in the Internal Revenue Code.

According to testimony received from the Director of the Department of Revenue and Taxation, Bill No. 247 creates a fund that is not commingled with the general fund or any other

fund of the government. According to Mr. Cruz, this ensures that funds are readily available for transfers into the Income Tax Reserve Fund. This will enable the taxpayers to receive their refunds on a timely basis.

In his testimony, Mr. Cruz informed the Committee the government of Guam pays out interest income annually of about \$1.3 million to refund taxpayers. By having the funds readily available for refund, this would cut down the interest payable to the taxpayers, thereby reducing Government cost. He went on to say that interest income earned from the fund will facilitate the resources needed to timely process income tax returns. These resources include the hiring of seasonal employees, conducting training for the seasonal employees, and providing computers and other equipment necessary to process income tax returns in a timely manner.

We recommend in the near future that seasonal employees who are trained be afforded the opportunity to become classified employees of the Department of Revenue and Taxation. The overall benefit of Bill 247 is taxpayer's satisfaction. Taxpayers are assured that their tax dollars are forthcoming in a timely manner.

Mr. Cruz concluded his testimony saying that for the taxpayers of Guam, I is certainly in favor of Bill No. 247.

There being no further discussion, the Chair adjourned the hearing on Bill No 247 (COR) at 9:45 a.m.

COMMITTEE PROFILE AND FINDINGS

Profile on Bill No. 247 (COR)

Brief Title:	An Act to Maximize Revenues from the "Income Tax Refund Reserve Fund."
Date Introduced:	Thursday, December 27, 2001.
Main Sponsor:	Senators V. C. Pangelinan and K. S. Moylan.
Committee Referral:	Tuesday, January 29, 2002 from the Committee on Rules, Governmental Operations, Reorganization and Reform, and Federal, Foreign and General Affairs to the Committee on Ways and Means.
Public Hearing:	Thursday, February 7, 2002, 9:00 a.m. at the Legislative Public Hearing Room.
Official Title:	AN ACT TO ADD CHAPTER 51 TO DIVISION 2 OF TITLE 11, GUAM CODE ANNOTATED, TO ADD SECTIONS 4102(a)(17) AND 4102.1 TO ARTICLE 1, CHAPTER 4 OF TITLE 4 OF THE GUAM CODE ANNOTATED, RELATIVE TO MAXIMIZING

- ☞ a percentage of the Payroll Withholding Taxes collections for the month equal to its percentage of the budgeted forecasted amount set aside for income tax refunds;
- ☞ a percentage of the Self-Employed Payroll Withholding Taxes collections for the quarter equal to its percentage of the budgeted forecasted amount set aside for income tax refunds, *and*
- ☞ a percentage of income tax collections for the month equal to its percentage of the budgeted forecasted amount set aside for income tax refunds.

By depositing the above amounts, this would insure that at the end of the calendar year, the total amounts set aside for tax refunds shall have been deposited into the Fund. More importantly, the monies deposited in the Fund by the Director, shall automatically revert back to the Income Tax Reserve Fund once the Tax Commissioner is ready to make the necessary payment.

Also, the interest and investment earnings shall remain within the Fund.

Section 51103. Expenditures from the Fund. This Section provides that in order for *I Liheslaturan Guåhan* to make the proper appropriation, the Tax Commissioner shall submit to *I Liheslaturan Guåhan* on the 15th day of January each year a detailed budget request of itemized cost of allowable expenditure, for an appropriation from the earnings of the Fund. It further provides that all the interest and investment earnings from the Fund shall be exclusively expended in the following manner:

- ⇒ the Department of Revenue and Taxation is authorized to either enter into contracts with temporary income tax returns processors or to hire seasonal employees, necessary for a period of not more than three (3) months to process income tax returns.
- ⇒ Prioritize the processing of income tax returns according to their filing date.
- ⇒ submit to *I Liheslaturan Guåhan* a monthly report on the status of the income tax processing which shall include the following:
 - number of income tax returns processed;
 - number of income tax refunds issued and the total dollar amount
 - number of income tax returns waiting to be processed;
 - expected date of completion for the processing of income tax returns pending; and
 - any other pertinent information.
- ⇒ provide proper training of employees hired pursuant to Subsection (a) of this Section.
- ⇒ computers and other equipments necessary to quickly process the income tax returns.

Section 51104. Contracts. This provision provides that if the Department of Revenue and Taxation chooses to enter into contracts with temporary income tax returns processors, the Department shall promulgate rules and regulations governing the contract. The processors under contracts shall be deemed independent contractors and *not* employees of the government of Guam, *nor* shall they be entitled to

any benefits otherwise available to government of Guam employees, including, but not limited to, sick leave, annual leave, retirement, worker's compensation, group life insurance, group medical insurance, or periodic or other step increases in wages.

Section 51105. Prohibition Against Encumbrances. This Section provides that any and all expenditures from the Fund shall be for the payment(s) outlined in Section 51103, and for no other purpose. In preserving the integrity of the Fund, the Fund shall not be subject to or permit the Governor to pledge the Fund for payments or repayments of any government of Guam general fund obligations or obligations of any autonomous agency, public corporation or government instrumentality.

Section 51106. Reports. This Section authorizes the Tax Commissioner together with the Director of the Department of Administration to submit a report to *I Maga'lahañ Guåhan* (the Governor) and to the Speaker of *I Liheslaturan Guåhan* (the Legislature) every deposit and the current balance of the Fund within fifteen (15) days of every deposit made to the.

Section 51107. No Transfer Authority. The monies deposited in the Fund shall not be subject to any transfer authority of the Governor.

Section 3. This Section adds a new Section 4102(a)(17) to Article 1, Chapter 4 of Title 4 of the Guam Code Annotated. It provides that persons employed on a seasonal basis are to be in the unclassified service of the government of Guam.

Section 4. This Section adds a new Section 4102.1 to Article 1, Chapter 4 of Title 4 of the Guam Code Annotated. A closer look at the new Section shows the following:

Section 4102.1. This new provision allows an agency to develop an experienced cadre of employees under career appointment to perform work which recurs predictably year-to-year, with work expected to last no more than three (3) months through appropriate use of seasonal employment.

Length of Season. It further provides that agencies determine the length of the season, unless otherwise prescribed by law, provided that the use of seasonal employment be clearly tied to nature of the work. The agency(s) must determine the nature and season as closely as practicable so that an employee will have a reasonable clear idea of how much work he or she can expect during the year.

Employment agreement. So that there would be no confusion, an employment agreement must be executed between the agency and the seasonal employee prior to the employee's entering on duty. At a minimum, the agreement shall inform the employee:

- (i) that he or she is subject to periodic release and recall as a condition of employment;
 - (ii) the *minimum* and maximum period the employee can expect to work;
 - (iii) the basis on which release and recall procedures will be effected;
- and*
- (iv) that there shall be no benefits to which the employee will be entitled while in a non-pay status.

Release and recall procedures. This provision provides that a seasonal employee is released to non-pay status at the end of a season and recalled to duty the next season. It also mandates that a release and recall procedures be established in advance and uniformly applied. They procedure may be based on

performance, seniority, veterans' reference, other appropriate indices, or a combination of factors.

Unclassified Service. In fairness to all career employees, this provision states that it is impracticable for seasonal employees to be under the classified service, as their services are not required on a permanent day-to-day basis. They (seasonal employees) are only utilized for a short period each year, performing work that is expected to last no more than three (3) months *and* therefore, shall be under the unclassified service. Furthermore, seasonal employees shall not be entitled to any benefits otherwise available to other government of Guam employees, including, but not limited to, sick leave, annual leave, retirement, worker's compensation, group life insurance, group medical insurance, or periodic or other step increases in wages. =

Section 5. Severability.

COMMITTEE RECOMMENDATION

=

The Committee on Ways and Means, to which was referred Bill No. 247 (COR), "AN ACT TO *ADD* CHAPTER 51 TO DIVISION 2 OF TITLE 11, GUAM CODE ANNOTATED, TO *ADD* SECTIONS 4102(a)(17) AND 4102.1 TO ARTICLE 1, CHAPTER 4 OF TITLE 4 OF THE GUAM CODE ANNOTATED, RELATIVE TO MAXIMIZING REVENUES FROM THE INCOME TAX REFUND RESERVE FUND AND FOR OTHER PURPOSES," recommends that the legislation, as substituted, be passed by *I Liheslaturan Guåhan*.

2nd Edy
2/28/02

3rd Edy
2/28/02

MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN
2002 (SECOND) Regular Session

Bill No. 247 (___)
As Amended by the Author.

2/28/02
Introduced by:

v.c. pangelinan
K.S. Moylan
AR Unorganized

**AN ACT TO MAXIMIZE REVENUES FROM THE
"INCOME TAX REFUND RESERVE FUND"
THROUGH THE ESTABLISHMENT OF A NEW
CHAPTER 51 OF DIVISION 2 OF TITLE 11, GUAM
CODE ANNOTATED, RELATIVE TO THE INCOME
TAX REFUND RESERVE FUND LAW, AND OTHER
PURPOSES.**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan*

3 finds that each year, the Department of Revenue and Taxation finds itself in a
4 difficult situation, trying to find ways to promptly process the island's
5 taxpayers' income tax returns and timely pay the refunds due. Each year, the
6 Department of Revenue and Taxation cites shortage of staff as the reason for
7 delays in processing the income tax returns. However, through legislative
8 hearings and discussions, the Director of the Department of Revenue and
9 Taxation testified that if such staff shortages were filled, another cause of
10 delay would be the lack of office equipment such as computers.

11 Such problems in the delay of processing the income tax returns have
12 greatly burdened the island's taxpayers financially as they patiently wait for
13 their income tax returns so critical to making ends meet.

1 bank account, administered by the Tax Commissioner. The Trust Fund's
2 interest and investment earnings shall be subject to legislative appropriation
3 and shall be expended exclusively for the purposes set forth under Section
4 51103 of this Act.

5 (b) The deposits made to the Trust Fund pursuant to Section 51102, shall
6 be invested or reinvested in interest bearing instruments, United States
7 treasury notes, investment grade and insured corporate notes, and other like
8 instruments which are readily convertible to cash needed to pay income tax
9 refunds.

10 **Section 51102. Deposit of funds.** (a) The Director of the Department of
11 Administration shall directly deposit within ten (10) days at the end of each
12 month to the Trust Fund a percentage of the Payroll Withholding Taxes
13 collections for the month equal to its percentage of the budgeted forecasted
14 amount set aside for income tax refunds, earned income tax credits and child
15 tax credits adopted in that fiscal year's budget, so that at the end of the
16 calendar year, the total amount set aside for income tax refunds, earned
17 income tax credits and child tax credits shall have been deposited into the
18 Trust Fund. The funds deposited in the Trust Fund by the Director of the
19 Department of Administration, shall automatically be transferred to the
20 Income Tax Reserve Fund once the Tax Commissioner is ready to make the
21 necessary payments pursuant to §50105 of Chapter 50 of Division 2 of Title 11,
22 Guam Code Annotated. The interest and investment earnings shall remain
23 within the Trust Fund.

1 (b) The Director of the Department of Administration shall directly
2 deposit within ten (10) days at the end of each quarter to the Trust Fund a
3 percentage of the Self-Employed Payroll Withholding Taxes collections for the
4 quarter equal to its percentage of the budgeted forecasted amount set aside
5 for income tax refunds, earned income tax credits and child tax credits
6 adopted in that fiscal year's budget, so that at the end of the calendar year, the
7 total amount set aside for income tax refunds, earned income tax credits and
8 child tax credits shall have been deposited into the Trust Fund. The funds
9 deposited in the Trust Fund by the Director of the Department of
10 Administration, shall automatically be transferred to the Income Tax Reserve
11 Fund once the Tax Commissioner is ready to make the necessary payments
12 pursuant to §50105 of Chapter 50 of Division 2 of Title 11, Guam Code
13 Annotated. The interest and investment earnings shall remain within the
14 Trust Fund.

15 (c) The Director of the Department of Administration shall directly
16 deposit within ten (10) days at the end of each month to the Trust Fund a
17 percentage of income tax collections for the month equal to its percentage of
18 the budgeted forecasted amount set aside for income tax refunds, earned
19 income tax credits and child tax credits adopted in that fiscal year's budget, so
20 that at the end of the calendar year, the total amount set aside for income tax
21 refunds, earned income tax credits and child tax credits shall have been
22 deposited into the Trust Fund. The funds deposited in the Trust Fund by the
23 Director of the Department of Administration, shall automatically be
24 transferred to the Income Tax Reserve Fund once the Tax Commissioner is

1 ready to make the necessary payments pursuant to §50105 of Chapter 50 of
2 Division 2 of Title 11, Guam Code Annotated. The interest and investment
3 earnings shall remain within the Trust Fund.

4 **Section 51103. Expenditures from the Trust Fund.** In order for *I*
5 *Liheslaturan Guåhan* to make the proper legislative appropriation pursuant to
6 Subsection (a) of Section 51101 of this Act, the Tax Commissioner shall submit
7 to *I Liheslaturan Guåhan* on the 15th day of January each year a detailed budget
8 request of itemized cost of allowable expenditure, for an appropriation from
9 the earnings of the Trust Fund. All interest and investment earnings from the
10 Trust Fund pursuant to Subsection (b) of Section 51101 of this Act shall be
11 exclusively expended for the following purposes:

12 (a) Notwithstanding other provisions of law, the Department of
13 Revenue and Taxation is hereby authorized to either enter into contracts
14 with temporary income tax returns processors (hereinafter the
15 “processors”) or to hire seasonal employees, as deemed necessary by the
16 Tax Commissioner any time during the period of filing dates established
17 by the IRS for a period of not more than three (3) months to process income
18 tax returns.

19 (i) The Department of Revenue and Taxation shall prioritize
20 the processing of income tax returns according to their filing date.

21 (ii) The Department of Revenue and Taxation shall submit to
22 *I Liheslaturan Guåhan* a monthly report on the status of the income
23 tax processing which shall include the following:

24 (a) number of income tax returns processed;

- 1 (b) number of income tax refunds issued and the total dollar
2 amount
3 (c) number of income tax returns waiting to be processed;
4 (d) expected date of completion for the processing of income
5 tax returns pending; and
6 (e) any other pertinent information.

7 (b) proper training of employees hired pursuant to Subsection (a) of this
8 Section.

9 (c) computers and other equipments necessary to quickly process the
10 income tax returns.

11 **Section 51104. Contracts.** If the Department of Revenue and Taxation
12 chooses to enter into contracts with temporary income tax returns processors,
13 the Department of Revenue and Taxation shall promulgate rules and
14 regulations governing the contract. The processors under contracts shall be
15 deemed independent contractors and *not* employees of the government of
16 Guam, *nor* shall they be entitled to any benefits otherwise available to
17 government of Guam employees, including, but not limited to, sick leave,
18 annual leave, retirement, worker's compensation, group life insurance, group
19 medical insurance, or periodic or other step increases in wages.

20 **Section 51105. Prohibition Against Encumbrances.** (a) Any and all
21 expenditures from the Trust Fund shall be for the payment outlined in Section
22 51103, and for no other purpose. The Trust Fund shall not be subject to or
23 permit the Governor to pledge the Trust Fund for payments or repayments of

1 any Government of Guam general fund obligations or obligations of any
2 autonomous agency, public corporation or government instrumentality.

3 **Section 51106. Reports.** The Tax Commissioner and the Director of the
4 Department of Administration shall report to the Governor and the
5 Legislature every deposit and the current balance of the Trust Fund within 15
6 days of every deposit made to the Trust Fund. =

7 **Section 51107. No Transfer Authority.** The money placed in the Trust
8 Fund is not subject to any transfer authority of the Governor. ↗

9 **Section 3.** Section 50104 of Chapter 50 of Division 2 of Title 11, Guam
10 Code Annotated is hereby *amended* to read:

11 **“§ 50104. ~~Deposit of General Fund Revenues Reserved for Income~~**
12 **Tax Refunds, Earned Income Tax Credits, and Child Tax Credits. (a)**
13 In accordance with the formula provided for in § 50103 of this Chapter,
14 the Director of Administration shall ~~deposit in the Fund~~ set aside all
15 money reserved for income tax refunds, earned income tax credits, and
16 child tax credits from income tax receipts.

17 **Section 4.** A new Section 4102(a)(17) of Article 1 of Chapter 4 of Title 4,
18 Guam Code Annotated is hereby *added* to read as follows:

19 **“§4102. (a)(17) persons employed on a seasonal basis.”**

20 **Section 5.** A new Section 4102.1 of Article 1 of Chapter 4 of Title 4,
21 Guam Code Annotated is hereby *added* to read as follows:

22 **“§4102.1 Seasonal Employment.** Appropriate use. Seasonal
23 employment allows an agency to develop an experienced cadre of
24 employees under career appointment to perform work which recurs

1 predictably year-to-year, with work expected to last no more than three
2 (3) months.

3 (b) Length of season. Agencies determine the length of the season,
4 unless prescribed by law, subject to the condition that it be clearly tied
5 to nature of the work. The season must be defined as closely as
6 practicable so that an employee will have a reasonable clear idea of how
7 much work he or she can expect during the year.

8 (c) Employment agreement. An employment agreement must be
9 executed between the agency and the seasonal employee prior to the
10 employee's entering on duty. At a minimum, the agreement must
11 inform the employee:

- 12 (i) that he or she is subject to periodic release and
13 recall as a condition of employment;
- 14 (ii) the minimum and maximum period the employee
15 can expect to work;
- 16 (iii) the basis on which release and recall procedures
17 will be effected; and
- 18 (iv) that there shall be no benefits to which the
19 employee will be entitled while in a non-pay status.

20 (d) Release and recall procedures. A seasonal employee is released
21 to non-pay status at the end of a season and recalled to duty the next
22 season. Release and recall procedures must be established in advance
23 and uniformly applied. They may be based on performance, seniority,
24 veterans' reference, other appropriate indices, or a combination of

1 factors. If an agency intends to have an employee work less than the
2 minimum amount of time specified in the employment agreement, the
3 agency may develop a new employment agreement to reflect changing
4 circumstances.

5 (e) Unclassified Service. It is impracticable for seasonal employees
6 to be under the classified service, as seasonal employment is not
7 required on a permanent day-to-day basis. Seasonal employees are only
8 utilized for a short period each year, performing work that is expected
9 to last no more than three (3) months. Therefore, seasonal employees
10 shall be under the unclassified service. In addition, seasonal employees
11 shall not be entitled to any benefits otherwise available to other
12 government of Guam employees, including, but not limited to, sick
13 leave, annual leave, retirement, worker's compensation, group life
14 insurance, group medical insurance, or periodic or other step increases
15 in wages."

16 **Section 6.** Notwithstanding any other law, the Department of Revenue
and Taxation is hereby authorized to extend the employment of the
18 individuals hired pursuant to Public Law 26-50 until the appropriation made
19 in Section 7 of this Act is fully expended, in order to process outstanding
20 income tax returns.

21 **Section 7.** There is hereby appropriated the sum of One Hundred
22 Thousand Dollars (\$100,000.00) from the General Fund to the Department of
23 Revenue and Taxation to be used for the funding pursuant to Section 6 of this
24 Act.


1 **Section 8. Severability.** If any provision of this Law or its
2 application to any person or circumstance is found to be invalid or contrary to
3 law, such invalidity shall *not* affect other provisions or applications of this
4 Law which can be given effect without the invalid provisions or application,
5 and to this end the provisions of this Law are severable.

JAN 01 2002

MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN
2002 (SECOND) Regular Session

Bill No. 247 (coe)

Introduced by:

v.c. pangelinan
K.S. Moylan 

**AN ACT TO MAXIMIZE REVENUES FROM THE
"INCOME TAX REFUND RESERVE FUND"
THROUGH THE ESTABLISHMENT OF A NEW
CHAPTER 51 OF DIVISION 2 OF TITLE 11, GUAM
CODE ANNOTATED, RELATIVE TO THE INCOME
TAX REFUND RESERVE FUND LAW.**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan*

3 finds that each year, the Department of Revenue and Taxation finds itself in a
4 difficult situation, trying to find ways to promptly process the island's
5 taxpayers' income tax returns and timely pay the refunds due. Each year, the
6 Department of Revenue and Taxation cites shortage of staff as the reason for
7 delays in processing the income tax returns. However, through legislative
8 hearings and discussions, the Director of the Department of Revenue and
9 Taxation testified that if such staff shortages were filled, another cause of
10 delay would be the lack of office equipment such as computers.

11 Such problems in the delay of processing the income tax returns have
12 greatly burdened the island's taxpayers financially as they patiently wait for
13 their income tax returns so critical to making ends meet.

1 interest and investment earnings shall be subject to legislative appropriation
2 and shall be expended exclusively for the purposes set forth under Section
3 51103 of this Act.

4 (b) The deposits made to the Trust Fund pursuant to Section 51102, shall
5 be invested or reinvested in interest bearing instruments, United States
6 treasury notes, investment grade and insured corporate notes, and other like
7 instruments which are readily convertible to cash needed to pay income tax
8 refunds.

9 **Section 51102. Deposit of funds.** (a) The Director of the Department of
10 Administration shall deposit within ten (10) days at the end of each month a
11 percentage of the Payroll Withholding Taxes collections for the month equal
12 to its percentage of the budgeted forecasted amount set aside for income tax
13 refunds adopted in that fiscal year's budget, so that at the end of the calendar
14 year, the total amount set aside for tax refunds shall have been deposited into
15 the Trust Fund. The funds deposited in the Trust Fund by the Director of the
16 Department of Administration, shall automatically revert back to the Income
17 Tax Reserve Fund once the Tax Commissioner is ready to make the necessary
18 payments pursuant to §50105 of Chapter 50 of Division 2 of Title 11, Guam
19 Code Annotated. The interest and investment earnings shall remain within
20 the Trust Fund.

21 (b) The Director of the Department of Administration shall deposit
22 within ten (10) days at the end of each quarter a percentage of the Self-
23 Employed Payroll Withholding Taxes collections for the quarter equal to its
24 percentage of the budgeted forecasted amount set aside for income tax

1 refunds adopted in that fiscal year's budget, so that at the end of the calendar
2 year, the total amount set aside for tax refunds shall have been deposited into
3 the Trust Fund. The funds deposited in the Trust Fund by the Director of the
4 Department of Administration, shall automatically revert back to the Income
5 Tax Reserve Fund once the Tax Commissioner is ready to make the necessary
6 payments pursuant to §50105 of Chapter 50 of Division 2 of Title 11, Guam
7 Code Annotated. The interest and investment earnings shall remain within
8 the Trust Fund.

9 (c) The Director of the Department of Administration shall deposit
10 within ten (10) days at the end of each month a percentage of income tax
11 collections for the month equal to its percentage of the budgeted forecasted
12 amount set aside for income tax refunds adopted in that fiscal year's budget,
13 so that at the end of the calendar year, the total amount set aside for tax
14 refunds shall have been deposited into the Trust Fund. The funds deposited
15 in the Trust Fund by the Director of the Department of Administration, shall
16 automatically revert back to the Income Tax Reserve Fund once the Tax
17 Commissioner is ready to make the necessary payments pursuant to §50105 of
18 Chapter 50 of Division 2 of Title 11, Guam Code Annotated. The interest and
19 investment earnings shall remain within the Trust Fund.

20 **Section 51103. Expenditures from the Trust Fund.** In order for *I*
21 *Liheslaturan Guåhan* to make the proper legislative appropriation pursuant to
22 Subsection (a) of Section 51101 of this Act, the Tax Commissioner shall submit
23 to *I Liheslaturan Guåhan* on the 15th day of January each year a detailed budget
24 request of itemized cost of allowable expenditure, for an appropriation from

1 **Section 51104. Prohibition Against Encumbrances.** (a) Any and all
2 expenditures from the Trust Fund shall be for the payment outlined in Section
3 51103, and for no other purpose. The Trust Fund shall not be subject to or
4 permit the Governor to pledge the Trust Fund for payments or repayments of
5 any Government of Guam debt.

6 **Section 51105. Reports.** The Tax Commissioner and the Director of the
7 Department of Administration shall report to the Governor and the
8 Legislature every deposit and the current balance of the Trust Fund within 15
9 days of every deposit made to the Trust Fund.

10 **Section 51106. No Transfer Authority.** The money placed in the Trust
11 Fund is not subject to any transfer authority of the Governor."

12 **Section 3. Severability.** *If* any provision of this Law or its
13 application to any person or circumstance is found to be invalid or contrary to
14 law, such invalidity shall *not* affect other provisions or applications of this
15 Law which can be given effect without the invalid provisions or application,
16 and to this end the provisions of this Law are severable.

DEPARTMENT OF LAW

CARL T.C. GUTIERREZ
Maga'låhi
Governor



ROBERT H. KONO
Hiniråt Abugao
Attorney General (Acting)

MADELEINE Z. BORDALLO
Tinñente Gubetnadora
Lieutenant Governor

Ufisinan Hiniråt Abugao
Tiritorian Guåhan

CHARLES H. TROUTMAN
Rikohidot i Lai Guåhan Siha
Compiler of Laws

OFFICE OF THE ATTORNEY GENERAL
Territory of Guam

February 6, 2002

Hon. Kaleo s. Moylan, Chairman
Committee on Ways & Means
26th Guam Legislature
Hagåtña, Guam

Re: Tax Refund Trust Fund

Dear Senator Moylan,

Again, I must oppose this Bill because it violates the Organic Act, specifically §1421i(c) which states:

(c) Enforcement of Tax. The administration and enforcement of the Guam Territorial Income Tax shall be performed by or under the supervision of the Governor. Any function needful to the administration and enforcement of the income tax laws in force in Guam pursuant to subsection (a) of this section shall be performed by any officer or employee of the government of Guam duly authorized by the Governor (either directly, or indirectly by one or more redelegations of authority) to perform such function.

Under the federal system, handling of tax refunds is part of the general duties of the Secretary of the Treasury. Thus, under the Organic Act, the duty lies wit the Governor or his delegate (Director of Revenue & Taxation). Subsection (d)(2) of §1421i gives more details:

(2) The Governor or his delegate shall have the same administrative and enforcement powers and remedies with regard to the Guam Territorial Income Tax as the Secretary of the Treasury, and other United States officials of the executive branch, have with respect to the United States income tax. Needful rules and regulations not inconsistent with the regulations prescribed under section 7654(e) of the Internal Revenue Code of 1954 [26 U.S.C. §7654(e)] for enforcement of the Guam Territorial Income Tax shall be prescribed by the Governor. The Governor or his delegate shall have the authority to issue, from time to time, in whole or in part, the text of the income tax laws in force in Guam pursuant to subsection (a) of this section.²

The Governor could issue regulations regarding refund monies and you should ask the Director of Revenue & Taxation for the details of how he goes about it now.

Attachment 1

Another problem arises in connection with the trust concept. There cannot be any suggestion that the money is held in trust for the recipients, as this is directly in violation of the tax laws. The taxpayer, no matter what the popular image of it being "his or her money", loses possession of the tax payments when paid to the Treasurer. The person may be entitled to some of all of it back as excess payments, but only under the conditions set up in the IR Code.

Finally, all tax payments go to the general fund to be appropriated by the Legislature and must not be waylaid before that process is complete.

For all these reasons, this Bill should not be passed.

Charles H. Troutman

CHARLES H. TROUTMAN

Compiler of Laws



Dipattamenton Kont. sion yan Adu'ána

DEPARTMENT OF

REVENUE AND TAXATION

GOVERNMENT OF GUAM

Gubetnamenton Guáhan

CARL T.C. GUTIERREZ, Governor Maga'láhi
ELEINE Z. BORDALLO, Lt. Governor Tifiente Gubetnadora

GEORGE V. CRUZ, Director
Direktot
JOHN P. CAMACHO, Acting Deputy
Direktor
Actot Sigundo Direktot

07 FEB 2002

Senator Kaleo S. Moylan
Chairperson, Committee on Ways and Means
Twenty-Sixth Guam Legislature
777 South Route 4, Suite 16B
Sinajana, Guam 96910-3353

RE: Bill No. 247

Thank you for this opportunity to express some thoughts on Bill No. 247.

Bill 247 creates a trust fund that is not commingled with the general fund or any other fund of the government. This ensures that funds are readily available for transfers into the Income Tax Reserve Fund. This will enable the taxpayers to receive their refunds on a timely basis.

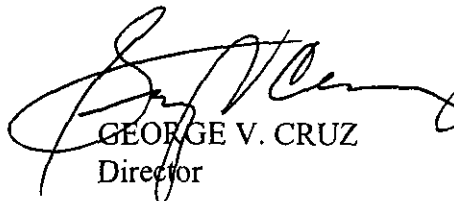
The Government of Guam pays out interest income annually of about 1.3 million to refund taxpayers. By having the funds readily available for refund, this would cut down the interest payable to the taxpayers, thereby reducing Government cost.

Interest income earned from the trust fund will facilitate the resources needed to timely process income tax returns. These resources include the hiring of seasonal employees, conducting training for the seasonal employees, and providing computers and other equipment necessary to process income tax returns in a timely manner.

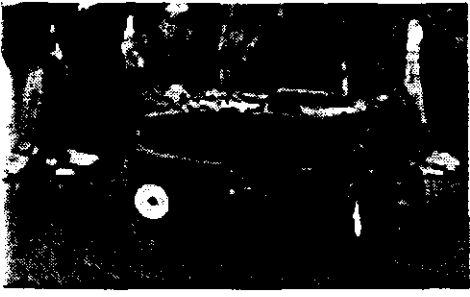
We recommend in the near future that seasonal employees who are trained be afforded the opportunity to become classified employees of the Department of Revenue and Taxation.

The overall benefit of Bill 247 is taxpayer's satisfaction. Taxpayers are assured that their tax dollars are forthcoming in a timely manner.

For the taxpayers of Guam, I am certainly in favor of Bill 247.


GEORGE V. CRUZ
Director

Attachment 2



on for Associates (PARA) committee from s to the Guam Memorial Hospital Pediatric Photo by Amabel A. Brito

kids' days

company that help inspire our associates to be the best they can be and be proud of where they work and how their company is represented in the community."

Lujan's stepfather, Greg Guzman, watched as the girl pressed played in the fire engine. He said he appreciates PARA's efforts in helping sick children cope get some form of recreation during their stay at the hospital.

"It's nice that the kids, like Dakota, have new toys to play with at the hospital. It keeps her mind off her problems. That's an easy way to put it," Guzman said.

Lujan has another reason to be feeling up and about.

"I'm going home today," she said, as she turned the wheel of the fire engine.

jury, damage reported

not in connection to the earthquake.

The most recent earthquake reported at 1 a.m. on Oct. 13 last year, measured 7.0 on the Richter scale and caused damage throughout the island.

According to Variety News files, there was a power outage that lasted for nearly 24 hours and water outages in different parts of the island, which lasted throughout the week following the quake.

thing to make their lives less stressful and their stay on Guam

great quality of life we enjoy here," Escudie said.

Rev and Tax supports Bill 247

By Joseph E. Duenas
Variety News Staff

REVENUE and Taxation Director George Cruz gave his support for a measure that would provide temporary employees for tax return processing.

The bill, introduced by Sen. Ben Pangelinan, D-Barrigada, would set up a trust fund using a percentage of funds from payroll withholding tax collections, self-employment payroll tax collections, and income tax collections each month; and hire seasonal, temporary, unclassified employees for three months every year to process tax returns.

"The overall benefit of Bill 247 is taxpayer's satisfaction," Cruz said during yesterday's hearing on the proposed measure before the Committee on Ways and Means.

"Taxpayers are assured that their tax dollars are forthcoming in a timely manner. For the taxpayers of Guam, I am certainly in favor of Bill 247."

"You would eliminate the two excuses you hear year in and year out - not enough staff, no money," added Committee Chair Sen. Kaleo Moylan, R-Barrigada.

According to Variety News files, Rev and Tax has had a history of not having enough employees, equipment, nor money in the GovGuam coffers to process returns in a timely manner.

Currently, the agency is still

behind.

If signed into law, Bill 247 could eliminate the chronic problem permanently.

"If we implement it as set out by the bill, this will absolutely eliminate people having to wait for their tax refunds," Pangelinan said.

The committee also heard favorable testimony from the Guam Environmental Protection Agency for Bill 183, which would provide funding to implement Public Law 24-246.

The law, which encourages the paper recycling to lower the amount of refuse transported to the Ordot Dump, would take a sum of money from the fees collected by the Department of Public Works Solid Waste Division for trash pick up to fund the law.

"Right now, office paper is probably the largest amount of paper generated by government and businesses. We don't have a way of recycling that," said Pangelinan, the bill's author. "Rather than sending that straight to the land fills, we would pay people to bring in their office paper."

Pangelinan envisioned schools and private non-profit organizations holding "paper drives" to raise money in the future. "This would divert that paper from our waste stream, which helps our environment, and so forth."

Burglars steal \$12,000 and jewelry

By Ferdle de la Torre
Variety News Staff

SAIPAN - A woman told police that unidentified persons had burglarized her house in Chalan Kiya and stole her jewelry and \$12,000 in cash.

Rui Yuan Li said she and friends left her house on Wednesday night

pink safe box was missing.

The victim said the 400-pound safe box contained \$12,000, several gold rings, six gold necklaces, four pairs of earrings, a wrist watch, a wallet, a belt, and two passports.

On Wednesday night a neighbor noticed two women standing

Senator Kaleo S. Moylan
Chairperson, Committee on Ways and Means
Mina' Bente Sais Na Liheslaturan Guahan
Twenty-Sixth Guam Legislature

January 28, 2002

The Honorable Carl T.C. Gutierrez
Maga'lahaen Guahan
R. J. Bordallo Governor's Complex
Agana, Guam 96932

Re: Committee Public Hearing: Thursday, February 7, 2002

Dear Governor Gutierrez:

This is to inform you that the Committee on Ways and Means will conduct a public hearing on Thursday, February 7, 2002 commencing at 9:00 a.m. in the Legislative Public Hearing Room.

Executive Appointments:

Mr. Carlos E. P. Bordallo, to serve as a member Retirement Fund Board of Directors for a term of five (5) years to expire on January 31, 2007.

Mr. Rodolfo V. Colet and Mr. Celso S. Gianchand, to serve as members of the Alcoholic Beverage Control Board for a term of two (2) years to expire on January 27, 2004.

Legislative Measure:

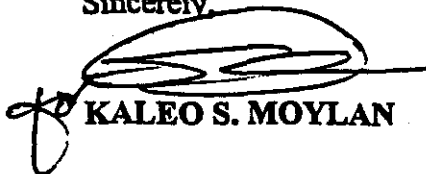
Bill No. 164 (COR), "AN ACT TO ADD CHAPTER 33 TO TITLE 11 OF THE GUAM CODE ANNOTATED, RELATIVE TO TAX RELIEF FOR IN-HOME ELDER CARE, TO BE KNOWN AS THE 'AKTO PARA IN'ASISTIN MANAMKO,' THE 'MANAMKO CARE ACT.'"

Bill No. 183 (COR), "AN ACT TO APPROPRIATE FUNDS TO IMPLEMENT PUBLIC LAW NO. 24-246."

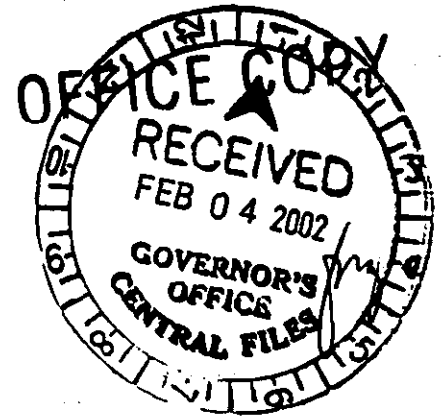
Bill No. 247 (COR), "AN ACT TO MAXIMIZE REVENUES FROM THE "INCOME TAX REFUND RESERVE FUND" THROUGH THE ESTABLISHMENT OF A NEW CHAPTER 51 OF DIVISION 2 OF TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO THE INCOME TAX REFUND RESERVE FUND LAW."

As these measures directly affect the government of Guam, the Committee encourages your participation and input at this hearing. The Committee would appreciate receiving fifteen (15) copies of your Administration's position statement and or documents relating to the subject matter prior to the start of the hearing. A copy of the hearing Agenda is enclosed for your reference and information.

Sincerely,


KALEO S. MOYLAN

Enclosures:



Senator Kaleo S. Moylan
Chairperson, Committee on Ways and Means
Mina'Bente Sais Na Liheslaturan Guåhan
Twenty-Sixth Guam Legislature

OFFICE COPY

January 28, 2002

Mr. Clifford Guzman
Acting Director
Department of Administration
Hagåtña, Guam 96910

Re: Committee Public Hearing: Thursday, February 7, 2002

Dear Mr. Guzman:

This is to inform you that the Committee on Ways and Means will conduct a public hearing on Thursday, February 7, 2002 commencing at 9:00 a.m. in the Legislative Public Hearing Room.

Bill No. 164 (COR), "AN ACT TO ADD CHAPTER 33 TO TITLE 11 OF THE GUAM CODE ANNOTATED, RELATIVE TO TAX RELIEF FOR IN-HOME ELDER CARE, TO BE KNOWN AS THE 'AKTO PARA IN'ASISTIN MANAMKO,' THE 'MANAMKO CARE ACT.'"

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4 FEB 02 12:35

Bill No. 183 (COR), "AN ACT TO APPROPRIATE FUNDS TO IMPLEMENT PUBLIC LAW NO. 24-246."

Bill No. 247 (COR), "AN ACT TO MAXIMIZE REVENUES FROM THE "INCOME TAX REFUND RESERVE FUND" THROUGH THE ESTABLISHMENT OF A NEW CHAPTER 51 OF DIVISION 2 OF TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO THE INCOME TAX REFUND RESERVE FUND LAW."

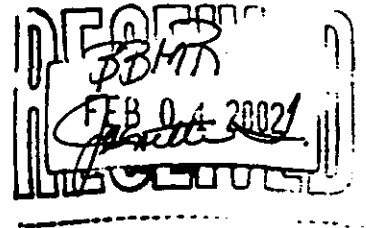
As these measures affect the government of Guam, the Committee encourages your participation and input at this hearing. The Committee would appreciate receiving fifteen (15) copies of your Department's position statement and or documents relating to the subject matter prior to the start of the hearing. A copy of the hearing Agenda is enclosed for your reference and information.

Thank you,

KALEO S. MOYLAN

Enclosures:

Senator Kaleo S. Moylan
Chairperson, Committee on Housing,
General Government Services and Foreign Affairs
Mina'Bente Sais Na Liheslaturan Guåhan
Twenty-Sixth Guam Legislature



OFFICE COPY

January 28, 2002

Mr. Paul D. Leon Guerrero
Director
Bureau of Budget and Management Research
R. J. Bordallo Governor's Complex
Hagåtña, Guam 96932

Re: Request for Fiscal Note

Dear Mr. Leon Guerrero:

Please find attached copies of Bill Nos. 164, 183 and 247 (COR), scheduled for public hearing on Thursday, February 7, 2002. Pursuant to the provisions of Chapter 9, of Title 2 of the Guam Code Annotated, fiscal note(s) are requested.

As this measure affects the government of Guam, the Committee encourages your participation and input at this hearing. The Committee would appreciate receiving fifteen (15) copies of BBMR's position statement and or documents relating to the subject matter prior to the start of the hearing. A copy of the hearing Agenda is enclosed for your reference and information.

Sincerely,


KALEO S. MOYLAN

Attachments:

Senator Kaleo S. Moylan
Chairperson, Committee on Ways and Means
Mina' Bente Sais Na Liheslaturan Guåhan
Twenty-Sixth Guam Legislature

RECEIVED
JAN 28 2002
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January 28, 2002

Mr. Robert Kono, Esq.
Acting Attorney General
Department of Law
Hagåtña, Guam 96910

Re: Committee Public Hearing: Thursday, February 7, 2002

Dear Mr. Kono:

This is to inform you that the Committee on Ways and Means will conduct a public hearing on Thursday, February 7, 2002 commencing at 9:00 a.m. in the Legislative Public Hearing Room.

Bill No. 164 (COR), "AN ACT TO ADD CHAPTER 33 TO TITLE 11 OF THE GUAM CODE ANNOTATED, RELATIVE TO TAX RELIEF FOR IN-HOME ELDER CARE, TO BE KNOWN AS THE 'AKTO PARA IN'ASISTIN MANAMKO,' THE 'MANAMKO CARE ACT.'"

Bill No. 183 (COR), "AN ACT TO APPROPRIATE FUNDS TO IMPLEMENT PUBLIC LAW NO. 24-246."

Bill No. 247 (COR), "AN ACT TO MAXIMIZE REVENUES FROM THE "INCOME TAX REFUND RESERVE FUND" THROUGH THE ESTABLISHMENT OF A NEW CHAPTER 51 OF DIVISION 2 OF TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO THE INCOME TAX REFUND RESERVE FUND LAW."

As these measures affect the government of Guam, the Committee encourages your participation and input at this hearing. The Committee would appreciate receiving fifteen (15) copies of your Department's position statement and or documents relating to the subject matter prior to the start of the hearing. A copy of the hearing Agenda is enclosed for your reference and information.

Thank you,



KALEO S. MOYLAN

Enclosures:

Senator Kaleo S. Moylan
Chairperson, Committee on Ways and Means
Mina'Bente Sais Na Liheslaturan Guåhan
Twenty-Sixth Guam Legislature

January 28, 2002

Mr. George V. Cruz
Director
Department of Revenue and Taxation
Tiyan, Guam 96910

Re: Committee Public Hearing: Thursday, December 7, 2001

Dear Mr. Cruz:

This is to inform you that the Committee on Ways and Means to which was referred the appointments of Mr. Rodolfo V. Colet and Mr. Celso S. Gianchand, to serve as members of the Alcoholic Beverage Control Board for a term of two (2) years to expire on January 27, 2004, will conduct a public hearing on Thursday, February 7, 2002 commencing at 9:00 a.m. in the Legislative Public Hearing Room. Also, the Committee has scheduled a hearing on the following legislative measure:

Bill No. 164 (COR), "AN ACT TO ADD CHAPTER 33 TO TITLE 11 OF THE GUAM CODE ANNOTATED, RELATIVE TO TAX RELIEF FOR IN-HOME ELDER CARE, TO BE KNOWN AS THE 'AKTO PARA IN'ASISTIN MANAMKO,' THE 'MANAMKO CARE ACT.'"

Bill No. 247 (COR), "AN ACT TO MAXIMIZE REVENUES FROM THE "INCOME TAX REFUND RESERVE FUND" THROUGH THE ESTABLISHMENT OF A NEW CHAPTER 51 OF DIVISION 2 OF TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO THE INCOME TAX REFUND RESERVE FUND LAW."

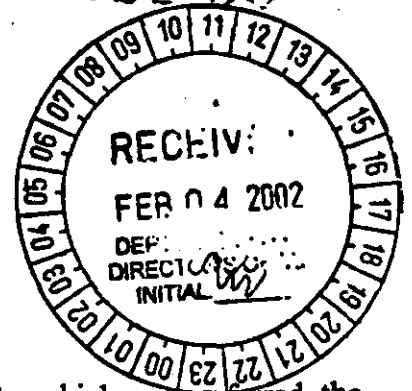
As these appointments and legislative measure directly affects the operation of the Department of Revenue and Taxation and the government of Guam, the Committee encourages your participation and input at this hearing. The Committee would appreciate receiving fifteen (15) copies of your Department's position statement and or documents relating to the subject matter prior to the start of the hearing. A copy of the hearing Agenda is enclosed for your reference and information.

Thank you


KALEO S. MOYLAN

Enclosure:

OFFICE COPY



Committee on Ways and Means

Attendance Sheet
Thursday, February 7, 2002

Public Hearing on
Bill No. 247 (COR), "AN ACT TO MAXIMIZE REVENUES FROM THE
"INCOME TAX REFUND RESERVE FUND" THROUGH THE
ESTABLISHMENT OF A NEW CHAPTER 51 OF DIVISION 2 OF TITLE 11,
GUAM CODE ANNOTATED, RELATIVE TO THE INCOME TAX REFUND
RESERVE FUND LAW."

	Present	Absent	Off-Island	Excused
Kaleo S. Moylan,	<u> <i>K</i> </u>	<u> </u>	<u> </u>	<u> </u>
Joanne M.S. Brown	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Antonio R. Unpingco	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Felix P. Camacho	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Mark C. Charfauros	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Mark Forbes	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Lawrence F. Kasperbauer	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Vicente C. Pangelinan	<u> <i>V</i> </u>	<u> </u>	<u> </u>	<u> </u>

	Present	Absent	Off-Island	Excused
Joseph F. Ada	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Thomas C. Ada	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Frank B. Aguon, Jr.	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Eddie B. Calvo	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Lou Leon Guerrero	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Angel L.G. Santos	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Judith T. Won Pat	<u> </u>	<u> </u>	<u> </u>	<u> </u>

Attending Staff

Bertha Duenas _____	James P. Castro <u> <i>JPC</i> </u>	Tom Morrison _____
Henry Cruz <u> <i>H</i> </u>	Paul Borja <u> <i>PB</i> </u>	Faith Mendiola _____
Fred M. Castro _____	Josie Mendibla _____	John Dela Rosa _____
Jackie Suzuki _____	Briana San Nicolas <u> <i>BSN</i> </u>	

Classified Ads Section

NOTE: If for some reason your advertisement is incorrect, call us immediately to make the necessary corrections. Guam Variety is responsible for only one incorrect insertion. We reserve the right to edit, refuse, reject, or cancel any ad at any time.

TORRES & TANG, PLLC
 HERNAN CORTEZ AVENUE
 310
 7-9891/472-8868
 -2601/477-2511

SUPERIOR COURT OF GUAM

IN THE MATTER OF THE ESTATE OF MONDO PUNZALAN, deceased.
 No. PR0137-01

CREDITORS

HEREBY given by Mondo Punzalan and Lourdes P. Punzalan, Administrators of the Estate of MONDO DELMONDO, deceased, to the creditors having claims against the estate of or against said estate within two (2) months of the date of this notice, in accordance with necessary provisions of the Clerk of the Superior Court of Guam, or exhibit them with supporting vouchers to the Court at the law offices of Torres & Tang, PLLC, 330 Cortez Avenue, Suite 200, on or before the same being the last day of the transaction of the said estate on the 3rd day of January 2002.

TORRES & TANG, PLLC
 Administrators
 Petitioners

DEPARTMENT OF ADMINISTRATION

NOTICE TO ALL GOVERNMENT OF GUAM LINE AGENCY EMPLOYEES AND GOVERNMENT OF GUAM VENDORS

W2's and 1099's for FY'2001 have been completed.

All 1099's will be mailed directly to vendors. Please advise Division of Accounts of any change of name and/or address.

Government of Guam employees please pick up your W2-2001 copy from your respective timekeeper in your agency. W2's-2001 for INACTIVE employees will be mailed out. Please notify DOA Payroll Branch in writing of any change of mailing address.

For additional information please contact Department of Administration, Accounting Division at 475-1191 or Department of Administration, Payroll Branch at 475-1207.

/s/CLIFFORD A. GUZMAN
ACTING DIRECTOR



MINA'BENTE SAIS NA LIHESLATURAN GUAHAN
 Senator Kaleo S. Moylan, Chairman
 Committee on Ways and Means

Public Hearing
 9:00 a.m., Thursday,
 February 27, 2002

AGENDA

Mr. Carlos E. P. Bordallo, to serve as a member Retirement Fund Board of Directors for a term of five (5) years to expire on January 31, 2007.

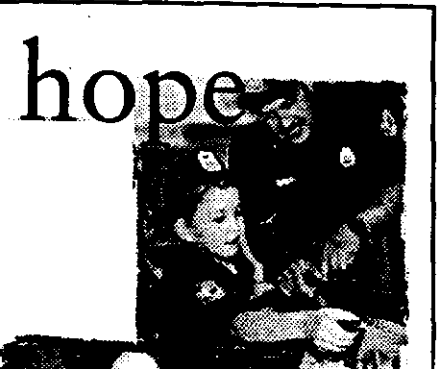
Mr. Rodolfo V. Colet and Mr. Celso S. Gianchand, to serve as members of the Alcoholic Beverage Control Board for a term of two (2) years to expire on January 27, 2004.

Bill No. 164 (COR), "AN ACT TO ADD CHAPTER 33 TO TITLE 11 OF THE GUAM CODE ANNOTATED, RELATIVE TO TAX RELIEF FOR IN-HOME ELDER CARE, TO BE KNOWN AS THE 'AKTO PARA IN'ASISTIN MANAMKO, 'THE 'MANAMKO CARE ACT,'"

Bill No. 183 (COR), "AN ACT TO APPROPRIATE FUNDS TO IMPLEMENT PUBLIC LAW NO. 24-246."

Bill No. 247 (COR), "AN ACT TO MAXIMIZE REVENUES FROM THE "INCOME TAX REFUND RESERVE FUND" THROUGH THE ESTABLISHMENT OF A NEW CHAPTER 51 OF DIVISION 2 OF TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO THE INCOME TAX REFUND RESERVE FUND LAW."

The Hearing will take place at the Guam Legislature Public Hearing Room located at Hagåtña. Individuals requiring special accommodations, auxiliary aids or services are asked to contact the office of Senator Kaleo S. Moylan at 472-3342.



TEKER CIVILLE TORRES & TANG, PLLC
 SUITE 200, 330HERNAN CORTEZ AVENUE
 HAGÁTÑA, GUAM 96910
 TELEPHONE: (671) 477-9891/472-8868
 FACSIMILE: (671) 472-2601/477-2511

IN THE SUPERIOR COURT OF GUAM
 IN THE MATTER OF THE ESTATE OF ANTE S. PENASO

NOTICE UNDER MORTGAGE

NOTICE IS HEREBY given pursuant to 18 USC Paragraph 18 described mortgage Notice of Default October 16, 2001 No. 645903, the executed on Mortgagee DENNIS A. SALAS, ("Mortgagee BANK OF GUAM and filed for Department Management, Guam, on March Instrument No. FORECLOSED POWER OF SALE the above mortgage

The property will be sold with WARRANTY EXPRESS OR IMPLIED possession, right or encumbrance bidder at public held at the Mayo Guam at 2:00 p.m. 6, 2002, in order amount due on the its promissory note the sale. Terms cash, certified terms deemed Mortgagee. The reserves the right of the amount mortgage at the to reject any bid and to withdraw postpone the sale time.

The property mortgage and title is as follows:
 Lot No. 34, 3rd Increment II, Yon



Tel: 649-4678/4950
 Fax: 648-2007
 Email: gvgn@ite.net

SUBSCRIPTION FORM

Subscriber:

Tel: _____ Fax: _____

Deliver/Mail to:

Tel: _____ Fax: _____

New Order Renewal

I/We agree to pay the sum of US \$ _____ on subscription from _____ to _____ based on rates below:

	On Island Delivery (Guam)	Off-Island Delivery	
		(Local)	(Foreign Mail)
3 months	\$ 37.50	\$93.75	\$273.75
6 months	\$ 75.00	\$187.50	\$547.50
12 months	\$150.00	\$375.00	\$1,095.00

TERMS: CASH - enclosed is CASH Check in Payment
 CHARGE - bill to: _____

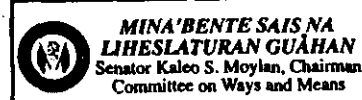
Do not write in this box

S.O. No. _____
 O.R. No. _____
 Order received by _____

ACCOUNT No.: _____
 Ordered by: _____ (Please print name and sign) (Date)

Note:
 Please draw/sketch a map of your location and attach to this form for on-island (Guam) subscription to ensure proper hand delivery.

"Thank You"



Public Hearing
 9:00 a.m., Thursday,
 February 27, 2002

AGENDA

Mr. Carlos E. P. Bordallo, to serve as a member Retirement Fund Board of Directors for a term of five (5) years to expire on January 31, 2007.

Mr. Rodolfo V. Colet and Mr. Celso S. Gianchand, to serve as members of the Alcoholic Beverage Control Board for a term of two (2) years to expire on January 27, 2004.

Bill No. 164 (COR), "AN ACT TO ADD CHAPTER 33 TO TITLE 11 OF THE GUAM CODE ANNOTATED, RELATIVE TO TAX RELIEF FOR IN-HOME ELDER CARE, TO BE KNOWN AS THE 'AKTO PARA IN'ASISTIN MANAMKO,' THE 'MANAMKO CARE ACT.'"

Bill No. 183 (COR), "AN ACT TO APPROPRIATE FUNDS TO IMPLEMENT PUBLIC LAW NO. 24-246."

Bill No. 247 (COR), "AN ACT TO MAXIMIZE REVENUES FROM THE "INCOME TAX REFUND RESERVE FUND" THROUGH THE ESTABLISHMENT OF A NEW CHAPTER 51 OF DIVISION 2 OF TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO THE INCOME TAX REFUND RESERVE FUND LAW."

The Hearing will take place at the Guam Legislature Public Hearing Room located at Hagåtña. Individuals requiring special accommodations, auxiliary aids or services are asked to contact the office of Senator Kaleo S. Moylan at 472-3342.

IN THE SUPERIOR COURT OF GUAM
IN THE MATTER OF THE ESTATE

of
MAGDALENA LEON GUERRERO AYUYU,
 (also known as MAGDALENA L.G. AYUYU) and
ANTONIO SONGAO AYUYU,
 Deceased.

Probate Case No. PR134-97
AMENDED NOTICE OF HEARING ON PETITION FOR LETTERS OF ADMINISTRATION

NOTICE IS HEREBY GIVEN that ANTONIO LEON GUERRERO AYUYU has filed herein a PETITION FOR LETTERS OF ADMINISTRATION upon the ESTATE OF MAGDALENA LEON GUERRERO AYUYU (also known as MAGDALENA L.G. AYUYU) and ANTONIO SONGAO AYUYU, Deceased, and that the 15th day of February, 2002, at the hour of 9:00 A.M. in the courtroom of the Honorable Steven S. Unpingco, Judge, Superior Court of Guam, Hagåtña, Guam, has been set for the hearing of the said petition and all persons interested are hereby notified to appear at the time and place set for said hearing and show cause, if any they have, why the said applications should not be granted. Reference is hereby made to the said petition for further particulars. Dated: January 4, 2002.

RICHARD B. MARTINEZ, Acting Clerk of Court
 THE SUPERIOR COURT OF GUAM
 /s/ JANET T. TORRE
 Deputy Clerk, Superior Court of Guam

Joaquin C. Arriola
Jacqueline T. Tertaje
 Arriola, Cowan & Arriola
 259 Martyr Street, Suite 201
 C&A Professional Building
 P.O. Box X, Hagåtña, Guam 96932
 Telephone: (871) 477-9730 thru 33
 Telecopier: (871) 477-9734

IN THE SUPERIOR COURT OF GUAM

IN THE MATTER OF THE ESTATE OF BERNADITA LIZAMA CALVO, a/k/a BERNADITA CALVO MAFNAS,
 Deceased.
 Probate Case No. PR0133-01

NOTICE TO CREDITORS
NOTICE IS HEREBY GIVEN by the undersigned, JOSEPH C. MAFNAS, Executor of the

Law Offices Of Bronze & Tang
 A Professional Corporation
 Bank Pacific Building, 2nd Floor
 825 South Marine Drive
 Tamuning, Guam 96913
 Telephone: (871) 646-2001
 Telecopier: (871) 647-7671

IN THE SUPERIOR COURT OF GUAM

IN THE MATTER OF THE ESTATE OF MARIA UNTALAN GUMATAOTAO
 Decedent.
 Probate Case No. PR0062-01

NOTICE TO CREDITORS
 Notice is given by the undersigned Elizabeth M. Santos, Administratrix of the



ON-ISLAND CIRCULATION

- Pick up a copy today at these fine locations**
- HARMON AMERICAN BAKERY
 - BAFFRO PESTA
 - CABALEN RESTAURANT
 - CABRERA'S MEDAL STORE
 - GC STORE
 - GREATMART HARMON
 - GREEN SUPERMARKET HARMON
 - H&A MART
 - HANNA MARKET
 - HARMON MART
 - HENO MART
 - HOME PLUS MART
 - HODOR MARKET
 - JOLIBEE
 - KING'S HARMON
 - KYONG MARKET
 - DEDEDO ATLAS MART
 - BEST SELLER - MALL
 - BURNY MARKET DEDEDO
 - DEDEDO RETAIL STORE
 - DEBAY'S MICRO-MALL
 - E.E. MINE MART
 - FRESH BREAD BAKERY OF
 - GLONANE MART
 - GUAM BAKERY
 - J&M M&S MART
 - JOHNDEL SUPERMARKET
 - LA FAMILIA MART
 - MARCHESIE STORE
 - MOBIL PETRA
 - MOBIL LIULIHAN
 - MOBIL YENKOSON
 - MONG-TOTO-MAITE ONOF'S MART
 - DEPT OF MOTOR VEHICLE
 - DEPT OF REV & TAX
 - GOLD'S MARKET
 - MOBIL MAITE
 - NEW NDA MARKET
 - SMILE MARKET
 - TAMUNING CALFORNIA MART
 - CENTURY PLAZA
 - GM MARKET
 - BEST SELLER - OPT
 - DEBAY'S DIALYSIS
 - DOCTOR'S CLINIC
 - SLITE BAKERY
 - AGAT-SANTA RITA DOLLARS & SENNE
 - D'S CORNER
 - SLITE BAKERY AGAT
 - SLIM MARKET
 - KUACHES AGAT
 - MAMA MARKET
 - MOBIL AGAT PH ON THE BAY
 - MOBIL AJ
 - MOBIL APFA HEIGHTS
 - NAVY EXCHANGE
 - NEW AGAT CROWNED MART
 - SPREED MART
 - THE BAY CAPE
 - TALAPOPO - I
 - MRS CAMACHILE
 - MOBIL BAY


Committee on Ways and Means:

Thursday, February 7, 2002, 9:00 a.m. Guam Legislature's Public Hearing Room on the appointments of Mr. Carlos E. P. Bordallo, to serve as a member of the Retirement Fund Board of Directors for a term of five (5) years to expire on January 31, 2007, and Mr. Rodolfo V. Colet and Mr. Celso S. Gianchand, to serve as members of the Alcoholic Beverage Control Board for a term of two (2) years to expire on January 27, 2004. **Bill No. 164 (COR)**, "AN ACT TO *ADD* CHAPTER 33 TO TITLE 11 OF THE GUAM CODE ANNOTATED, RELATIVE TO TAX RELIEF FOR IN-HOME ELDER CARE, TO BE KNOWN AS THE '*AKTO PARA IN'ASISTIN MANAMKO*,' THE '*MANAMKO CARE ACT*.' **Bill No. 183 (COR)**, "AN ACT TO APPROPRIATE FUNDS TO IMPLEMENT PUBLIC LAW NO. 24-246." **Bill No. 247 (COR)**, "AN ACT TO MAXIMIZE REVENUES FROM THE "INCOME TAX REFUND RESERVE FUND" THROUGH THE ESTABLISHMENT OF A NEW CHAPTER 51 OF DIVISION 2 OF TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO THE INCOME TAX REFUND RESERVE FUND LAW." Individuals requiring special accommodations, auxiliary aids or services are asked to contact the Office of Senator Kaleo S. Moylan at 472-3342.

MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN
2002 (SECOND) Regular Session

Bill No. 247 (con)

Introduced by:

v.c. pangelinan
K.S. Moylan 

AN ACT TO MAXIMIZE REVENUES FROM THE
"INCOME TAX REFUND RESERVE FUND"
THROUGH THE ESTABLISHMENT OF A NEW
CHAPTER 51 OF DIVISION 2 OF TITLE 11, GUAM
CODE ANNOTATED, RELATIVE TO THE INCOME
TAX REFUND RESERVE FUND LAW.

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan*

3 finds that each year, the Department of Revenue and Taxation finds itself in a
4 difficult situation, trying to find ways to promptly process the island's
5 taxpayers' income tax returns and timely pay the refunds due. Each year, the
6 Department of Revenue and Taxation cites shortage of staff as the reason for
7 delays in processing the income tax returns. However, through legislative
8 hearings and discussions, the Director of the Department of Revenue and
9 Taxation testified that if such staff shortages were filled, another cause of
10 delay would be the lack of office equipment such as computers.

11 Such problems in the delay of processing the income tax returns have
12 greatly burdened the island's taxpayers financially as they patiently wait for
13 their income tax returns so critical to making ends meet.

1 interest and investment earnings shall be subject to legislative appropriation
2 and shall be expended exclusively for the purposes set forth under Section
3 51103 of this Act.

4 (b) The deposits made to the Trust Fund pursuant to Section 51102, shall
5 be invested or reinvested in interest bearing instruments, United States
6 treasury notes, investment grade and insured corporate notes, and other like
7 instruments which are readily convertible to cash needed to pay income tax
8 refunds.

9 **Section 51102. Deposit of funds.** (a) The Director of the Department of
10 Administration shall deposit within ten (10) days at the end of each month a
11 percentage of the Payroll Withholding Taxes collections for the month equal
12 to its percentage of the budgeted forecasted amount set aside for income tax
13 refunds adopted in that fiscal year's budget, so that at the end of the calendar
14 year, the total amount set aside for tax refunds shall have been deposited into
15 the Trust Fund. The funds deposited in the Trust Fund by the Director of the
16 Department of Administration, shall automatically revert back to the Income
17 Tax Reserve Fund once the Tax Commissioner is ready to make the necessary
18 payments pursuant to §50105 of Chapter 50 of Division 2 of Title 11, Guam
19 Code Annotated. The interest and investment earnings shall remain within
20 the Trust Fund.

21 (b) The Director of the Department of Administration shall deposit
22 within ten (10) days at the end of each quarter a percentage of the Self-
23 Employed Payroll Withholding Taxes collections for the quarter equal to its
24 percentage of the budgeted forecasted amount set aside for income tax

1 refunds adopted in that fiscal year's budget, so that at the end of the calendar
2 year, the total amount set aside for tax refunds shall have been deposited into
3 the Trust Fund. The funds deposited in the Trust Fund by the Director of the
4 Department of Administration, shall automatically revert back to the Income
5 Tax Reserve Fund once the Tax Commissioner is ready to make the necessary
6 payments pursuant to §50105 of Chapter 50 of Division 2 of Title 11, Guam
7 Code Annotated. The interest and investment earnings shall remain within
8 the Trust Fund.

9 (c) The Director of the Department of Administration shall deposit
10 within ten (10) days at the end of each month a percentage of income tax
11 collections for the month equal to its percentage of the budgeted forecasted
12 amount set aside for income tax refunds adopted in that fiscal year's budget,
13 so that at the end of the calendar year, the total amount set aside for tax
14 refunds shall have been deposited into the Trust Fund. The funds deposited
15 in the Trust Fund by the Director of the Department of Administration, shall
16 automatically revert back to the Income Tax Reserve Fund once the Tax
17 Commissioner is ready to make the necessary payments pursuant to §50105 of
18 Chapter 50 of Division 2 of Title 11, Guam Code Annotated. The interest and
19 investment earnings shall remain within the Trust Fund.

20 **Section 51103. Expenditures from the Trust Fund.** In order for *I*
21 *Liheslaturan Guåhan* to make the proper legislative appropriation pursuant to
22 Subsection (a) of Section 51101 of this Act, the Tax Commissioner shall submit
23 to *I Liheslaturan Guåhan* on the 15th day of January each year a detailed budget
24 request of itemized cost of allowable expenditure, for an appropriation from

1 the earnings of the Trust Fund. All interest and investment earnings from the
2 Trust Fund pursuant to Subsection (b) of Section 51101 of this Act shall be
3 exclusively expended for the following purposes:

4 (a) Notwithstanding other provisions of law, the Department of
5 Revenue and Taxation is hereby allowed to hire seasonal, temporary,
6 unclassified employees, as deemed necessary by the Tax Commissioner
7 any time during the period of filing dates established by the IRS for a
8 period of not more than three (3) months to process income tax returns.

9 (i) The Department of Revenue and Taxation shall prioritize
10 the processing of income tax returns according to their filing date.

11 (ii) The Department of Revenue and Taxation shall submit to
12 *I Liheslaturan Guåhan* a monthly report on the status of the income
13 tax processing which shall include the following:

14 (a) number of income tax returns completed;

15 (b) number of income tax refunds issued and the total dollar
16 amount

17 (c) number of income tax returns pending;

18 (d) expected date of completion for the income tax returns
19 pending; and

20 (e) any other pertinent information.

21 (b) proper training of employees hired pursuant to Subsection (a) of this
22 Section.

23 (c) computers and other equipments necessary to quickly process the
24 income tax returns.

1 **Section 51104. Prohibition Against Encumbrances.** (a) Any and all
2 expenditures from the Trust Fund shall be for the payment outlined in Section
3 51103, and for no other purpose. The Trust Fund shall not be subject to or
4 permit the Governor to pledge the Trust Fund for payments or repayments of
5 any Government of Guam debt.

6 **Section 51105. Reports.** The Tax Commissioner and the Director of the
7 Department of Administration shall report to the Governor and the
8 Legislature every deposit and the current balance of the Trust Fund within 15
9 days of every deposit made to the Trust Fund.

10 **Section 51106. No Transfer Authority.** The money placed in the Trust
11 Fund is not subject to any transfer authority of the Governor.”

12 **Section 3. Severability.** *If* any provision of this Law or its
13 application to any person or circumstance is found to be invalid or contrary to
14 law, such invalidity shall *not* affect other provisions or applications of this
15 Law which can be given effect without the invalid provisions or application,
16 and to this end the provisions of this Law are severable.



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM


MAR 13 2002

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

Dear Senator Brown:


Enclosed please find Substitute Bill No. 272 (COR) "AN ACT TO REPEAL AND REENACT § 33 OF CHAPTER IV AND §28(b) OF CHAPTER III OF P.L. NO. 26-35; TO AMEND § 21 OF CHAPTER V OF P.L. NO. 25-164 AND TO AMEND § 12 OF P.L. NO. 26-58, RELATIVE TO APPROPRIATIONS FOR M.I.P., THE MEDICAID PROGRAM, AND TO D.P.W. AND HOPE FOR RECOVERY, AND TO AUTHORIZE TRANSFER APPROPRIATION LAPSES WITHIN THE DEPARTMENT OF LAW AND FOR OTHER PURPOSES" which was vetoed and subsequently overridden by I Liheslatura. This legislation is now designated as **Public Law No. 26-75**.

Very truly yours,


Carl T. C. Gutierrez
I Maga'lahaen 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


OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGMENT RECEIPT	
Received By	
Time	1118
Date	3/13/02

0722

MINA'BENTE SAIS NA LIHESLATURAN GUĀHAN
2002 (SECOND) Regular Session


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

This is to certify that Substitute Bill No. 272 (COR), "AN ACT TO REPEAL AND REENACT § 33 OF CHAPTER IV AND §28(b) OF CHAPTER III OF P.L. NO. 26-35; TO AMEND § 21 OF CHAPTER V OF P.L. NO. 25-164 AND TO AMEND § 12 OF P.L. NO. 26-58, RELATIVE TO APPROPRIATIONS FOR M.I.P., THE MEDICAID PROGRAM, AND TO D.P.W. AND HOPE FOR RECOVERY, AND TO AUTHORIZE TRANSFER APPROPRIATION LAPSES WITHIN THE DEPARTMENT OF LAW AND FOR OTHER PURPOSES," returned without approval of *I Maga'lahen Guāhan*, was reconsidered by *I Liheslaturan Guāhan* and after such consideration, did agree, on the 12th day of March, 2002, to pass said bill notwithstanding the veto of *I Maga'lahen Guāhan* by a vote of fifteen (15) members.



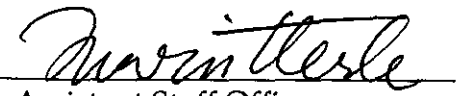
ANTONIO R. UNPINGCO
Speaker

Attested,



JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by *I Maga'lahen Guāhan* this 12th day of March,
2002, at 1:10 o'clock P.M.



Assistant Staff Officer
Maga'lahi's Office

MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN
2002 (SECOND) Regular Session

Bill No. 272 (COR)

As substituted by the Committee
on Ways and Means and amended on the Floor.

Introduced by:

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

**AN ACT TO REPEAL AND REENACT § 33 OF
CHAPTER IV AND §28(b) OF CHAPTER III OF P.L.
NO. 26-35; TO AMEND § 21 OF CHAPTER V OF P.L.
NO. 25-164 AND TO AMEND § 12 OF P.L. NO. 26-58,
RELATIVE TO APPROPRIATIONS FOR M.I.P.,
THE MEDICAID PROGRAM, AND TO D.P.W.
AND HOPE FOR RECOVERY, AND TO
AUTHORIZE TRANSFER APPROPRIATION
LAPSES WITHIN THE DEPARTMENT OF LAW
AND FOR OTHER PURPOSES.**

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

1 **Section 1.** Section 33 of Chapter IV *Miscellaneous Provisions*, of Public
2 Law Number 26-35 is hereby *repealed and reenacted* to read as follows:

3 **“Section 33. Social Welfare Programs Appropriation.**

4 **(a) MIP Payment Revolving Fund.** The sum of Ten
5 Million Six Hundred Thousand Dollars (\$10,600,000) is hereby
6 appropriated from the General Fund to the Medically Indigent
7 Program (‘M.I.P.’) Payment Revolving Fund.

8 **(b)** The sum of Two Million One Hundred Fifty-two
9 Thousand Two Hundred Eighty-nine Dollars (\$2,152,289) is
10 hereby appropriated from the Healthcare System Privatization
11 Fund to the MIP Payment Revolving Fund for services of other
12 obligations of the MIP and Medicaid programs incurred during
13 the month March, Fiscal Year 2002.

14 **(c)** The sum of Two Million One Hundred Fifty-two
15 Thousand Two Hundred Eighty-nine Dollars (\$2,152,289) is
16 hereby appropriated from the Healthcare System Privatization
17 Fund to the MIP Payment Revolving Fund for services of other
18 obligations of the MIP and Medicaid programs incurred during
19 the month April, Fiscal Year 2002.

20 **(d)** The sum of Two Million One Hundred Fifty-two
21 Thousand Two Hundred Eighty-nine Dollars (\$2,152,289) is
22 hereby appropriated from the Healthcare System Privatization
23 Fund to the MIP Payment Revolving Fund for services of other
24 obligations of the MIP and Medicaid programs incurred during
25 the month May, Fiscal Year 2002.

1 (e) The sum of Two Million One Hundred Fifty-two
2 Thousand Two Hundred Eighty-nine Dollars (\$2,152,289) is
3 hereby appropriated from the Healthcare System Privatization
4 Fund to the MIP Payment Revolving Fund for services of other
5 obligations of the MIP and Medicaid programs incurred during
6 the month June, Fiscal Year 2002.

7 (f) The sum of Two Million One Hundred Fifty-two
8 Thousand Two Hundred Eighty-nine Dollars (\$2,152,289) is
9 hereby appropriated from the Healthcare System Privatization
10 Fund to the MIP Payment Revolving Fund for services of other
11 obligations of the MIP and Medicaid programs incurred during
12 the month July, Fiscal Year 2002.

13 (g) The sum of Two Million One Hundred Fifty-two
14 Thousand Two Hundred Eighty-nine Dollars (\$2,152,289) is
15 hereby appropriated from the Healthcare System Privatization
16 Fund to the MIP Payment Revolving Fund for services of other
17 obligations of the MIP and Medicaid programs incurred during
18 the month August, Fiscal Year 2002.

19 (h) The sum of Two Million One Hundred Fifty-two
20 Thousand Two Hundred Eighty-nine Dollars (\$2,152,289) is
21 hereby appropriated from the Healthcare System Privatization
22 Fund to the MIP Payment Revolving Fund for services of other
23 obligations of the MIP and Medicaid programs incurred during
24 the month September, Fiscal Year 2002.

1 (i) The appropriation contained in Subsections (b), (c),
2 (d), (e), (f), (g) and (h) are composed of Nine Million Seven
3 Hundred Eighty Thousand Dollars (\$9,780,000) from the General
4 Fund and Five Million Two Hundred Eighty-six Thousand
5 Twenty-five Dollars (\$5,286,025) from Federal Grant-in-Aid, for a
6 total appropriation of Fifteen Million Sixty-six Thousand Twenty-
7 five Dollars (\$15,066,025).

8 (j) **Monitoring and Contract Payments of the Healthcare**
9 **System Contract.** Effective October 1, 2002, the sum of
10 Twenty-six Million Dollars (\$26,000,000) is hereby appropriated
11 from the FY2003 revenues of the General Fund to the Healthcare
12 System Fund of the Department of Public Health and Social
13 Services ('DPH&SS') for the implementation, monitoring and
14 contract payments of the Healthcare System contract for Fiscal
15 Year 2003.

16 (k) **Implementation, Monitoring and Contract Payments.**
17 Effective October 1, 2003, the sum of Twenty-six Million Dollars
18 (\$26,000,000) is hereby appropriated from the FY2004 revenues of
19 the General Fund to the Healthcare System Fund of DPH&SS for
20 the implementation, monitoring and contract payments of the
21 Healthcare System contract for Fiscal Year 2004.

22 (l) The MIPPR Fund shall *not* be subject to any transfer
23 authority by *I Maga'lahaen Guãhan.*"

1 **Section 2.** Section 21 of Chapter V, *Administrative Provisions*, of Public
2 Law Number 25-164 is hereby *amended* to read as follows:

3 **“Section 21. MIP Payment Revolving Fund.** From the
4 funds appropriated by this Act from the General Fund for the
5 Department of Public Health and Social Services (‘DPH&SS’)
6 Miscellaneous Object Category, the amount of Twenty-four Million
7 Dollars (\$24,000,000) shall be deposited into the Medically Indigent
8 Program Payment Revolving Fund (‘MIPPR Fund’). The MIPPR Fund
9 shall be maintained separate and apart from all other funds allocated to
10 DPH&SS. Payments from the MIPPR Fund shall be authorized by the
11 Director and credited against the MIPPR Fund. Appropriations to the
12 MIPPR Fund are hereby authorized to be carried over into subsequent
13 fiscal years, and may be expended for any authorized Medically
14 Indigent Program and any authorized Medicaid Program obligation.

15 Notwithstanding any provisions of law to the contrary, all
16 approved claims for Program services incurred *prior* to the close of
17 Fiscal Year 2000 shall be eligible for payment from monies appropriated
18 to the Department, or the Fund established by this Section.

19 The MIPPR Fund shall *not* be subject to any transfer authority by *I*
20 *Maga’lahen Guåhan.*”

21 **Section 3.** Section 12 of Public Law Number 26-58 is hereby *amended* to
22 read as follows:

23 **“Section 12.** Notwithstanding any other provision of law, the
24 Guam Economic Development Authority (‘GEDA’) shall transfer from

1 its share of the charges and fees in connection with the funding,
2 issuance, sale and delivery of the debts of bond pursuant to this Act the
3 lump sum of One Hundred Thousand Dollars (\$100,000.00) to the
4 Department of Public Works ('DPW') *no later than* March 31, 2002 to be
5 used for the repair of public school buses and the lump sum of Fifty
6 Thousand Dollars (\$50,000.00), to Hope for Recovery *no later than* March
7 31, 2002, to establish and provide residential treatment services for
8 mothers and their newborn babies addicted to methamphetamine,
9 better known as the drug ice."

10 **Section 4. Authorization to Transfer Appropriation Lapses within**
11 **the Department of Law.**

12 (a) **Legislative Statement.** The Department of Law, Family
13 Division, is funded by a grant under the U.S. Department of Health and
14 Human Services - Title IVB-D Social Security Administration,
15 specifically referred to as the Child Support Enforcement Program. The
16 grant is a reimbursable grant at a funding ratio of sixty-six percent
17 (66%) Federal and thirty-four percent (34%) local.

18 The FY2002 Budget Act (P.L. No. 26-35, as amended) appropriated
19 Three Million Two Hundred Eighty Thousand One Hundred Eighteen
20 Dollars (\$3,280,118) to the Family Division. This appropriation was
21 partial for the fiscal year in the areas of contractual services and office
22 space rental as a more in-depth review of the division's APASI and
23 PRWORA contracts were necessary. In addition, confirmation of grant

1 conditions in support of the contracts was received late in the budget
2 process.

3 The Committee on Ways and Means conducted a review of the
4 Family Division's contractual needs for the balance of the fiscal year and
5 finds that an additional local matching requirement of Nine Hundred
6 Sixty-six Thousand Two Hundred Forty-nine Dollars (\$966,249.00)
7 would be necessary. The scope of the review included a comprehensive
8 assessment of the Department's Personnel Services appropriations
9 which showed potential lapses in the amount of One Million Twenty-six
10 Thousand Two Hundred Forty-eight Dollars and Seventy Cents
11 (\$1,026,248.70), due primarily to thirteen (13) employee separations due
12 to resignations, transfers and retirement since passage of the Budget
13 Act.

14 It has, therefore, been determined that the redirection of the
15 Department of Law's Personnel Services appropriation lapses to the
16 Family Division's contractual and office space rental categories would
17 satisfy the Division's local matching requirements for the balance of the
18 fiscal year.

19 It is also noted that the Department needs to aggressively pursue
20 its Federal Incentive Payment awards which have *not* been received for
21 Fiscal Year 2000, and these annual awards average Two Hundred Fifty
22 Thousand Dollars (\$250,000.00), and their untimely receipts could
23 jeopardize ten (10) positions currently funded by these Federal funds
24 which the Department's local funding level is *not* in a position to absorb.

1 **(b) Authorization to Transfer Lapses.** The Department of Law
2 is authorized to transfer lapses from Personnel Services appropriations
3 contained in pages 26-1, 26-2, 26-3, 26-4, 26-5 and 26-6 of Appendix B of
4 Public Law Number 26-35, as amended, to the contractual and office
5 space rental categories of the Family Division contained in page 26-6 of
6 Appendix B of Public Law Number 26-35, as amended. The transfer out
7 of lapses from Personnel Services authorized by this Section shall be
8 *without* limit; provided, that such lapses can be transferred only into the
9 contractual and office space rental categories of the Family Division and
10 shall *not* be used for any other purpose.

11 **Section 5. Amendment to Above-Step Recruitment and**
12 **Reclassification Moratorium.** Section 4(b) of Chapter IV, *Miscellaneous*
13 *Provisions*, of Public Law Number 26-35, as amended by § 10 of Public Law
14 Number 26-55, is further *amended* to read as follows:

15 **“(b) Above-Step Recruitment and Reclassification Moratorium.**

16 **(1) Above-Step Recruitment Moratorium.**

17 Notwithstanding any other provisions of law, rule or regulation,
18 effective October 1, 2001, there is hereby put into effect a
19 government-wide moratorium on above-step recruitments, *except*
20 for teachers in DOE, academic positions in the Guam Community
21 College (‘GCC’) and the University of Guam (‘UOG’), licensed and
22 allied health care professionals, attorneys and positions
23 determined by the Civil Service Commission (‘CSC’) as difficult to
24 recruit, which shall remain in effect through September 30, 2002,

1 and shall be applicable to all positions within every branch of
2 government, public corporations, all government of Guam
3 departments, bureaus, and agencies, instrumentalities, entities or
4 sub-entities of the Executive, Legislative or Judicial Branches, the
5 Mayors' Council, *and* Mayors' Offices.

6 **(2) Reclassification Moratorium.**

7 Notwithstanding any other provisions of law, rule or
8 regulation, effective October 1, 2001, there is hereby put into effect
9 a government-wide moratorium on reclassifications, *except* for
10 teachers in DOE; academic positions in GCC and UOG; licensed
11 and allied health care professionals, which shall remain in effect
12 through September 30, 2002, and shall be applicable to all
13 positions within every branch of government, public corporations,
14 all government of Guam departments, bureaus, and agencies,
15 instrumentalities, entities or sub-entities of the Executive,
16 Legislative or Judicial Branches, the Mayors' Council, *and* Mayors'
17 Offices."

18 **Section 6. Authorization to Transfer Positions to the Department of**
19 **Revenue & Taxation.**

20 **(a) Legislative Intent.** At an Oversight Hearing on the
21 financial status of the government of Guam on Wednesday, February
22 27, 2002, the Director of the Department of Revenue and Taxation
23 reported tax receivables amounting to over One Hundred Million
24 Dollars (\$100,000,000). This amount represents receivables in three (3)

1 major categories, namely, active, pending and unaddressed accounts.
2 Active accounts represents twenty percent (20%), pending accounts
3 represent forty-three percent (43%), and unaddressed accounts
4 represent thirty-three percent (33%) of the total. It was determined that,
5 with the exception of the active and pending accounts, which are either
6 on levy, payroll deduction arrangements, or on litigation, some Thirty-
7 seven Million Four Hundred Thousand Dollars (\$37,400,000) of
8 unaddressed accounts can be collected this fiscal year *if* necessary staff
9 support is provided.

10 *I Liheslaturan Guåhan* recognizes the need for aggressive tax
11 collections in light of the present financial situation and provides the
12 following to facilitate this effort.

13 **(b) Authorization to Transfer Personnel.** Notwithstanding
14 any other provision of law, *I Magalahen Guåhan* is hereby authorized to
15 transfer as many employees as may be required from any agency (line
16 or autonomous) within the government of Guam to the Department of
17 Revenue and Taxation for the purpose of income tax collection efforts.

18 **(c) Funding Transfer.** Funding for the positions authorized
19 in Item (b) shall be transferred to the Department of Revenue and
20 Taxation.

21 **(d) Position List.** The Director of the Department of Revenue
22 and Taxation shall provide *I Magalahen Guåhan* with a list of positions
23 and/or other information the Director deems appropriate in fulfilling
24 the staff requirement authorized by this Section.

1 **Section 7.** Section 28(b) of Chapter III, *Miscellaneous Appropriations and*
2 *for Other Purposes*, of Public Law Number 26-35 is hereby *amended* to read as
3 follows:

4 **“(b) Appropriation.** The sum of Six Hundred Thousand Dollars
5 (\$600,000.00) is hereby appropriated from the General Fund to the GFD
6 Lease Purchase and/or Program Fund created in Subsection (a) of this
7 Section. Subsequently, the sum of Six Hundred Thousand Dollars
8 (\$600,000.00) shall hereby be appropriated on a yearly basis *not to exceed*
9 *ten (10) years to cover cost of this program.”*

10 **Section 8. Severability.** *If* any provision of this Act or its
11 application to any person or circumstance is held invalid, the invalidity does
12 *not* affect other provisions or applications of this Act which can be given effect
13 without the invalid provision or application, and to this end the provisions of
14 this Act are severable.

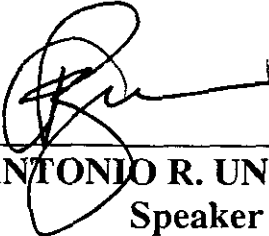


MINA' BENTE SAIS NA LIHESLATURAN GUÅHAN
TWENTY-SIXTH GUAM LEGISLATURE
155 Healer Place, Hagåtña, Guam 96910

2002 (SECOND) Regular Session

I, Antonio R. Unpingco, Speaker of *I Mina' Bente Sais Na Liheslaturan Guåhan*, hereby certify, in conformance with Title 2 Guam Code Annotated § 2103, *Public Hearings Mandatory*, as amended, that an emergency condition exists involving danger to the public health and welfare of the people and therefore waive the statutory requirements for a public hearing on Bill Number 272 (COR), "AN ACT TO AMEND SECTION 33, CHAPTER IV OF PUBLIC LAW 26-35 AND SECTION 21, CHAPTER V OF PUBLIC LAW 25-164 RELATIVE TO APPROPRIATION FOR THE MEDICALLY INDIGENT PROGRAM AND MEDICAID PROGRAM," which was introduced on February 26, 2002, and therefore waive the statutory requirements for a public hearing on Bill Number 272 (COR).

Dated: February 28, 2002


ANTONIO R. UNPINGCO
Speaker

D. ridden

I MINA' BENTE SAIS NA LIHESLATURAN GUAHAN , 2:52am
2002 (SECOND) Regular Session

Date: 3/12/02

VOTING SHEET

Voted
5 Bill No. 272 (COR)

Resolution No. _____

Question: Should the legislature override Vetoed Substitute Bill 272 (COR) notwithstanding the objections of the Governor?

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.	✓				
MOYLAN, Kaleo S.	✓				
PANGELINAN, Vicente C.	✓				
SANTOS, Angel L.G.	✓				
UNPINGCO, Antonio R.	✓				
WON PAT, Judith T.	✓				

TOTAL

15 0 0 0 0

CERTIFIED TRUE AND CORRECT:

Clerk of the Legislature

* 3 Passes = No vote
EA = Excused Absence

Voting File
3/11/02



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

MAR 07 2002

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>S</u>
Time	<u>4:35 pm</u>
Date	<u>3/07/02</u>

Dear Senator Brown:

Enclosed please find Substitute Bill No. 272 (COR) "AN ACT TO REPEAL AND REENACT § 33 OF CHAPTER IV AND §28(b) OF CHAPTER III OF P.L. NO. 26-35; TO AMEND § 21 OF CHAPTER V OF P.L. NO. 25-164 AND TO AMEND § 12 OF P.L. NO. 26-58, RELATIVE TO APPROPRIATIONS FOR M.I.P., THE MEDICAID PROGRAM, AND TO D.P.W. AND HOPE FOR RECOVERY, AND TO AUTHORIZE TRANSFER APPROPRIATION LAPSES WITHIN THE DEPARTMENT OF LAW AND FOR OTHER PURPOSES" which I have vetoed.

This legislation is being vetoed even though it represents an attempt to redirect funds to pay for the Medically Indigent Program and for the Child Support Enforcement Program, both necessary for many of our people. The defects explained below, however, need to be corrected in order for this intent to be realized. The Legislature will need to find real money, if that is possible, and direct it to be used for current expenses of the programs. Without real money, the MIP claims cannot be paid and eligibility cards cannot be issued out. Without real money, the Department of Law will simply lose the ability to operate the Child Support Enforcement Division as the local match for the federal grant is not there. Please note the following problems and work to correct them as soon as possible:

I. FAILURE OF FUNDING FOR MIP.

This legislation was designed to provide funding for the Medically Indigent Program (MIP), which cannot be privatized due to lack of interest by private sector interests. The legislation repeals prior legislation providing for the privatization of MIP, and attempts to redirect that money to provide government funding for each separate month of the remaining fiscal year.

The MIP program alone costs approximately \$2.5 Million per month to operate, separate from the Medicaid Program. This legislation states that it provides \$2.1 Million for each separate month to cover both the MIP and Medicaid Program. Obviously, the amounts will not cover the shortfall.

0714

This legislation also has language preventing the Department of Public Health and Social Services from paying outstanding MIP claims now already processed and waiting to be paid and which were incurred during the months of October, November, December, January and February. These claims cannot be paid because the language in this bill specifically states that only claims incurred later, during March, April, May, and so forth to the end of the fiscal year, can be paid. Vendors are not going to offer services for the month of March, April, May and so forth when the prior claims are awaiting payment and cannot be paid. **This means that no authorization cards can be issued by the Department of Public Health and Social Services for the month of March and subsequent months, as no funding is currently available.**

Additionally, on the MIP question, there is a typographical error repeated in Subsections (b), (c), (d), (e), (f), (g), and (h), where the phrase "services of other obligations" should read "services or other obligations".

Public Law No. 26-35 appropriated \$5,337,107 for the MIP program, however, this amount was reduced in this legislation (see Subsection (i)) to \$5,286,025. This amount is no longer available. Previous legislation allowed this figure to be used for MIP payments. The appropriation, therefore, in this bill, is effectively reduced to approximately \$1 Million per month – an amount that obviously does not cover expenses.

II. FAILURE TO PROVIDE FEDERAL MATCHING FUNDS FOR THE CHILD SUPPORT ENFORCEMENT DIVISION OF THE DEPARTMENT OF LAW.

Section 4 attempts to provide for funding for the federal match requirement for the Child Support Enforcement Division of the Department of Law. It does not do that. The federal match requirement is \$966,249. Unfortunately, the projected lapses of \$1,026,248.70 for 13 positions do not exist. There is, at most, between \$400,000 and \$500,000 in lapses from unfilled positions, however, these funds have been put into reserve due to the lowering of the expected revenues for the government.

The unfortunate situation in failing to provide for federal matching funds for the Department of Law's Child Support Enforcement Division is that this Division will have to shut down if the federal match is not made. This will impact the level of welfare expenses, and will eliminate the incentive funds available from the federal government for maintaining this program. Incentive funds are used to pay attorneys to operate the program.

III. TYPOGRAPHICAL, GRAMMATICAL, AND REPETITIOUS ERRORS.

Subsections (j) and (k) of prior law were repeated in this legislation, implying that there will indeed be a return to privatization of the MIP function for Fiscal Years 2003-2004.

Legislative Secretary
SB 272;veto
March, 2002
Page 3

To be consistent, these sections should have been eliminated if in fact there is to be no further privatization of the MIP function.

There are other typographical errors in this bill. For example, Section 2 indicates that Section 21 of Chapter V of Public Law No. 25-164 is being amended. In fact, this Section was already amended in Section 6 of Public Law No. 26-47. An examination of the language indicates that several of the "amendments" of Section 2 of this bill were already made in Section 6 of Public Law No. 26-47, thereby making Section 2 unnecessary and duplicative.

Section 3 also has several typographical errors. Section 12 of Public Law No. 26-58 was already amended also. It was amended in Public Law No. 26-59. A review of these Sections indicates that the amendments contained in this bill were probably an amendment to the later citation (Public Law No. 26-59), so the introductory sentence to Section 3 is incorrect.


Section 3, line 2 contains a phrase "delivery of the debts of bond pursuant to this Act." This phrase should read: "delivery of the debts or bonds pursuant to this Act."

Section 3, line 6 contains a typo in the inclusion of a comma after the amount (\$50,000.00), left over from a previous typo in prior legislation on this Section which had inserted a comma and the word "as" inappropriately at that location in the sentence.

Section 4 contains bad grammar. Section 4, line 23 states "PRWORA contracts were necessary" when the verb should be "was". The subject in the sentence is "review", not "contracts".

For all the reasons stated above, the attached legislation is vetoed. An override will not provide the language needed to make real funds available and allow the funds to be paid out as needed. Please look again at these issues, and work to resolve the issues.

Very truly yours,



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

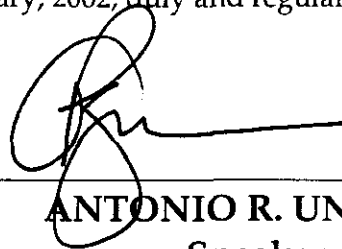
Attachments: original bill for vetoed legislation or
copy of bill for signed or overridden legislation
and legislation enacted without signature

cc: The Honorable Antonio R. Unpingco
Speaker

MINA'BENTE SAIS NA LIHESLATURAN GUĀHAN
2002 (SECOND) Regular Session

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

This is to certify that Substitute Bill No. 272 (COR) "AN ACT TO REPEAL AND REENACT § 33 OF CHAPTER IV AND §28(b) OF CHAPTER III OF P.L. NO. 26-35; TO AMEND § 21 OF CHAPTER V OF P.L. NO. 25-164 AND TO AMEND § 12 OF P.L. NO. 26-58, RELATIVE TO APPROPRIATIONS FOR M.I.P., THE MEDICAID PROGRAM, AND TO D.P.W. AND HOPE FOR RECOVERY, AND TO AUTHORIZE TRANSFER APPROPRIATION LAPSES WITHIN THE DEPARTMENT OF LAW AND FOR OTHER PURPOSES," was on the 28th day of February, 2002, duly and regularly passed.



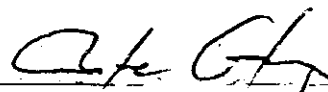
ANTONIO R. UNPINGCO
Speaker

Attested:



JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by *I Maga'lahen Guāhan* this 28 day of Feb, 2002,
at 11:50 o'clock P.M.



Assistant Staff Officer
Maga'lahi's Office

APPROVED:



CARL T. C. GUTIERREZ
I Maga'lahen Guāhan

Date: _____

Public Law No. _____

1 (i) The appropriation contained in Subsections (b), (c),
2 (d), (e), (f), (g) and (h) are composed of Nine Million Seven
3 Hundred Eighty Thousand Dollars (\$9,780,000) from the General
4 Fund and Five Million Two Hundred Eighty-six Thousand
5 Twenty-five Dollars (\$5,286,025) from Federal Grant-in-Aid, for a
6 total appropriation of Fifteen Million Sixty-six Thousand Twenty-
7 five Dollars (\$15,066,025).

8 **(j) Monitoring and Contract Payments of the Healthcare**
9 **System Contract.** Effective October 1, 2002, the sum of
10 Twenty-six Million Dollars (\$26,000,000) is hereby appropriated
11 from the FY2003 revenues of the General Fund to the Healthcare
12 System Fund of the Department of Public Health and Social
13 Services ('DPH&SS') for the implementation, monitoring and
14 contract payments of the Healthcare System contract for Fiscal
15 Year 2003.

16 **(k) Implementation, Monitoring and Contract Payments.**
17 Effective October 1, 2003, the sum of Twenty-six Million Dollars
18 (\$26,000,000) is hereby appropriated from the FY2004 revenues of
19 the General Fund to the Healthcare System Fund of DPH&SS for
20 the implementation, monitoring and contract payments of the
21 Healthcare System contract for Fiscal Year 2004.

22 **(l)** The MIPPR Fund shall *not* be subject to any transfer
23 authority by *I Maga'lahaen Guahan.*"

1 **Section 2.** Section 21 of Chapter V, *Administrative Provisions*, of Public
2 Law Number 25-164 is hereby *amended* to read as follows:

3 **“Section 21. MIP Payment Revolving Fund.** From the
4 funds appropriated by this Act from the General Fund for the
5 Department of Public Health and Social Services (‘DPH&SS’)
6 Miscellaneous Object Category, the amount of Twenty-four Million
7 Dollars (\$24,000,000) shall be deposited into the Medically Indigent
8 Program Payment Revolving Fund (‘MIPPR Fund’). The MIPPR Fund
9 shall be maintained separate and apart from all other funds allocated to
10 DPH&SS. Payments from the MIPPR Fund shall be authorized by the
11 Director and credited against the MIPPR Fund. Appropriations to the
12 MIPPR Fund are hereby authorized to be carried over into subsequent
13 fiscal years, and may be expended for any authorized Medically
14 Indigent Program and any authorized Medicaid Program obligation.

15 Notwithstanding any provisions of law to the contrary, all
16 approved claims for Program services incurred *prior* to the close of
17 Fiscal Year 2000 shall be eligible for payment from monies appropriated
18 to the Department, or the Fund established by this Section.

19 The MIPPR Fund shall *not* be subject to any transfer authority by *I*
20 *Maga’lahen Guåhan.*”

21 **Section 3.** Section 12 of Public Law Number 26-58 is hereby *amended* to
22 read as follows:

23 **“Section 12.** Notwithstanding any other provision of law, the
24 Guam Economic Development Authority (‘GEDA’) shall transfer from

1 its share of the charges and fees in connection with the funding,
2 issuance, sale and delivery of the debts of bond pursuant to this Act the
3 lump sum of One Hundred Thousand Dollars (\$100,000.00) to the
4 Department of Public Works ('DPW') *no later than* March 31, 2002 to be
5 used for the repair of public school buses and the lump sum of Fifty
6 Thousand Dollars (\$50,000.00), to Hope for Recovery *no later than* March
7 31, 2002, to establish and provide residential treatment services for
8 mothers and their newborn babies addicted to methamphetamine,
9 better known as the drug ice."

10 **Section 4. Authorization to Transfer Appropriation Lapses within**
11 **the Department of Law.**

12 (a) **Legislative Statement.** The Department of Law, Family
13 Division, is funded by a grant under the U.S. Department of Health and
14 Human Services - Title IVB-D Social Security Administration,
15 specifically referred to as the Child Support Enforcement Program. The
16 grant is a reimbursable grant at a funding ratio of sixty-six percent
17 (66%) Federal and thirty-four percent (34%) local.

18 The FY2002 Budget Act (P.L. No. 26-35, as amended) appropriated
19 Three Million Two Hundred Eighty Thousand One Hundred Eighteen
20 Dollars (\$3,280,118) to the Family Division. This appropriation was
21 partial for the fiscal year in the areas of contractual services and office
22 space rental as a more in-depth review of the division's APASI and
23 PRWORA contracts were necessary. In addition, confirmation of grant

1 and shall be applicable to all positions within every branch of
2 government, public corporations, all government of Guam
3 departments, bureaus, and agencies, instrumentalities, entities or
4 sub-entities of the Executive, Legislative or Judicial Branches, the
5 Mayors' Council, *and* Mayors' Offices.

6 **(2) Reclassification Moratorium.**

7 Notwithstanding any other provisions of law, rule or
8 regulation, effective October 1, 2001, there is hereby put into effect
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10 teachers in DOE; academic positions in GCC and UOG; licensed
11 and allied health care professionals, which shall remain in effect
12 through September 30, 2002, and shall be applicable to all
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9 support is provided.

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11 collections in light of the present financial situation and provides the
12 following to facilitate this effort.

13 **(b) Authorization to Transfer Personnel.** Notwithstanding
14 any other provision of law, *I Magalahren Guåhan* is hereby authorized to
15 transfer as many employees as may be required from any agency (line
16 or autonomous) within the government of Guam to the Department of
17 Revenue and Taxation for the purpose of income tax collection efforts.

18 **(c) Funding Transfer.** Funding for the positions authorized
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20 Taxation.

21 **(d) Position List.** The Director of the Department of Revenue
22 and Taxation shall provide *I Magalahren Guåhan* with a list of positions
23 and/or other information the Director deems appropriate in fulfilling
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7 Section. Subsequently, the sum of Six Hundred Thousand Dollars
8 (\$600,000.00) shall hereby be appropriated on a yearly basis *not to exceed*
9 *ten (10) years to cover cost of this program.”*

10 **Section 8. Severability.** *If* any provision of this Act or its
11 application to any person or circumstance is held invalid, the invalidity does
12 *not* affect other provisions or applications of this Act which can be given effect
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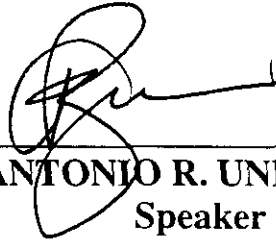


MINA' BENTE SAIS NA LIHESLATURAN GUÅHAN
TWENTY-SIXTH GUAM LEGISLATURE
155 Hemler Place, Hagåtña, Guam 96910

2002 (SECOND) Regular Session

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Dated: February 28, 2002


ANTONIO R. UNPINGCO
Speaker



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

MAR 07 2002

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

OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGMENT RECEIPT	
Received By	<u>[Signature]</u>
Time	<u>4:35 pm</u>
Date	<u>3/07/02</u>

Dear Senator Brown:

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0714

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For all the reasons stated above, the attached legislation is vetoed. An override will not provide the language needed to make real funds available and allow the funds to be paid out as needed. Please look again at these issues, and work to resolve the issues.

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

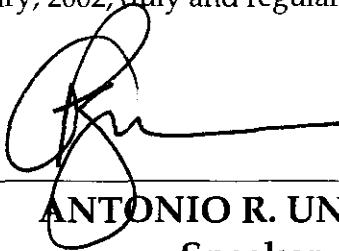
Attachments: original bill for vetoed legislation or
copy of bill for signed or overridden legislation
and legislation enacted without signature

cc: The Honorable Antonio R. Unpingco
Speaker

MINA'BENTE SAIS NA LIHESLATURAN GUÁHAN
2002 (SECOND) Regular Session


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

This is to certify that Substitute Bill No. 272 (COR) "AN ACT TO REPEAL AND REENACT § 33 OF CHAPTER IV AND §28(b) OF CHAPTER III OF P.L. NO. 26-35; TO AMEND § 21 OF CHAPTER V OF P.L. NO. 25-164 AND TO AMEND § 12 OF P.L. NO. 26-58, RELATIVE TO APPROPRIATIONS FOR M.I.P., THE MEDICAID PROGRAM, AND TO D.P.W. AND HOPE FOR RECOVERY, AND TO AUTHORIZE TRANSFER APPROPRIATION LAPSES WITHIN THE DEPARTMENT OF LAW AND FOR OTHER PURPOSES," was on the 28th day of February, 2002, duly and regularly passed.




ANTONIO R. UNPINGCO
Speaker

Attested:



JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by *I Maga'lahen Guáhan* this 28 day of Feb, 2002,
at 11:50 o'clock P.M.



Assistant Staff Officer
Maga'lahi's Office

APPROVED:



CARL T. C. GUTIERREZ
I Maga'lahen Guáhan

Date: _____

Public Law No. _____

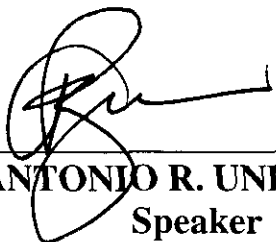


MINA' BENTE SAIS NA LIHESLATURAN GUÅHAN
TWENTY-SIXTH GUAM LEGISLATURE
155 Hessler Place, Hagåtña, Guam 96910

2002 (SECOND) Regular Session

I, Antonio R. Unpingco, Speaker of *I Mina' Bente Sais Na Liheslaturan Guåhan*, hereby certify, in conformance with Title 2 Guam Code Annotated § 2103, *Public Hearings Mandatory*, as amended, that an emergency condition exists involving danger to the public health and welfare of the people and therefore waive the statutory requirements for a public hearing on Bill Number 272 (COR), "AN ACT TO AMEND SECTION 33, CHAPTER IV OF PUBLIC LAW 26-35 AND SECTION 21, CHAPTER V OF PUBLIC LAW 25-164 RELATIVE TO APPROPRIATION FOR THE MEDICALLY INDIGENT PROGRAM AND MEDICAID PROGRAM," which was introduced on February 26, 2002, and therefore waive the statutory requirements for a public hearing on Bill Number 272 (COR).

Dated: February 28, 2002


ANTONIO R. UNPINGCO
Speaker

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I MINA' BENTE SAIS NA LIHESLATURAN GUAHAN

2002 (SECOND) Regular Session

Date: 2/28/02

VOTING SHEET

5 Bill No. 272(COR)

Resolution No. _____

Question: _____

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.	✓				
MOYLAN, Kaleo S.	✓				
PANGELINAN, Vicente C.	✓				
SANTOS, Angel L.G.	✓				
UNPINGCO, Antonio R.	✓				
WON PAT, Judith T.	✓				

TOTAL

14 0 0 0 1

CERTIFIED TRUE AND CORRECT:

Clerk of the Legislature

* 3 Passes = No vote
EA = Excused Absence