



Office of the Governor of Guam

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Felix Perez Camacho
Governor

Kaleo Scott Moylan
Lieutenant Governor

State of Guam, Department of the Governor
Vicente C. Pangelinan

MAR 10 2004

TIME: 4:40 (1) AM, 4 PM
RECEIVED BY: [Signature]

March 10, 2004

The Honorable Vicente C. Pangelinan
Speaker
Mina' Bente Siete Na Liheslaturan Guahån
155 Hesler Street
Hagåtña, Guam 96910

Dear Mr. Speaker:

Transmitted herewith is Bill No. 267 (COR), "AN ACT TO ROLL BACK EFFECTIVE APRIL 1, 2004, THE TEMPORARY INCREASE OF THE GROSS RECEIPTS AND USE TAX RATES, AND THE TEMPORARY REDUCTIONS IN GROSS RECEIPTS TAX EXEMPTIONS, BY AMENDING CERTAIN SECTIONS OF PUBLIC LAW 27-05; AND TO AMEND CERTAIN SECTIONS OF CHAPTERS 26 AND 28 OF TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO THE GROSS RECEIPTS TAX AND USE TAX RETURNS AND DEPOSIT REQUIREMENTS", which I signed into law on March 9, 2004 as Public Law No. 27-76.

Today, the people of Guam won a great victory. For more than one year, our people have been asking the Guam Legislature to reconsider its action to increase the Gross Receipts Tax by 50%, a tax that forced them to pay more for items they needed to live. That burden, unfairly passed onto our people, has now been lifted.

Our people should have never been forced to bear this burden in the first place. However, in an effort to alleviate some of the hardship the GRT increase caused, the Administration aggressively pushed out more than \$36 million in tax refunds last fiscal year and already paid out \$30 million in the first five months of this fiscal year. We also brought this year's vendor payments current to within 30 days of receipt to assist those businesses servicing our government during this especially burdensome time. We have done everything within our authority to place money back in the hands of the people when they needed it most, when prices for food, medicine and all the basic necessities increased as a direct result of the GRT increase. All the while, we have held the line on spending by reducing the expenditure levels of this government by more than \$100 million within our first nine months in office.

While no one can calculate the true impact the 50% increase in GRT had on our economy, from the onset of this debate, island residents warned senators of the negative impact of a tax increase - especially one as regressive and indiscriminate as the GRT.

With the restoration of the 4% GRT rate, we anticipate positive economic activity to increase.

The Administration is in full support of the GRT rollback, however, we must recognize that the adjustment of revenues during the middle of a fiscal year will impact the government of Guam's ability to meet its financial obligations already appropriated for FY 2004.

The work of the Legislature to restore the 4% GRT rate was a year in coming, but your duty is not complete. The Organic Act clearly states that all spending appropriations authority and revenue projections are vested in the Legislature. Lt. Governor Moylan and I respect the role of each branch of government and call upon the Legislative body to fulfill its one Organic responsibility.

As this Administration has warned time and again, what action is taken by the Legislature to affect the revenues into this government must be accompanied by your plan to adjust expenditures as well.

Mr. Speaker, as you will recall from the FY'04 budget, the Legislature authorized appropriations of \$409 million. However, the Legislature also recognized the shortfall that the government of Guam would face this year and authorized the use of lapsed FY'03 funds to cover the operational shortfalls. With the restoration of the 4% GRT rate, the cash to support the use of those lapsed funds will not be available.

We have committed to a three-prong approach to restore the financial viability of this government: cost cutting measures, revenue enhancements and cash infusion through a bond issuance. The Administration has remained steadfast in its commitment to do its part to cut costs government wide. However, the bond is currently in litigation and this Legislature's lack of commitment to revenue enhancements has only impeded our efforts to improve our financial condition.

The Guam Legislature must carry out its mandate to adjust the appropriation levels of this government for the remainder of the year. This Administration has been able to manage the cash of this government for more than a year by setting its priorities. However, cash management is not enough to maintain the operating levels of this government with the expected decline in revenues that will result from the GRT rollback. What is required is a re-establishment of the spending priorities of this government, a mandate exclusive to the Guam Legislature. The continued unwillingness of the Legislature to establish and commit to a financial recovery plan for the government of Guam, similar to the one I submitted in February 2003, only further jeopardizes the financial credibility of this government and continues to diminish our bond ratings.

There can be no question from the actions taken by this Administration and the commitment shown by the government employees that we are willing to do our part in holding down the costs of this government. Over the course of the last 14 months, we have reduced the expenditure levels by more than \$100 million. We have reduced

General Fund payroll to under \$4 million a pay period and used the savings generated as well as the additional revenues to pay down the deficit of this government by \$20 million in just the first quarter of FY'04. We have paid Supplemental Annuities for retirees consistently for this fiscal year. In the past, Administrations have used the increased revenues as an opportunity to also increase operational expenditures; we did not.

We are concerned about the Legislature's unrealistic expectations that *anyone* in this government can prudently adjust the budget on revenues that have yet to be tracked based on actual reporting. The Legislature's Office of Finance and Budget, under the Committee on Appropriations and Budgeting, General Government Operations, Reorganization and Reform is mandated by Public Law 25-176 to establish an official revenue projection for the government of Guam budget based on its economic forecasting model. My Administration remains committed to providing the Guam Legislature with the revenue data from which you can establish a new revenue forecast.

However, it seems the Legislature is hastily expecting adjustments to spending authorizations through an amended revenue forecast on information it cannot possibly attain within 15 days of April 1, 2004, when the GRT increase rollback takes effect, from the passage of P.L. 27-76.

In Public Law 27-05, the Legislature recognized the need for time to adjust to the reduction in revenues that would result from the original September 1, 2005 expiration of your GRT increase. However, in this law, you expect those same adjustments to be made in 15 days. In the same manner that the Legislature reacted too quickly in effectuating the increase in GRTs, you now expect this Administration to react to the rollback's impact on revenues. When my Administration presented the projected impact this would have on revenues, the Legislature disputed our numbers.

If the Legislature is to properly track revenue trends based on the adjusted tax rate, I recommend that you wait at least 90 days from the effective date of the GRT rollback for the Office of Finance and Budget to properly analyze actual collections data from the Department of Revenue and Taxation. Otherwise the Legislature will once again set this government into a precarious situation, just as it did by the imprudent passage of the GRT increase and the subsequent rollback in the middle of a budget year.

Mr. Speaker, this Administration has fulfilled its budgetary mandates by submitting the FY'05 budget on February 3, 2004. The responsibility to make adjustments to that budget now lie with the Committee on Appropriations and Budgeting General Government Operations, Reorganization and Reform. As always, this Administration will participate in budget deliberations that I understand are scheduled to begin in May 2004.

In closing, I would like to thank the people of Guam for their persistence and courage in voicing their unwillingness to accept the Legislative majority's unilateral decision to raise the Gross Receipts Tax rate and for their efforts to participate more actively in our democracy through the initiative process. Without their unrelenting efforts, our entire island would continue to suffer the consequences of this regressive action. While there

are still many sacrifices that must be made, the leaders of this island cannot expect our people to make those sacrifices due simply to your unwillingness to make the tough decisions the people elected you to make.

Sinseru yan mågahet,

A handwritten signature in black ink, appearing to read 'F. Camacho', with a long, sweeping horizontal stroke extending to the right.

**FELIX P. CAMACHO**

*I Maga' Låhen Guahån*

Governor of Guam

Attachment: copy attached of signed bill

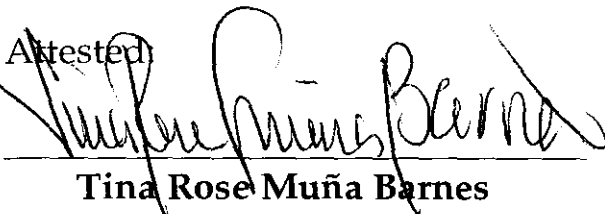
cc: The Honorable Tina Rose Muna-Barnes  
Senator and Legislative Secretary

I MINA'BENTE SIETE NA LIHESLATURAN GUÅHAN  
2004 (SECOND) Regular Session

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

This is to certify that Substitute Bill No. 267 (COR), "AN ACT TO ROLL BACK EFFECTIVE APRIL 1, 2004, THE TEMPORARY INCREASE OF THE GROSS RECEIPTS AND USE TAX RATES, AND THE TEMPORARY REDUCTIONS IN GROSS RECEIPTS TAX EXEMPTIONS, BY AMENDING CERTAIN SECTIONS OF PUBLIC LAW 27-05; AND TO AMEND CERTAIN SECTIONS OF CHAPTERS 26 AND 28 OF TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO THE GROSS RECEIPTS TAX AND USE TAX RETURNS AND DEPOSIT REQUIREMENTS," was on the 4<sup>th</sup> day of March, 2004, duly and regularly passed.

Attested



Tina Rose Muña Barnes  
Senator and Legislative Secretary

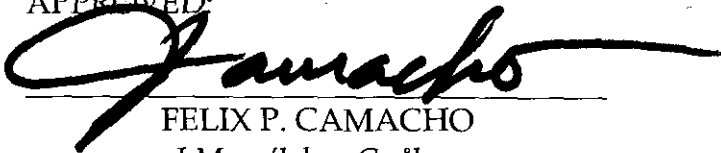
\_\_\_\_\_  
vicente (ben) c. pangelinan  
Speaker

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This Act was received by I Maga'lahaen Guåhan this 5 day of March, 2004, at  
12:30 o'clock PM.M.



\_\_\_\_\_  
Assistant Staff Officer  
Maga'lahaen's Office

APPROVED:



FELIX P. CAMACHO  
I Maga'lahaen Guåhan

Date: 10 MARCH 2004

Public Law No. 27-76

I MINA'BENTE SIETE NA LIHESLATURAN GUÅHAN  
2004 (SECOND) Regular Session

**Bill No. 267 (COR)**

As substituted by the Committee on  
Economic Development, Retirement, Investment,  
Public Works and Regulatory Functions and  
as amended on the Floor.

Introduced by:

Toni Sanford  
v. c. pangelinan  
R. J. Respicio  
T. R. Muña Barnes  
F. B. Aguon, Jr.  
J. M. Quinata  
J. M.S. Brown  
F. R. Cunliffe  
C. Fernandez  
Mark Forbes  
L. F. Kasperbauer  
R. Klitzkie  
L. A. Leon Guerrero  
J. A. Lujan  
Ray Tenorio

**AN ACT TO ROLL BACK EFFECTIVE APRIL 1, 2004,  
THE TEMPORARY INCREASE OF THE GROSS  
RECEIPTS AND USE TAX RATES, AND THE  
TEMPORARY REDUCTIONS IN GROSS RECEIPTS  
TAX EXEMPTIONS, BY AMENDING CERTAIN  
SECTIONS OF PUBLIC LAW 27-05; AND TO AMEND  
CERTAIN SECTIONS OF CHAPTERS 26 AND 28 OF  
TITLE 11, GUAM CODE ANNOTATED, RELATIVE  
TO THE GROSS RECEIPTS TAX AND USE TAX  
RETURNS AND DEPOSIT REQUIREMENTS.**

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

2           **Section 1. Legislative Findings and Intent.** Pursuant to Sections 6  
3 and 8, Chapter V of Public Law 27-05, the Gross Receipts Tax Rate of four  
4 percent (4%) was increased to six percent (6%). Further, Section 7 of  
5 Chapter V of Public Law 27-05 reduced the Gross Receipts Exemption  
6 allowed from Fifty Thousand Dollars (\$50,000) for persons whose gross  
7 annual income was Five Hundred Thousand Dollars (\$500,000) or less, to  
8 Thirty-Five Thousand Dollars (\$35,000) for persons whose gross annual  
9 income was Three Hundred Thousand Dollars (\$300,000) or less. Public  
10 Law 27-05 also mandated both the GRT rate increase and GRT Exemption  
11 reduction be temporarily imposed effective April 1, 2003, and ending on  
12 September 30, 2005, and contained other revenue enhancement, budgetary  
13 and administrative provisions for the purposes of stabilizing the economy  
14 and containing the cost of government operations. Further, Public Law 27-  
15 29 provided a balanced budget for Fiscal Year 2004, and also contained  
16 revenue enhancement, budgetary, and administrative provisions  
17 mandating *continued* economic stabilization and government cost  
18 containment.

19           Recent financial information reported by the Executive Branch  
20 indicate first and second quarter revenue statements in Fiscal Year 2004 are  
21 tracking towards exceeding the adopted revenue level and that General  
22 Fund revenues may reach \$425 Million. Further, with private sector  
23 employment stabilizing, construction industry improving, military activity  
24 increasing, and tourist arrivals in the second quarter exceeding FY 2003

1 levels by over fifty percent (50%), the Administration has also projected  
2 that General Fund revenues for Fiscal Year 2005 may reach \$440 Million.

3 *I Liheslaturan Guåhan* finds that in light of this improvement in  
4 General Fund revenues, the temporary GRT rate increase and the GRT  
5 Exemption reduction have accomplished what was intended, and relieving  
6 the people of Guam from the temporary GRT rate increase and restoring  
7 the GRT Exemption and income caps under the Dave Santos Act imposed  
8 under Public Law 27-05 would further the goal of stabilizing the economy  
9 and provide a potential stimulus for increases in consumer spending and  
10 business reinvestments.

11 *I Liheslaturan Guåhan* further finds that requiring monthly filing of  
12 Gross Receipts Tax returns would provide more timely receipt of  
13 information to improve revenue forecasting and information necessary to  
14 develop fiscal policies and programs. Economists here and across the  
15 Pacific have encountered difficulties in assessing economic impacts and  
16 providing accurate planning information. The lack of data has been  
17 identified as a disincentive by businesses interested in making investments  
18 on Guam.

19 Therefore, it is the intent of *I Liheslaturan Guåhan* to accelerate the roll  
20 back and the restoration dates of the temporary increase in the Gross  
21 Receipts Tax Rates and the temporary reduction in Gross Receipts Tax  
22 Exemptions from October 1, 2005, to April 1, 2004, at which time the rate  
23 shall return to four percent (4%) and the exemption amounts shall be  
24 restored to Fifty Thousand Dollars (\$50,000) with the income cap at Five  
25 Hundred Thousand Dollars (\$500,000).



1 It is additionally the intent of *I Liheslaturan Guåhan* to insure that  
2 monthly filing of Gross Receipts Tax information is mandated so that the  
3 government, private businesses, and the Tax Review Commission created  
4 in Public Law 27-56 will have access to more accurate and more current  
5 data on which to base future fiscal policy decisions.

6 **Section 2. Gross Receipts Tax Rates.**

7 **(A)** Subsection (a) of Section 6 of Chapter V of Public Law 27-05 is hereby  
8 *amended* to read:

9 “(a) Notwithstanding any other provision of law, the four percent  
10 (4%) gross receipts tax rate contained in 11 GCA §26202 (a), (c), (d),  
11 (e), (f), (g), (h), (i), and (j) shall be *amended* to six percent (6%),  
12 effective April 1, 2003. This Section shall cease to be effective after  
13 March 31, 2004, at which time the rate shall revert to four percent  
14 (4%).”

15 **(B)** Subsection (b) of Section 6 of Chapter V of Public Law 27-05 is *repealed*  
16 in its entirety and Subsection (c) of the same shall be renumbered  
17 accordingly.

18 **Section 3. Gross Receipts Tax Exemptions.** Section 7 of Chapter V  
19 of Public Law 27-05 is hereby *amended* to read:

20 “Section 7. Reduction of Gross Receipts Tax Exemptions.

21 Notwithstanding any other provision of law, the Fifty Thousand  
22 Dollars (\$50,000.00) exemptions contained in items (9), (29), (30), (31),  
23 and (32) of 11 GCA §26203(k) are reduced to Thirty-Five Thousand  
24 Dollars (\$35,000.00) effective April 1, 2003. In addition, the Five  
25 Hundred Thousand Dollars (\$500,000.00) recent tax year caps

1 contained in the same items are decreased to Three Hundred  
2 Thousand Dollars (\$300,000.00) effective April 1, 2003.

3 This Section shall cease to be effective after March 31, 2004, at  
4 which time the original Fifty Thousand Dollars (\$50,000.00) and Five  
5 Hundred Thousand Dollars (\$500,000.00) amounts are restored.”

6 **Section 4. Gross Receipts Tax Returns.** §26110(b) of Article 1,  
7 Chapter 26, Division 2 of Title 11, Guam Code Annotated, is hereby  
8 *amended* to read:

9 “(b) **Monthly Returns for Gross Receipts Tax.** Each taxpayer  
10 against whom a tax is levied under the provisions of Article 2 of this  
11 Chapter, whether such taxpayer owes taxes or not, shall make and  
12 file monthly returns of taxes with the Tax Commissioner. Gross  
13 Receipts Taxpayers shall file monthly Gross Receipts Tax returns  
14 summarizing the tax due. The monthly return shall be filed, and any  
15 tax then due shall be paid *no later than* the twentieth (20<sup>th</sup>) day of the  
16 following month at authorized banks, financial institutions or at  
17 designated offices of the government of Guam.”

18 **Section 5. Repeal of Deposit Requirement for Gross Receipts**  
19 **Taxes.** §26110.1 of Article 1, Chapter 26, Division 2 of Title 11, Guam Code  
20 Annotated, is hereby *repealed*.

21 **Section 6. Repeal of Late Deposit.** §26111(d) of Article 1, Chapter  
22 26, Division 2 of Title 11, Guam Code Annotated, is hereby *repealed*.

23 **Section 7. Use Tax Amendment.** 11 GCA §28104, as *amended* by  
24 Section 8 of Chapter V of Public Law 27-05, is hereby further *amended* to  
25 read:

1       “§28104. **Rate of Tax.** The rate of the tax hereby imposed shall be  
2       four percent (4%). Effective April 1, 2003, the rate of the tax hereby  
3       imposed shall be six percent (6%) through March 31, 2004, after  
4       which the rate shall revert to four percent (4%).”

5       **Section 8. Use Tax Returns.** §28108 of Chapter 28 of Division 2 of  
6 Title 11, Guam Code Annotated, is hereby *amended* to read:

7       “§28108. **Returns.** Each taxpayer against whom a tax is levied by the  
8       provisions of this Chapter shall make and file monthly tax returns  
9       with the Tax Commissioner, *no later than* the twentieth (20<sup>th</sup>) day of  
10      the following month, summarizing the tax due. The monthly return  
11      shall be filed and any tax then due shall be paid *no later than* the  
12      twentieth (20<sup>th</sup>) day of the following month.”

13      **Section 9.** Within fifteen (15) days of the enactment of this Law, *I*  
14 *Maga'lahaen Guåhan*, the Governor of Guam, shall submit a revised Fiscal  
15 Year 2005 Budget in bill form reflecting the anticipated adjustment in  
16 revenues for Fiscal Year 2005 resulting from the rollback of Gross Receipts  
17 Taxes pursuant to this Act.

18      **Section 10. Electronic Filing of Monthly Returns Allowed.** The  
19 Department of Revenue and Taxation shall provide for the electronic filing  
20 of monthly returns filed by Gross Receipts Taxpayers required under 11  
21 GCA §26110(b), commencing with returns submitted after the month of  
22 October 2004; provided, however, that such provision shall *not* prohibit  
23 Gross Receipts Taxpayers from opting to file non- electronic returns.

24      **Section 11. Effective Dates.** Amendments made to 11 GCA §28108,  
25 §26110(b), §26110.1, and §26111(d) as contained in Sections 4, 5, 6, and 8 of

1 this Act, shall be effective commencing with returns covering the month of  
2 April 2004.

3 Notwithstanding the Administrative Adjudication Law, the Director  
4 of the Department of Revenue and Taxation is authorized to develop a  
5 standard form, substantially similar to Form BR20, to be implemented for  
6 the purpose of meeting the required monthly filing of returns.

7 **Section 12. Severability.** *If any of the provisions of this Act or the*  
8 *application thereof to any person or circumstance is held invalid, such*  
9 *invalidity shall not affect any other provision or application of this Act*  
10 *which can be given effect without the invalid provision or application, and*  
11 *to this end the provisions of this Act are severable.*



Office of Senator Antoinette (Toni) Sanford  
Assistant Majority Leader

TWENTY-SEVENTH GUAM LEGISLATURE

Chairwoman, Committee on Economic Development, Retirement, Investments, Public Works and Regulatory Functions

Suite 15B, 777 Route 4, Sinajana, Guam 96910 / Telephone (671) 479-8664/6 Fax (671) 479-8667 Email: [senatorsanford@ite.net](mailto:senatorsanford@ite.net)

March 2, 2004

Senator Lou Leon Guerrero  
Chairperson, Committee on Rules & Health  
TWENTY-SEVENTH GUAM LEGISLATURE  
155 Hesler Street  
Hagatna, Guam 96910

Dear Senator Leon Guerrero,

The Committee on Economic Development, Retirement, Investments, Public Works and Regulatory Functions, to which Bill No. 267 An act to roll back the temporary increase in Gross Receipt and Use Tax rates by amending certain sections of PL 27-5 relative to changing the termination date of the increase from September 30, 2005 to March 31, 2004, and to amend certain sections of Chapters 26 and 28 of title 11 GCA relative to the Gross Receipts Tax and Use Tax Return and Deposit requirements, was referred, wishes to report its findings and recommendation TO DO PASS AS SUBSTITUTED.

The voting record is as follows:

TO PASS	<u>      7      </u>
NOT TO PASS	<u>          </u>
TO ABSTAIN	<u>          </u>
TO PLACE IN INACTIVE FILE	<u>          </u>

Copies of the Committee report and other pertinent documents are attached.

Antoinette (Toni) Sanford

Attachment.



Office of Senator Antoinette (Toni) Sanford  
Assistant Majority Leader

TWENTY-SEVENTH GUAM LEGISLATURE

Chairwoman, Committee on Economic Development, Retirement, Investments, Public Works and Regulatory Functions

Suite 15B, 777 Route 4, Sinajana, Guam 96910 / Telephone (671) 479-8664/6 Fax (671) 479-8667 Email: [senatorsanford@ite.net](mailto:senatorsanford@ite.net)

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March 2, 2004

MEMORANDUM

TO: Committee Members  
FROM: Chairwoman  
SUBJECT: Committee Report and Voting

Transmitted herewith for your information and action is the report on Bill No. 267 An act to roll back the temporary increase in Gross Receipt and Use Tax rates by amending certain sections of PL 27-5 relative to changing the termination date of the increase from September 30, 2005 to March 31, 2004, and to amend certain sections of Chapters 26 and 28 of title 11 GCA relative to the Gross Receipts Tax and Use Tax Return and Deposit requirements.

Please review the report and take the appropriate action on the voting sheet. Your prompt attention and action on this matter is greatly appreciated. Should you have any questions regarding the report or accompanying documents, please do not hesitate to contact me.

A handwritten signature in black ink, appearing to read "Antoinette Sanford".

Antoinette (Toni) Sanford

Attachment.



# Office of Senator Antoinette (Toii) Sanford

## Assistant Majority Leader

TWENTY-SEVENTH GUAM LEGISLATURE

Chairwoman, Committee on Economic Development, Retirement, Investments, Public Works and Regulatory Functions

Suite 15B, 777 Route 4, Sinajana, Guam 96910 / Telephone (671) 479-8664/6 Fax (671) 479-8667 Email: [senatorsanford@ite.net](mailto:senatorsanford@ite.net)

Substitute Bill No. 267 An act to roll back the temporary increase in Gross Receipt and Use Tax rates by amending certain sections of PL 27-5 relative to changing the termination date of the increase from September 30, 2005 to March 31, 2004, and to amend certain sections of Chapters 26 and 28 of title 11 GCA relative to the Gross Receipts Tax and Use Tax Return and Deposit requirements

	TO PASS	NOT TO PASS	TO ABSTAIN	INACTIVE FILE
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<i>TS</i> TONI SANFORD Chairperson	✓			
<i>Frank B. Aguon Jr</i> FRANK B. AGUON, JR. Vice-Chairperson	✓			
LARRY KASPERBAUER Member				
<i>Lou Leon Guerrero</i> LOU LEON GUERRERO Member	✓			
JESSE A. LUJAN Member	✓			
<i>Tina Mona-Barnes</i> TINA MONA-BARNES Member	✓			
<i>John M. Quinata</i> JOHN M. QUINATA Member				
<i>Rory J. Respicio</i> RORY J. RESPICIO Member	✓			
<i>Ben C. Pangelinan</i> BEN C. PANGELINAN Speaker & Ex-officio Member	✓			

**COMMITTEE ON ECONOMIC DEVELOPMENT, RETIREMENT,  
INVESTMENTS, PUBLIC WORKS, AND REGULATORY FUNCTIONS**

Twenty-Seventh Guam Legislature  
155 Hesler Street, Hagatna Guam 96910



**COMMITTEE REPORT  
ON**

Bill No. 267 An act to roll back the temporary increase in Gross Receipt and Use Tax rates by amending certain sections of PL 27-5 relative to changing the termination date of the increase from September 30, 2005 to March 31, 2004, and to amend certain sections of Chapters 26 and 28 of title 11 GCA relative to the Gross Receipts Tax and Use Tax Return and Deposit requirements.

**COMMITTEE MEMBERS**

Chairperson Senator Toni Sanford  
Vice-Chairperson Senator Frank B. Aguon, Jr.

Majority Members

Senator Lou Leon Guerrero  
Senator Tina Muna Barnes  
Senator John M. Quinata  
Senator Rory Respicio  
Speaker ben c. pangelinan (ex-officio)

Minority Members

Senator Jesse A. Lujan  
Senator Larry Kasperbauer



## I. OVERVIEW

### A. Purpose and Essential Elements

#### TITLE

AN ACT TO ROLL BACK THE TEMPORARY INCREASE OF THE GROSS RECEIPTS AND USE TAX RATES BY AMENDING CERTAIN SECTIONS OF PUBLIC LAW 27-5 RELATIVE TO CHANGING THE TERMINATION DATE OF THE INCREASE AND TO AMEND CERTAIN SECTIONS OF CHAPTERS 26 AND 28 OF TITLE 11 GUAM CODE ANNOTATED RELATIVE TO THE GROSS RECEIPTS TAX AND USE TAX RETURN AND DEPOSIT REQUIREMENTS.

#### INTENT

To accelerate the termination and date of the GRT temporary increase and require monthly filing of returns.

#### SECTION BY SECTION

**SECTION 1. Legislative Findings and Intent.** Pursuant to Sections 6 and 8, Chapter V of Public Law 27-05 the Gross Receipts Tax Rate of four percent (4%) was increased to six percent (6%). Public Law 27-05 also mandated the GRT rate increase be temporarily imposed between April 1, 2003 and ending September 30, 2005, and contained other revenue enhancement, budgetary and administrative provisions for the purpose of stabilizing the economy and containing the cost of government operations. Further, Public Law 27-29 provided a balance budget for Fiscal Year 2004, and also contained revenue enhancement, budgetary, and administrative provisions mandating *continued* economic stabilization and government cost containment.

Recent financial information reported by the Executive Branch indicate first and second quarter revenue statements in Fiscal Year 2004 are tracking towards exceeding the adopted revenue level and that General Fund revenues may reach \$425 million. Further, with private sector employment stabilizing, construction industry improving, military activity increasing, and tourist arrivals expected to exceed FY 2003 levels by close to 54%, the Administration has also projected General Fund revenues for Fiscal Year 2005 may reach \$440 million.

*I Liheslaturan Guåhan* finds in light of this improvement in General Fund revenues, relieving the people of Guam from the temporary GRT rate increase imposed under P.L. 27-05 would further the goal of stabilizing the economy and provide a potential stimulus for increases in consumer spending and business reinvestments. *I Liheslaturan Guåhan* further finds requiring monthly filing of Gross Receipts Tax would provide more timely receipt of information to improve revenue forecasting and information necessary to develop fiscal policies and programs.

Therefore, it is the intent of *I Liheslaturan Guahan* to accelerate the roll back of the increase in the Gross Receipts Tax Rates, from October 1, 2005 to April 1, 2004, at which time the rate shall return to four percent (4%).

**SECTION 2. Gross Receipts Tax Rates.** Amends Subsections (a), (b), and (c) of Section 6 Chapter V of Public Law 27-5 by changing the termination date of the temporary GRT rate from 4 to 6 percent from September 30, 2005 to March 31, 2004. Deletes subsection (b) which requires Governor to submit a plan to the Legislature six prior to the Sept 2005 termination date to delete GRT and replace it with a sales tax or other tax. Renumbers subsection (c) to subsection (b).

**SECTION 3. Gross Receipts Tax Returns.** Amends §26110(b) of Chapter 26, Article 1 Division 2 of Title 11 GCA changing quarter returns to month filing:

*"§26110. (b) ~~Quarterly~~ Monthly returns for Gross Receipts Tax. Each taxpayer against whom a tax is levied, or who is required to file a return by under the provisions of Article 2 of this Chapter, whether such taxpayer owes taxes or not, shall make and file ~~quarterly~~ monthly returns of tax with the Tax Commissioner. Gross Receipts Taxpayers shall file ~~quarterly~~ monthly Gross Receipts Tax returns, no later than the twentieth (20<sup>th</sup>) day of the following month, summarizing the tax due and deposits made ~~for the quarter~~. ~~Except as may be specifically hereinafter provided, any tax then due shall be paid with the filing of this quarterly return. The quarterly return shall be filed, and any tax then due shall be paid no later than the end of the month following each calendar quarter of the year, which is April 30, July 31, October 31 and January 31 of each year.~~*

**SECTION 4. Deposit of Gross Receipts Taxes.** Adds a new §26110.2 to Chapter 26, Article 1 Division 2 of Title 11 GCA to read as follows:

*"§26110.2 Quarterly Deposit of Gross Receipts Taxes. All taxpayers who qualify for exemptions under §26203(k)(9), (k)28 , (k)29, (k)(30), (k)(32), and (k)(33) shall deposit Gross Receipts Taxes no later than the end of the month following each calendar quarter of the year, which is April 30, July 31, October 31 and January 31 of each year."*

**SECTION 5. Use Tax Amendment.** Amends Section 8 Chapter V of Public Law 27-5 by changing the end date of the 6% rate from September 30, 2005 to March 31, 2004 when it will revert back the 4% rate.

**SECTION 6. Use Tax Returns.** Amends §28108 of Chapter 28 of Title 11, Guam Code Annotated:

*"§28108. Returns. Each taxpayer against whom a tax is levied by the provisions of this Chapter shall make and file ~~quarterly~~ monthly tax returns with the Tax Commissioner, no later than the twentieth (20<sup>th</sup>) day of the following month, summarizing the tax due and deposits made ~~for the quarter~~. ~~The quarterly return shall be filed and any tax then due shall be paid no later than the end of the month following each calendar quarter of the year, which is April 30, July 31, October 31 and January 31 of each year.~~*

**SECTION 7. Effective Date.** Amendments made to Gross Receipts Returns, Use Tax Returns, and Deposit of Gross Receipts Tax as contained in Sections 3, 4, and 6 of this Act shall be effective April 1, 2004.

**SECTION 8. Standard Severability Clause.**

## **B. Public Hearing Conducted**

The Committee on Economic Development, Retirement, Investments, Public Works and Regulatory Functions conducted a public hearing on Monday, March 1, 2004 in the Legislative Public Hearing Room, I Liheslaturan Guahan, in Hagatna. Public notice was provided on February 23 and 26, 2004.

Committee Chairwoman Toni Sanford called the public hearing to order at 9:20 am in the Legislative Public Hearing Room. Committee members present were: Senators Lou Leon Guerrero, Larry Kasperbauer, John Quinata, Tina Muna Barnes, Vice Speaker Frank Aguon, Jr. and Speaker Ben Pangelinan. Non-committee members present were: Senators Robert Klitzkie, Randy Cunliffe, Ray Tenorio, Carmen Fernandez, Mark Forbes and Joanne Brown.

Individuals who appeared before the Committee and provided testimony were:

Monty McDowell, Vice Chairman of the Guam Chamber of Commerce Board of directors; Isao Mamada, General Manager of PMT; Monte Mesa, Chair, Committee to Get Guam Working; N.

Oscar Miyashita, Managing Partner of Ernest & Young; Charles Troutman, Compiler of Law. Attorney General's Office: Manfred H. Pieper, Chairman of Guam Hotel Restaurant Association; Manny Cruz, Director of the Bureau of Statistics and Plans; John Camacho, Deputy Director of the Dept of Revenue and Taxation; Robert Koss, Guam Federation of Teachers Director; Terri Cruz, Private Citizen; Carlos Camacho, Director of the Bureau of Budget, Management and Research; Ernie Galito, Deputy, Guam Visitors Bureau, John Dela Rosa, Governor's Spokesman.

Those not appearing before Committee and provided testimony were:  
Joe Camacho, Vice President Finance, Duty Free Shoppers; Jeff Jones, Executive Vice President, Triple J; Charlene Goo, Vice President – Operations of OHANA Bayview and OHANA Oceanview, Gerald Perez, Administrator, Guam Economic Development & Commerce Authority.

## **II. SUMMARY OF TESTIMONY**

Senator Sanford called the hearing to order 9:25 am.

Committee members present included: Senators Lou Leon Guerrero, Larry Kasperbauer, John Quinata, Tina Muna Barnes, and Speaker Ben Pangelinan. Non Committee members present included: Senators Randy Cunliffe, Robert Klitzkie, Carmen Fernandez, Joanne Brown, and Mark Forbes.

Senator Sanford stated the Gross Receipt Tax was originally increased, temporarily, from four to six percent to assist the government in the delivery of its services at the most basic level, at a time when the government had severe cash flow issues. This action was a part of a two year fiscal management plan. She explained that the plan was to target a \$50 million deficit for fiscal year ending 2003 and a break even budget for fiscal year 2004.

She further explained that Fiscal year 2003 budget was a tremendous reduction from the proposed deficit budget of \$110 million from the Administration. Drastic government expense reduction and the GRT rate increase, together, allowed for this government to finally pass a balanced budget, in Fiscal year 2004, something our island had not seen for quite some time.

She noted that BBMR reported that adjusted Revenue Projections for Fiscal Year 2004 will amount to \$425 million for General Fund, which is \$15 million over original projection of \$ 410 million. These revenue projections were based on data through quarter ended December 2003.

She noted, also, that just last week at the roundtable meeting with BBMR and Dept of Revenue & Tax, it was reported that there was a \$35 million cumulative increase in revenues for the four months ended January 2004. BBMR reported that \$113 million was the estimated revenues and actual revenues were \$ 148 million.

She stated our economic stabilization and recovery appeared to have started much sooner than expected and that our marketing efforts should continue to ensure that this turnaround will only get better.

It was noted that the Legislature was fully cognizant of the plea of the people to get some sort of financial relief and that it was committed to ensuring that government expenses were kept in check.

Senator Sanford reported that she had been working closely with the Dept of Rev & Tax and the business community representatives to include some recommended amendments to the bill.

She stated the major changes include:

- 1) Restoring the \$500,000 threshold and the \$50,000 exemption small businesses relative to the Dave Santos Small Business Act;
- 2) Mandating all businesses file monthly GRT and USE tax returns and to remove the quarterly deposit section as businesses are currently paying monthly.
- 3) A provision to allow electronic filing of the monthly returns; and
- 4) Several technical changes at the request of the Department of Revenue and Taxation.

After some discussion, the Committee agreed to hear Bill 267 as introduced to allow the public to comment; any amendments to the bill can be either elicited in the public hearing or marked up in the Committee's report on the bill.

Mr. Monty McDowell, Vice Chairman of the Guam Chamber of Commerce Board of Directors appeared before the Committee and provided written and oral testimony in favor of rolling back the Gross Receipts Tax rate and the Dave Santos Act deductible ceilings. His written testimony stated unless electronic filing of returns were available, requiring all small businesses to file monthly returns would increase their administrative burdens needlessly.

He stated the sales of the Tropicana, the Dai-Ichi, the Dai-Ichi Annex, the Sherwood, the Accion, the Palmridge, the ITC Plaza, the Guam Palace Hotel, the Fujita hotels and the wing closures of the Okura and the Hilton hotels were as a result of loss in market share for outbound Japanese tourists from 7% to between 4 or 5% of the market. He stated Guam needs 2 more outbound tourists out of each 100 to restore its market share to the 7% enjoyed during the 80s and 90s; Guam's market share cannot drop below 4% without a major multiplier of consequences to the economy. The dominos will topple and the cost of doing business on Guam would permit few businesses to survive.

Mr. McDowell stated taxes and tax policy have a major impact on the success of the tourism industry and listed the various taxes paid by visitors and small businesses. He stated while proponents for the increase believed its only effect was to increase revenues, the GRT increase has had a negative impact on the community; island businesses have lost sales because of higher prices and consumers have paid higher prices. He stated the only way to increase real revenues is to expand the economy.

Mr. Isao Mamada, President of the Japan Guam Travel Association appeared before the Committee and provided written and oral testimony in favor of rolling back the GRT to 4%, and in opposition of the provision to require monthly filing unless this can be accomplished electronically. He also testified the GVB Japan office has received @40 complaints concerning the visible GRT law (PL 27-41), which allows discretionary powers to report GRT in different

methods, and has resulted in mass confusion within the tourism sector. He stated the JGTA would like the visible GRT reporting law changed back to the invisible tax, until such time as further analysis can be completed. PL 27-41 should be strengthened so that companies can report in the same manner.

Mr. Monte Mesa, Chairman of the Committee to Get Guam Working (CGGW) appeared before the committee and provided written and oral testimony in favor of the roll back in GRT from 6% to 4%, effective April 1, 2004. Despite CGGW's opposition to the GRT increase via its sponsorship of Bill 133, its support of Bill 227 (to have Guam voters approve or disapprove the increase), and its support of the Legislature's Republican Minority's efforts to roll back the rate increase, Mr. Mesa stated the increase was nonetheless passed into law and has caused hardships including:

- 1) The increase hurt low-income families and retirees the most;
- 2) Prices rose;
- 3) One year later, seven months after the increase, gross business activity declined to \$543 million – a decline of 12%;
- 4) The increase affected employment, a 2% decline in private sector employment between June 2003 and September 2003.

Mr. Mesa stated 8,000 jobs (20% drop in total jobs) were lost during the past five years and total income taxes paid by citizens and corporations have fallen over 50%; there are few working people paying income taxes and few companies making profits from which they can pay income taxes and the projections for the coming year don't look much better for increased income taxes. Mr. Mesa stated the economy is still very fragile and is just starting to recover and suggested after rolling back the GRT to 4% that the Legislature focus efforts on making government more responsive within the amount of revenue taxpayers already pay.

Mr. Oscar Miyashita, Managing Partner of Ernest and Young LLP appeared before the Committee and provided written and oral testimony in favor of Bill 267. He stated a vast majority of his clients (tour agents and hotels) continue to lose money or are barely surviving the serious financial challenges of Guam's economic condition over the last few years. Although the economic condition has somewhat ameliorated since late last year, Mr. Miyashita stated he is concerned about the possibility of various international businesses/entities leaving the island if their subsidiaries continue to lose money: 2 significant tour operations from Japan shut down and ceased operating March 31, 2003 and at least 2 more Japanese tour operators are contemplating a closure if their operations do not improve soon.

Mr. Miyashita applauded the Committee for increasing the Dept of Revenue and Taxation (DRT)'s budget and stated with DRT's enforcement of tax compliance and collection efforts, Guam's overall tax revenue should see an upward trend, provided our economic recovery continues. This scenario should be the case even if the GRT is rolled back to 4%. Rather than penalizing those compliant businesses with a higher tax rate, continuing efforts in DRT enforcement and collections on non-compliant and tax evading businesses and individuals should be emphasized.

Senator Robert Klitzkie asked Mr. Miyashita whether those noncompliant businesses would actually prefer a higher GRT tax rate? Mr. Miyashita responded compliant businesses are actually subsidizing those non compliant tax evaders and that has to stop. Senator asked whether ultimately, as the tax rate increases, non compliant evaders become stronger and the legitimate businesses become weaker? Mr. Miyashita affirmed.

Senator Klitzkie asked Mr. McDowell whether they support or are opposed to the provision to require monthly filings? Mr. Miyashita stated he would prefer to keep the required filings be done on a quarterly basis and the recommendation to allow electronic receipt of those filings would save time and effort for especially larger businesses.

Senator Klitzkie asked Mr. McDowell whether his support the GRT roll back is based on the new financial projections? Mr. McDowell stated while his testimony before the Committee in support of Bill 267 is on behalf of the members of the Chamber of Commerce, he and his company initially opposed the increase.

Senator Larry Kasperbauer stated he is aware of discussions within the travel industry concerning the visible GRT law (PL 27-41) and a growing preference to restore the GRT to an invisible tax because of the confusion the change has caused both in Japan and in Guam. Is the confusion because it is being effectuated differently rather than uniformly? Mr. Mamada stated in Japan there are only 3 taxes and since the visible GRT law was implemented there was no announcement made in Japan and so it has been very difficult to explain this to Japanese visitors. At least 2 years advanced announcement would have made it easier to explain the tourist representatives in Japan.

Speaker Ben Pangelinan stated when the tax was increased from 4 to 6%, some members of the community raised their tax 2%; some raised it 6% on top of the 4%; some raised it 2 percent to 6% and then when the visible GRT raised them another 6%. He asked whether you are going to reduce your prices by the amount of tax that has been reduced and by the manner in how you have increased those taxes when the tax was increased from 4 to 6% and when the visible GRT was implemented? In other words, for some businesses we're going to see a 10% reduction; some we should see an 8% reduction. Are you going to do that?

Mr. Mesa responded in our business we've done that; some of our tenants at the Guam Premium Outlet have made adjustments to their prices to reflect the drop of 4% and then rolled it back to adding to their prices by 6%. Some of the GPO businesses have held their prices at the outlet pricing, which is the lowest price possible compared to the other national stores that they have and keeping those prices competitive. Speaker Pangelinan asked whether they would now drop their prices by 2%? Mr. Mesa affirmed, not everybody – but the national stores which have increased their prices 6%, if the GRT rate rolls back to 4% their prices will also be rolled back to 4%.

Mr. McDowell stated he and his company will not be dropping his prices because he did not increase his prices when the GRT increase went into effect. I kept my pricing the same; I ate the 2% increase. He stated the service industry is very competitive – if I had raised my prices by 2%

and they are fixed priced contracts. I work for the federal, local, and the private sectors so I cross all boundaries but there is not one of them that will renegotiate those contracts because the GRT was increased. Right after the new Administration took over, I got requests from the government of Guam contracts asking for price reductions after the tax was increased. While I understand the government effort to try to do more, I was holding out hope that the GRT increase would not go forward. If he had raised his prices then he would have lost customers and have to spend more to recruit new customers; it was easier to retain his customers than to go out and obtain market share again so his company chose to eat the 2% increase.

Mr. Mesa stated it is a challenge for the Guam Premium and other shopping centers to fill their store spaces. Especially for his national chain tenants, it is challenge to bring in those stores who would offer the prices that the people of Guam would expect. We want to keep people coming in and to stop shopping on the Internet; we want them to spend money here locally so we can also earn those revenue that stay on island.

Mr. Mesa stated chain stores routinely open in other jurisdictions in the mainland because they can easily built in their costs and they all the game rules in operating a business; Guam is a challenging prospect – we have to provide incentives and competitive rates to attract national chain stores to open an outlet in Guam.

Mr. Miyashita stated most of his clients are hotels, tour agents, tour-related companies simply cannot pass on the 2% GRT because of the contractual obligations and because of competition in the market place. They have essentially been eating that 2% increase – most companies have incurred losses for the past several years. Many of been retrenching their expenditures, reducing in operations areas where they were able and when they were hit by the 2% increase – they were just impacted negatively and would like to see a return to the 4% GRT rate.

Senator Brown stated the amount of impact we've taken on the loss of personal income taxes has been substantial; our middle income families that five years ago were employed in this economy contributing to a substantial contribution to the tax revenue base on Guam are either not working or are gone. That's the same customer base that would otherwise be patronizing your businesses. Those are things to be mindful of and we want to get back to a point of some stability and that also starts with improving the welfare of average citizen of Guam.

Mr. McDowell stated he also works for a large mortgage broker in the mainland and he has assisted last month in foreclosure of 143 single-family units in Guam.

Senator Randy Cunliffe stated in the case of Mr. McDowell's existing contracts that he could not modify, the law exempted those contracts from the GRT increase. The situation obviously, was not one that the Legislature took light nor is it one that the Legislature takes lightly now. But the situation was one in our community, when the outcry came from the citizens of the community at a number of organizations – Mom and Pop stores, restaurants – who took advantage of a two cent increase in GRT per dollar to raise their prices significantly. Clearly, businesses have the opportunity and every right to raise prices. But a lot of restaurants have reprinted their menus and they're not going to reduce those menu prices so the consumers are still going to be paying the same amount of money; the government will just get less tax money and the businesses will have more profit when and if we roll back this tax increase.

Senator Cunliffe stated testimony emphasizing average citizens -Tun Juan and Tan Maria are the ones who are going to get hurt – they're still going to get hurt by those businesses who won't roll back the tax increase. Berating policymakers for the GRT is groundless when in response to the rate change, consumers were taken advantage of. We tried to do something that was essential to ensure the government did not collapse; we have turned around the ability to bring money in and provided for economic stability and it has succeeded – the economy is turning around. The daily visitor arrivals indicate the successful result of this policy decision – hopefully by the time we get February's arrival numbers, we would have close to 100,000 visitors two months in a row.

Senator Cunliffe stated while he is aware of the problems of implementing the visible GRT, he is also aware of businesses who deliberately have used the situation to add a 6% profit on their bottom line and have no intention of rolling back their prices. Senator Cunliffe stated while there are also businesses who have been honest and have tried to take the hit and be good corporate citizens, there are others who have not done so and will not turn that money back to the people. He emphasized the Legislature fully understood how the hotel industry works with tour operators and operate under fixed contracts negotiated in advance and was well aware of the affect the GRT increase would have. However, the statement that the Legislature is to blame for the gouging that has occurred in this community – that is not right.

Senator Lou Leon Guerrero stated if she does vote favorably on Bill 267, it will not be based correcting an error. I never once in my mind considered the temporary GRT increase imposed was wrong – the financial numbers are showing that. In approving the GRT increase, we clearly stated should the government's finances become stable, there is no reason why we cannot revisit the lifting the temporary GRT increase and demonstrated that intent by putting a sunshine provision to terminate the increase on September 31, 2005. Senator Leon Guerrero stated the increase prevented massive layoffs, the same customers who patronize private sector retail stores. I don't think keeping our health, education, and public safety programs operating were the wrong things to do.

Senator Leon Guerrero stated presentations made by the Bureau of Budget, Management and Research and the Dept of Administration indicate business activity have increased over the last 6 or 8 months and even at the GRT increase of 6%; those industries that were stated were going to be sold were going to be sold even before the temporary GRT was imposed. I just want to make sure the information is accurate and not turned around to make it look like it is as a result of the GRT increase.

Senator Leon Guerrero stated the agencies reported the estimated income tax is surpassed by the actual income tax returns payments that they're making which could be the result of federal decreases in income tax rather than the GRT increase. She asked whether the Committee to Get Guam Working has considered public comments to rather than roll back the GRT increase to reallocate those monies to pay for books, school repairs, GPA and Water improvements?

Mr. Mesa responded keeping the government within their budget and spending within their means is what the CGGW is pushing for. Our mission is to encourage having this administration



reorganize as they said they would, as well as making sure the taxes that everyone is paying is being managed properly within those respective departments.

Senator Leon Guerrero asked has the CGGW discussed the public comments not to roll back the GRT increase until 2005 so those revenues that we are seeing are used to pay down past year's deficit? Mr. Mesa stated affirmed, however based on the current budgets – money is there, agencies just need to allocate those money to the right places and spend it the way it should be. If the priority is to order the text books or repair the air-conditioning that is an administrative function that the people in charge should be able to do. The Legislature appropriated the funding they just have live within those means.

Senator Leon Guerrero stated the funding isn't all there to make those kinds of other improvements if we were to roll back the GRT increase; we've decreased government spending to the point where they really are operating at a bare bones level. Where do you think we can get those added revenues if we do roll back the GRT increase, maintain our government spending at \$410 million? Mr. Miyashita stated the GRT is just one portion of government revenues; perhaps by reducing it to 4% businesses may actually perform better and may earn enough to pay corporate income taxes. They may react by hiring more people, restoring bonuses to employees and that money will circulate through the economy. The key is to grow the economy; reducing the tax may not necessary grow the economy, however it does help because the companies which have been hurting for so long, we need to reverse the trend. Textbooks, health, police protection are all important services – but businesses do pay taxes and we'd like to see government be more pro-business help the businesses not only to pay GRT but to pay other taxes as well.

Mr. McDowell stated if the GRT were rolled back and companies could get back that \$10,000 they'd pay 30% corporate income tax on that; the company would have an extra \$7,000 to recirculate through the company. Getting that 2 percent back helps us revitalize our businesses and would be better overall for the economy.

Senator John Quinata recalled upon entering office, faced with potential government layoffs despite drastic cuts and a 32 hour workweek, he supported a financial plan that included cutting the budget, temporarily raising the GRT, holding expenditures, and reorganizing the government. While the finances have picked up, reorganizing the government is the part of the plan that has not come along and the Legislature has yet to see a single bill from the Administration to begin reorganization. He stated since the financial reports from the Administration indicate an ability to sustain and stabilize the economy; the Legislature may now address the GRT roll back.

Senator Quinata stated while Mr. McDowell's enumerated a list of current government fees and taxes, Senator Quinata reminded the Committee there numerous items and services that governments in other jurisdictions assess fees that the government of Guam provides either without fees or at no cost to the public, a situation that will more than likely begin to change. He stated the Guam Fire Department will soon be charging fees for ambulance services just as other jurisdictions have because the government just cannot continue those services without the assessments.

Senator Mark Forbes stated the quality of life in Guam would be so much lower without tourism; thanked the witnesses for being successful and for creating jobs; and recognized the witnesses as representative of the people and the community of Guam. He stated he and other Republican senators opposed the GRT increase and remains opposed even when revenues were down because the increase would divide the community. A republican sponsored bill 54 to roll back the GRT increase was introduced and publicly heard last year but never made it to the session floor; it was a bill that was supported by Republicans even when revenues were down because they thought it was the wrong thing to do because they believe the GRT is the most regressive tax. He stated he is interested in the data provided regarding with revenues, which really is a guesstimate. Whether that shows an increase in revenues or not – I'll still be interested in decreasing the GRT – we won't vote for an increase regardless of practical need. For that reason, we're going to support Bill 267– we'll all vote yes.

Senator Sanford reiterated at the time, increasing the GRT was the right thing to do, however unpopular, to address the cash flow challenges to keep the government from closing down. Looking at the \$280 million deficit inherited, if we had not done anything we would have had to add another \$110 million in deficit budgeting for FYE 2003 as proposed by the Administration. The gross receipts taxes had not been changed in almost forty years, and the increase was implemented with a sunset clause to terminate Sept 2005 or sooner if the economic recovery happened and enough revenues were in place to keep the government operating.

Senator Sanford reported, again, if the projected numbers as reported by BBMR were correct, the timing was right to reverse the GRT rate increase. She noted that we should be thankful the positive recovery in our island economy started sooner than expected and the numbers continue to show a strong return, firm stabilization and movement upward trend. She noted that businesses should share this tax relief with the end consumers.

Mr. Charles H. Troutman, Compiler of Laws appeared before the Committee and provided written and oral testimony suggesting it is premature to rollback the GRT to 4%. He stated Bill 267 would most likely benefit only certain members of the business community rather than their customers unless a provision was passed requiring those businesses who have raised their prices over those set prior to the effective date of the PL 27-41 (mandating the GRT be made visible on prices to the consumers) not only by at least 2%, including any amounts greater than 2% by which they increased prices blaming it on the GRT. He stated Senator Cunliffe is correct in that most complaints received by the Attorney General's office are not because prices were increased by 2% but rather they were increased first invisibly when the tax was first raised to 6% and then were increased again by another 6% when PL 27-41 was enacted to show the visible GRT.

Mr. Troutman urged the Committee to amend PL 27-41 to show how the GRT may be showed to avoid the confusion – the Payless Supermarkets model may be incorporated or by some other means where it is relatively uniformed on how businesses apply the visible GRT; this would provide clarity. He stated Guam got its GRT law from the 1945 territorial Hawaii GRT, which is still in place– the opinion is on available on the Attorney General Website along with the Hawaii regulations that explains how they enforce their tax which does allow it to be made visible as we have since 1975. It is possible to make the tax visible, however one way to ease the confusion is

to eliminate the incentive that was put into PL 27-41 to make it visible – you don't pay a tax on the tax – or make the incentive uniform to all payers. This would provide an even playing field so people can make their own business decisions based on the need rather than a tax incentive.

Mr. Troutman asked the Committee when considering the roll back of the GRT increase, they would also need to ask what don't you want to pay with the decrease in revenues? There will be some decrease. Police officers would like to have copies of the GCA but that's not possible because of lack of funding.

Mr. Manfred Pieper, Chairman of the Guam Hotel Restaurant Association appeared before the Committee and provided written and oral testimony in favor of the roll back but in opposition to the monthly filing provision unless electronic filing were also made available. He stated most if not all the hotels in the GHRA have not raised their prices following the GRT increase; a majority of GHRA members have decided to eat the increase and not pass it onto their consumers. This increased the Guam Hilton Resort and Spa annual losses by half a million - \$2.5 million in annual losses. He stated island wide, GHRA finished 2003 with an occupancy of 57% - the real culprit for the low occupancy was SARs, the Iraqi War, and other events. It is actually only 54% because if we compare the number of room nights sold to the total number of rooms available in 2002 then our occupancy levels would only be driven at around 54%. And at the same time, a loss in average room rate across the board occurred of over 3%. That makes our industry extremely vulnerable; we're at a stage when you're run a hotel at 54 to 55% that usually means you're already at an operational loss and for sure you're driving financial losses at the end of the day. We are grateful for the increases in visitor arrivals to about 100,000 in January but let's not make a single mistake – this island with the number of rooms available and investments made – we need a minimum of 1.4 to 1.5 million visitors per annum to achieve stability in tourism. If the tourism industry is healthy and accounts for 60 to 70 percent of total island income – that's the objective we need to aim for.

Mr. Pieper stated though well intentioned, PL 27-41 has caused more confusion and chaos relative to pricing issues. As of Feb. 25, 2004, forty-nine complaints were received by the GVB Japan office, guests questioning whether they were unfairly charged for services and why some establishments were charging tax while others were not. These complaints were also received by the Japan Guam Travel Association at their travel desks in Japan. He emphasized the GRT is a business tax, not a consumer or sales tax and is best left to the companies to determine in their pricing strategy how to recover the increased tax. He recommended that it not be shown as a separate charge on guests' billings.

Mr. Pieper stated the tax makes Guam appear more expensive destination and may affect the 'Duty Free' image that Guam has previously promoted. He stated the visible GRT in food establishments may affect the amount of money servers get tipped as guests will tip on the net amount and not include the tax in their calculation. Mr. Pieper also recommended the Committee reconsider PL 27-41 the Visible GRT Law to make the tax not visible at the point of sale.

Mr. Manny Cruz, Director of the Bureau of Statistics and Plans appeared before the Committee and provided oral and written testimony, however, he did not take a position in favor or opposed

on Bill 267. He stated the increase has stabilized the economy and helped contain costs of government operations; no payless paydays occurred even through the 32 hour work week was a heavy financial burden to many government employees. Mr. Cruz stated he believed the GRT focuses only on receipts and ignores business costs and illustrated a pyramiding, or multiplier effect of the GRT on business to business sales.

Senator Sanford stated that the multiplier effect is no longer applicable since GRT on wholesale sales do not exist, anymore. GRT taxes are applied only on retail sales to the end consumer.

Mr. John Camacho, Deputy Director of the Department of Revenue and Taxation appeared before the Committee and provided oral and written in favor of the provision to require monthly filing of GRT and Use Tax returns, which essentially will require all businesses to file monthly returns. However, he took no position on the other provisions to roll back the GRT increase. In his written testimony, Mr. Camacho provided technical amendments to the bill (attached) needed to implement the monthly filing requirements as well as provide electronic receipt of those returns available.

Senator Sanford thanked Mr. Camacho for his recommended amendments and his technical assistance provided to the Committee. She stated Mr. Camacho's testimony reflects amendments requested by members of the public, including the Guam Chamber of Commerce, after Bill 267 was introduced and will be incorporated in a substitute version of Bill 267 by the Committee.

Speaker Pangelinan asked Mr. Pieper how filing monthly makes it any more costly and onerous for a taxpayer who pays the tax monthly? Why would reverting back to the BR20 form present difficulties for the taxpayer who is already calculating their taxes when they pay monthly? Mr. Miyashita responded he doesn't have any strong feeling for or against the provision to require all businesses to file monthly. The only onerous task about filing a monthly return is that someone has to sign the return and someone has to actually submit the return to DRT – as opposed to making monthly payments to the bank. It really isn't that significant a task and I can commiserate with DRT staff has been telling us that they would have to reconcile all the deposits to the quarterly return – it's a hassle for DRT staff and even for us, when Ernst & Young prepares the returns for their clients when they make payments, we still have to add those monthly records and come up with the quarterly returns. DRT has indicated the quarterly returns do not provide them a breakdown of revenues by service line or by industry on a monthly basis. The current quarterly filing of returns creates difficulties for economists who are trying to predict where the revenue trend is moving on a monthly basis by industry.

Mr. Pieper stated the monthly requirement is the least objectionable provision. Speaker Pangelinan stated while the quarterly returns may make the private sector more efficient, it makes government less efficient – commerce and capitalism also moves on data, it is what decisions are based upon. We hope that government would act and emulate that but if we don't have the data then we're flying in the dark at times with our fiscal and economic planning policies.

Senator Frank Aguon, Jr asked Mr. Camacho how far along is the department's efforts in its capability to provide for electronic receipt of monthly filing of returns? Mr. Camacho responded

DRT has considered electronic filing of the Federal 1040 Tax Forms and beginning with the 1040 EZ, however funding would have to be identified. Senator Aguon stated DRT has received an additional \$2 million in its budget to specifically reinforce its personnel requirements in collectors and auditors and to also upgrade DRT's computer capabilities. Senator Aguon asked Mr. Camacho if DRT is able to address offering electronic filing within DRT's fiscal year budget? Mr. Camacho stated he would have to consult with staff to respond to that question.

Senator Aguon recommended DRT also work with the Department of Administration which is moving toward also applying electronic filing and transfers with respect to payroll and other transactions at DOA and stated it would be prudent for GovGuam to make this shift as we continue to improve efficiencies, increase convenience, and ultimately achieve cost savings.

Senator Aguon thanked Mr. Pieper for his testimony in recognizing other factors irregardless of the GRT increase imposed impacted the tourism sector. He stated it looks as if the financial information and trending will support the roll back and perhaps allow the community to concentrate on the larger issue increasing the overall hotel occupancy of Guam's hotel inventory.

Senator Klitzkie asked Mr. Troutman whether his testimony is the official position of the Attorney General? Mr. Troutman responded at the moment it is his own position – he has discussed the issue with the Attorney General, however, he has not had an opportunity to discuss the particular testimony. Senator Klitzkie asked him to clarify his first paragraph of his written testimony? Mr. Troutman stated he intended the paragraph to say there should be some incentive so that what was mentioned earlier, this does not become suddenly a windfall for certain businesses and absolutely no effect on the consumer. We have seen, most of our complaints have not been that there has been a 2% increase over former 4% whether it be an invisible or visible but the fact is that the increase blamed on the government has been 10-15%. Somehow, the legislature should indicate that it is not the idea to basically to put it to the consumer.

Senator Klitzkie asked whether Mr. Troutman was suggesting some sort of price control? Mr. Troutman affirmed, to a certain degree, however point out, if a business says our increase of 10% is due to the increase of GRT from 4 to 6% - when you reduce it from 6 to 4% then that business would at least make its own profit of say 8 percent because it would still have based its original charge on by blaming the government for a lot more than ... it's not an easy concept. Mr. Troutman it is something that may need to be addressed because consumers are complaining about more than the 2 percent, they're complaining about stacking price increases and blaming it on the GRT increase.

Referring to Mr. Miyashita's earlier statement suggesting government should never regulate prices but rather allow the market place to dictate prices, Senator Klitzkie stated he would agree with Mr. Miyashita. Mr. Troutman responded if that were the policy goal then a simpler matter to resolve the current problem would be to make GRT an invisible tax.

Senator Mark Forbes asked how many would favor returning the GRT to an invisible tax? Mr. Pieper responded if we establish or accept the fact that the GRT is the cost to doing business, then it shouldn't be shown. I don't include in my invoices that my prices include my 5% costs of GPA costs – it just doesn't make sense I consider GRT to be a cost to do business – shown

separately. Senator Forbes asked prior to the GRT increase and the mirror income tax primarily driven by federal law, aside from that the most multi tax in Guam has been the Hotel Occupancy Tax. By and large, with the one exception of the recent increase in the GRT Tax rate, taxes in Guam are relatively stable, but hotel occupancy tax moved a lot. Does quick changes that come and go in a tax structure have some effect in your experience on the ability to predict the future with respect with your business planning? Mr. Pieper if it is costs as in the current increase in GRT it has a direct impact – the Hilton added the increase to our losses – for the last three years for all sorts of reasons, the Hilton has not been able to make profits. One of the benefits of being a part of a large corporation is that we went through the past 3 years of upheaval without having to lay off a single person and still being able at the end of the year paying bonuses, smaller ones, we try to live within our means. If I were an independent owner of the Hilton, this would not be the case. However, even large corporations can only hold out and sustain for so long – the Hilton may decide differently.

It is important to have a structure in place, let's do some market research on any future proposals.

Senator Forbes asked Mr. Cruz whether his testimony is based on the Bureau of Statistics and Planning or is the view of the front office. Mr. Cruz stated it was the testimony of the Bureau.

Speaker Pangelinan stated the visible GRT is not a happenchance, it is an initiative that has been discussed. He emphasized the key to the visible GRT is the compounded effect of taxing the tax and although it is a cost of doing business, the Chamber as well as other local businesses as well as the hotels have said it is unfair to tax the tax since all you're doing is collecting and remitting it to the government. So how can we not have that negative effect on the business operations of taxing the tax? That is what it is meant to do. Mr. Pieper stated it is appreciated, however, the constituency outside of Guam did not appreciate the initiative – our visitors who don't know what to do with it. Speaker Pangelinan stated Japan leads the world in match is unbelievable why their consumers cannot understand this. Mr. Pieper stated the criticism is where there was no tax and now there is a tax and moreover, some businesses are charging the tax and other are not.

Senator Tenorio asked Mr. Troutman whether the business community should continue to bear the cost of the increased revenues to the government of Guam at the detriment of the business community at large? Mr. Troutman stated in the 16<sup>th</sup> Guam Legislature a value added tax was proposed may be something we could reconsider – it answers the problems of visibility which everyone knows about and certain inequities in the current tax. Mr. Troutman stated yes, government cannot exist without taxes – if the people want certain services and programs they have to be paid for. If you don't want them that's the will of the people. The Legislature does have an option that it has never exercised that is to raise, add an up to 10% surcharge to the income tax.

Senator Tenorio asked Mr. Pieper what is his preferred tax – invisible or visible? Mr. Pieper stated the 'duty free' status of Guam is still a marketing tool – it would be good to keep the tax imbedded as previously done. He suggested a market research study could probably answer the question.

Senator Sanford reemphasized the introduction of Bill 267 was deliberate and not spontaneous. In reviewing the financial numbers, rolling back the GRT is not a knee jerk reaction. She stated the long term impact of the new Tax Code Commission created will be to have such studies and research to review our overall tax policies and recommend a plan by the end of this year.

Senator Sanford asked Mr. Camacho asked what is the position of the Dept of Revenue and Taxation on the repeal of the GRT increase. Mr. Camacho responded for the last four months, DRT pumped out over \$20 million in refunds to the tax payers; and the effect in the economy is reflected in the increases in taxes – our concern is what is going to happen if we roll back the GRT? DRT has no position on the proposal to roll back the GRT.

Mr. Joseph F. Camacho, Vice President Finance DFS Galleria; Mr. Jeff Jones Executive Vice President of Triple J; and Ms Charlene Goo Vice President- Operations of OHANA Bayview Guam and OHANA Oceanview Guam although not appearing before the Committee submitted written testimony in support of Bill 267 stating the GRT roll back would further assist the economic recovery of the island.

As the Government of Guam's Chief Financial Advisor for Public Finance, Mr. Gerard Perez, Administrator of the Guam Economic Development and Commerce Authority did not appear before the Committee and provided submitted written testimony stating rolling back the GRT increase without a corresponding decrease in expenditures would jeopardize GovGuam's ability to secure an investment grade rating on the revenue stream and therefore jeopardize the cost and ability to market the deficit financing (PL 27-19) and any future financings for the Government of Guam. Mr. Perez's testimony stated Standard and Poors' consideration of an appropriate fund balance level includes several variables:

- 1) the makeup and liquidity of the fund balance, particularly as related to the volatility and patterns of the revenue stream;
- 2) the predictability of government spending;
- 3) the availability of unencumbered reserves or contingency funds; and
- 4) the ability of public officials to sustain a strong financial position.

Mr. Perez emphasized the importance of a balanced budget, deficit reduction and maintenance measures such as reserve creation of revenue expenditure initiatives for the government of Guam are needed to regain its investment grade status. While the GRT increase was a difficult decision, other jurisdictions have had to also raise taxes, cut expenditures, tap into reserves and issue debt to cover budget gaps. Investors and rating agencies or bond insurers do not view opposition to these types of initiatives lightly as it threatens the security of the issuer's bonds.

Mr. Robert Cox, Executive Director of the Guam Federation of Teachers appeared before the Committee and provided oral testimony in opposition to Bill 267. I belong to a group of taxpayers, the middle class, and bear the burden of what goes on in Guam especially assessment of fees. I pay that two percent and we live paycheck to paycheck in my household, however I realize that the increase is necessary. I want the businesses on Guam to succeed- I fully understand. We all have suffered, government employees included. I'm not sure how accurate the statement that this 'tax hits those who can least afford it. Those who can least afford it are

the ones that can stand the most to lose if the increase is rolled back. I don't believe consumers are going to reap any benefits if the tax is rolled back; wages in Guam are so low – we're about 60% of the national average overall and because of that the consumer of the people of Guam is very low. If these businesses are truly looking to improve their profits – we need to look at how can we improve the consumer power. I believe what they are suffering from is a reduction in businesses; the people of Guam are doing so to a lesser extent.

Mr. Cox stated the GFT is most concerned about the last report that GovGuam had \$800 million in debt – most of that debt is to the people of Guam – GPD, GFD, and DPW employees have unpaid overtime. Current operations of the government are inadequate – we are doing things we would not allow the private sector to perform.

We're moving toward outsourcing – there is no question that the facilities of the government of Guam are ailing. If we roll back – where will we get the money to take care of facilities; I'm still waiting for the tax refunds. If we roll back – can we afford to pay our tax increase. If the roll back is going to mean status quo of government operations, I would not be satisfied with that. DOE owes money to Retirement Fund and is accumulating interests on that debt. They say the retirement fund is going to collapse – we have to look at the long term effect. Perhaps, rather than rolling back the 6 percent to 4 percent, we should consider making the 6 percent rate permanent. Taxes in general on Guam are low – we're still the lowest on the average tax rate compared to the mainland. Let's increase consumer power -- that's the real root of the problem.

Mr. Cox asked how would the business community feel if this community tells them they'll have to let their buildings burn down because there are no fire trucks? How would they feel about the 2 percent GRT increase then? The inability of individuals to receive workers compensation; government claims are stacking up and must be address. We have debt - rolling back the GRT is like quitting your second job despite the debt.

Teresita Roberto Cruz appeared before the Committee and provided oral testimony opposed to the Bill 267. In response to earlier comment that through tourism her standard of living is such that she should be grateful – the standard supposedly that has been improved by tourism has not filtered down to my standard of living. It has not improved her water service and the raised the standard of the quality of electricity that feeds her home, nor provided road improvements and repairs.

Ms Cruz stated the business community's earlier statements that the GRT increase was the only culprit of the downward slowdown in the economy is unfounded. It does not take into account the logistics, the infrastructure, high start up costs, inability and inconveniences of maintaining inventories, natural disasters etc. For Mr. Mesa to say that people are disinterested in investing and also say there are companies opening a new business on Guam is conflicting.

The business community this morning, the GRT increase was the only culprit of the downward slow down in the economy. The high start up costs, inability to have just in time inventory, the logistics, the natural disaster. reorganization is the key – focus on restoring ethics. Reorganization efforts leaves a sour taste because it ... it sputters to life, giving me hope that ... a true effort -- restore ethics and quality. People are disinterested in investments.



We live in a representative democracy where the electorate get government services by paying some sort of tax; those that have always pay more and those who don't have don't pay as much; the bigger the income, the bigger the house, the bigger the car, the bigger the taxes. This democratic majority rose and answered the plea to a newly elected governor who said if no additional source of revenue is identified government will shut down by April 2003. You did the unthinkable and unpopular act – you increased taxes and were wise to put in a timetable; temporary and to be rescinded by September 2005.

Ms. Cruz stated our school system is in disrepair, poor busing system, inadequate classroom conditions, GMHA is incapable of meeting the needs of the community – we just recently imported help to assist with premature baby care. Public Utilities all need major infrastructure improvements; although the Chairman of the Utilities Commission hints at privatization efforts nothing happens; and he testifies to ask the GRT increase be rolled back because we can't afford it only to come back to the Legislature and ask for a 12 % percent increase in our water rate.

Ms Cruz stated BBMR has reported last week thru the temporary GRT increase that revenues totally \$5 million are collected monthly. If Bill 267 is passed, government will see an immediate shortfall of \$5 million to total \$25 million for the remainder of the year. She asked how can anybody say e have additional revenues considering all the government needs to do to improve services? We need revenues to improve education, healthcare, utilities; we need leaders to be visionary and look beyond this fiscal year and develop a plan that will address the needs of the people for five to ten years and beyond. If long term plans are for a healthy and prosperous Guam then the plan needs to be on the agenda of every elected official. Should we give in to a powerful interest group or do we believe in our conviction to make law, albeit difficult and unpopular but necessary to help this government provide the quality of services the people need.

Carlos Bordallo, Director of the Bureau of Budget Management & Research appeared before Committee and provided oral and written testimony stating to simply restoring the 4% GRT rate without adjusting the spending authorizations and priorities of the government will merely bring us back to the financial crisis over a year ago. While it is true cash flow is more consistent than a year ago and revenue collections are tracking higher than projected in the FY 2004 adopted revenue projections – the government still has obligations that remain unpaid. Mr. Bordallo also stated:

- 1) while gross business activity rose by \$99 million in the first quarter 2004, income taxes continue to decline as a result of changes to the federal tax code – eroding by close to \$120 million over the past four years;
- 2) although the FY 2004 budget under funded many critical agencies, the Budget Act authorized the use of lapse funds to cover operational shortfalls – without the cash to support this authorization, the government will experience a \$13.9 million shortfall in critical agencies such as GPD, Corrections, DPW and Guam Fire Department;
- 3) the government still faces more than \$155 million in outstanding prior and current year payables and the obligation to pay out the Earned Income Tax Credits at a cost of \$135 million;

Mr. Bordallo stated while the Administration is not opposed to the restoration of a 4% GRT rate – and in fact supported Bill 133 and continue to support Bill 227 to allow the electorate to decide on the increase and/or the roll back –any reduction in revenues must be accompanied with a corresponding reduction to the appropriations side of the budget.

Mr. Ernie Galito, Acting General Manager of the Guam Visitors Bureau appeared before the Committee and provided written and oral testimony in favor of Bill 267 and to repeal the Visible GRT Law (PL 27-41). He stated while the initial need to raise the GRT rate to 6% may have been needed to address day to day services to the public, the visible GRT law created confusion for many visitors who questioned whether the tax really existed? He stated the GVB board is requesting the Legislature to reinstate the GRT as an imbedded tax; it is a business privilege tax and not a tax on consumers as the display of the GRT on consumer receipts implies. Mr. Galito also stated the GVB supports the GRT roll back and maintaining the quarterly filing of returns until an electronic system is available to file GRT returns on a monthly basis.

Senator Sanford asked Mr. Bordallo whether his testimony is implying there are far more financial needs and that restoring the 4% GRT rate will cause more problems? Mr. Bordallo affirmed, although inroads on those obligations have been made, Bill 267 does not address how we're going to take care of those existing obligations as we roll back the GRT with a \$25 million impact.

Speaker Pangelinan asked Mr. Bordallo if he supported Bill 133 last year, what plans did he have to support that roll back that would allow him to meet the reduction in revenues back then had it been rolled back – aren't those same plans available to you today? You have an additional \$120 million dollars now? Why would the Administration support the roll back then without needing an expenditure adjustment when back then, the indications were that the GRT was not having the effect with regards to revenues. Isn't the government in better position financially now ? Mr. Bordallo reiterated Bill 267 needs to reduce expenditures.

Senator Klitzkie asked what inferences can be drawn from the effect of GRT in economic activity? Mr. Bordallo responded it looks at some point it shows we broke even – a year earlier we had half a million dollars less notwithstanding – that's business activity.

Senator Klitzkie asked whether any appreciable changes in the operations of government has occurred since the increase was imposed a year earlier? Mr. Cox responded while he has not noticed any appreciable change in the schools, employees are starting to get a sense of job security. He stated we have a 2 percent increase – the 32 hours work week ended, we're not so worried about being furloughed. If we pull back that GRT increase which prevented furloughs and lay offs we have to ask ourselves what happens next?

Ms Cruz responded she never expected to see immediate change – we've only had a year of additional funding. Senator Klitzkie stated the aggressive collections of DRT is an appreciable improvement and he thanked DRT for their efforts.

Senator Brown stated she did not believe additional funding is necessarily the cure all solution for efficiency and better services.

Senator Randy Cunliffe asked Mr. Bordallo how can the Governor not oppose the reduction of the GRT to 4% if it puts government further in the red by another \$25 million? Mr. Bordallo reiterated the short fall will occur if there are no adjustments to expenditures to accompany the roll back. Senator Cunliffe asked Mr. Bordallo where he suggested they could adjust expenditures? Mr. Bordallo responded there is nothing in the bill that says were we cut by either 4% or in the cash and he has no suggestions on where to adjust expenditures.

Senator Cunliffe asked if cuts were made to employees either furloughed or returning to a 32 hour work week, would that stimulate the economy? Mr. Bordallo stated those actions were not taken to stimulate the economy but rather to address keeping government operating. Senator Cunliffe asked if employees don't have as much money to spend and therefore the economy is not stimulated? Mr. Bordallo affirmed that is an economic theory.

Senator Cunliffe stated there was discussion earlier about the amount of \$36 million in income refunds which the Administration paid out and that money went back out into the economy? Mr. Bordallo responded yes, it went to the tax payers and I'm not sure if they saved it or spent it. Mr. Cunliffe asked Mr. Bordallo to guess wouldn't they spend it because they're missing their COLAs, their increments, their supplemental annuities? Mr. Bordallo affirmed.

Senator Cunliffe stated although he recognizes Mr. Bordallo is the selected front man for the Administration, it is difficult to understand the Administration would not oppose to reduce the GRT to 4% and yet you're also saying its going to have a negative effect. Previously, I was very critical of the people who had increased their prices who are not going to be rolling back their prices if the rate is rolled back. I've lived here the past 30 years and I have watched this government miss spend and from the businessman's perspective, I can understand why are you taxing me to pay for your inefficiency? Why are we paying a higher tax because you can't operate government properly? I can understand that side of that picture, too but I also understand that we have obligations that we're not paying because we don't have the cash. But we also have very bad fiscal management – I'm blaming the government for 27 years in the past or longer for their historic inability to determine the appropriate way to spend the money they take out of taxes to ensure that the right things are done, including getting math books to the students. We don't even have the money to pay for photocopying so the kid can take book home when he's out sick.

Senator Cunliffe stated when the Administration is saying it is not opposed to reducing the 2 cent increase on the dollar but it is going to have a financial impact on the government which is going to have negative effect on the way the government produces its services – I don't understand how you can still not oppose the increase.

Senator Leon Guerrero recall, the Fiscal Committee (BBMR, DOA and DRT) made a strong advice and recommendation asking to raise the GRT from 4% to 6% and made the presentation that this was the stand of the Administration and it was supported by the Governor and Lt. Governor. Senator Leon Guerrero asked what is the position of the Fiscal Committee to the governor concerning Bill 267? Mr. Bordallo stated the governor was apprised the roll back would have a negative effect on revenues; the Committee presented the numbers and advised it

would have significant impact; taking the \$5 million per month on an annual basis, we estimated \$60 million. Senator Leon Guerrero asked if the Committee's advise was that the roll back would be detrimental to the operations of the government, I can assume the end statement would be to 'not roll back the GRT?'

Mr. Bordallo responded the Committee's discussion with the governor he was advised of the fiscal impact. Senator Leon Guerrero asked whether the governor indicated what his decision would be regarding the roll back of the GRT? Mr. Bordallo stated no, not at that particular meeting. Senator Leon Guerrero emphasized Mr. Cox made a good point that roll back the GRT if there are going to be some means of meeting the inadequacies of our government. Based on BBMR's report, we're not meeting the inadequacies of the government and there is no suggestion, no recommendation from the governor as to how we're going to meet that inadequacy and roll back the GRT. She stated in deliberating her vote over Bill 267 that is going to be a key question in her mind – if it means keeping the GRT increase until 2005, then we need to look at that. I don't want our government want to go back into these times of 32 hour work week; massive layoffs; not having money for MIP and Medicaid. I think politics need to be removed here in terms of strategies and I would hope the Administration would be willing to work with this Legislature to address these concerns.

Senator Leon Guerrero stated she want the Administration and Legislative exchanges to be very up front, open and clear, as to what direction we need to take the government given this whole GRT Rate issue. If the governor and your Committee feels that we should not roll it back then say it and let's discuss it openly; there is no room for wavering on this issue.

Senator Forbes stated the odds that the governor signs the roll back into law is a more than likely. He stated the discussion of business activity shows a one month miraculous change – that usually indicates something must have happened – was that jump caused by construction activity? Mr. Bordallo affirmed that is possible.

Mr. Galito stated since July, GVB started implementing marketing programs we were on the cusp of 70,000 for July, 80,000 for August and 90,000 for September; October is seasonably a low month and then visitors arrivals took off Nov, Dec and January. He asked Mr. Bordallo whether visitor arrivals could have contributed to that spike in revenues? Mr. Bordallo affirmed.

Senator Forbes asked whether the construction numbers will be sustained? Mr. Bordallo affirmed. He stated the increase in gross business activity reported – shows the GRT increase initially had a depressive effect on business activity? Mr. Bordallo stated yes, initially the first few months after the increase we saw a decline in overall activity. Senator Forbes asked whether there is any real way to determine whether GRT increase continues to have a depressing effect business activity. With no real economic models in place on activity – all assumptions are equally valid as to positive and/or negative impacts for making these kind of determinations. Mr. Bordallo stated yes, these numbers are gross numbers which have not been broken down by sectors. Senator Forbes stated he is more convinced to roll back the GRT and even more convinced that it is better to let the people make those decisions.

Senator Forbes stated while he agrees benefits of tourism doesn't always filter down to the people and that's the responsibility of the Legislature, there is a direct correlation between tourism and revenues. The economy of Guam works by bringing in money from the outside and there are only two ways to accomplish that: tourism and federal dollars.

Senator Forbes reiterated the point that the DOE and the public schools do need a greater level of support. However, how the dept spends the money that it does receives is an issue. For every dollar we get more – I think the dept of education cannot come to terms with the union – so much energy, expelling the union's representative, in favor of a court decision. If you're asking us to make a greater expenditure towards education – we want to make sure that more dollars end up in the classroom.

Senator Fernandez stated Bill 267 was spawned as a result of the governor's statements at the state of our island's address. Robert Cox and Terry Cruz articulated my concerns – to hold onto this 2 percent increase - because of the impact to education / if there is going to be a \$25 million shortfall – how will that be covered other than cutting? I am concerned because we've authorized the governor to use \$5 million to cover insurance requirements for the schools and he has yet to announce this. The disrepair of the schools and facilities – we have to consider these needs as we discuss the prospect of a GRT rollback. Did Mr. Bordallo discuss with the governor how to make up this shortfall? Mr. Bordallo stated no – there was no discussion where the cuts could be made. Senator Fernandez stated her support for Bill 267 will be based on how the and where the cuts will be made; we have appropriated \$10 million for text books and that will also be an issue on whether the cash for those appropriations will be produced.

Senator Muna Barnes stated at the roundtable discussions last week, she had asked whether the Administration would have a position on the GRT rollback today and that she was reassured that he would. It's hard to fill the gravitation – without the executive branch information and positions and even more difficult when that information is withheld. I am still awaiting a response to what are the true financial levels, what are the effects of deceptive price gouging?

Where are we at – 12,000 GovGuam employees including autonomous agencies– when it used to be 14,000? Mr. Bordallo affirmed. Senator Barnes stated I just hope that you all come together as one – and provide a definite response – different agencies come forward with different comments and input when it should be a united front.

Senator John Quinata asked if the GRT increase is rolled back, would the governor be able to meet the shortages of these departments with the \$410 million budget? Mr. Bordallo affirmed utilizing the transfer authority and the authority for lapses; they're going to run short on appropriations by June. He reemphasized he needs to know what the Administration's position on the GRT roll back is – he needs to know whether the administration is interested in working with the legislature as a team on fiscal policies. I'd keep the 6 percent rate if it means we're going to move our government forward. We have a lot of services not funded; we only have 3 operating ambulances. Mr. Bordallo stated ambulances have been ordered through Compact Impact Funding. Senator Quinata stated Robert Cox and Terry Cruz brought about some very good suggestions, I would also like to unfreeze the increments and to restore the supplementals.

Senator Sanford noted that the current fiscal year projections had not included the additional infusion of construction activity anticipated from the FEMA funded restoration projects. She noted that it was estimated that construction activity – could potentially amount to \$300 million dollars and should be realized within the next 12 – 18 months. Mr. Bordallo stated that \$300 million was an estimate and that some activity especially in the autonomous agencies are already ongoing.

Senator Sanford asked what about tourism arrivals? How much more do you feel in terms of an increase in dollars that had not been quantified or calculated in the current projections? Mr. Bordallo stated if you use 2003 numbers for tourism arrivals which was at 800,000 and we're going to 1.1 as projected – that's another 300,000 additional tourists that will positively impact the GRT revenues and should amount to somewhere around \$ 6 million dollars in additional GRT .

Senator Sanford noted that the \$ 15 million anticipated increase in revenue projections was a total increase from various sources and not just from GRT. She noted disappointment that BBMR had not identified the reclassification or reprogramming of appropriations for the \$6. 5 million for FEMA funding that was previously reported as being of an emergency nature when the legislation was passed.

She noted that GEDCA did not even see fit to allow more than 30 days for the RFP process on the Line of Credit for FEMA projects because monies were needed immediately.

She reminded Mr. Bordallo that the sooner BBMR identified the reprogramming details, the sooner the projects could move forward which will create a tremendous economic stimulus for our island. She noted that the \$6.5 million will fund a small part of the project and that FEMA will pay for approximately 80-90% of the projects.

Senator Sanford stated concern on trying to find funding for the supplemental benefits and for the spending priorities for education, safety, and health. She noted that she was still hopeful that the court system will allow the bond application process to continue. She noted that the infusion of cash flow from the bond will fund the tax refunds and others as stipulated in the bond bill.

Senator Sanford asked Mr. John Dela Rosa, spokesperson of the Governor on the position of the GRT roll back. Mr. Dela Rosa state the administration understands rolling back the GRT rate to 4 percent rather than keeping it at the current 6% rate stands a better chance of stimulating economic activity; it's good for the economy. We ask the Committee to take a more comprehensive look at the impact that the roll back will have overall with regard to government revenues and adjust the appropriation levels for the existing budget based on that impact. When the budget was passed, it was passed at the 6% rate. Now that revenue will decline – adjustments need to be made to reflect. Mr. Dela Rosa stated the Administration recognizes in the mid to long term those revenues will come back to the government. We're asking in the interim that those adjustments be made so we can continue to provide basic services without incurring any additional obligations and liabilities.

Senator Sanford asked Mr. Dela Rosa if he didn't think that the governor would be in a better position to identify details on any cost reductions needed, if necessary, given the fact that he runs the day to day operations and has a greater understanding on his spending priorities?

Mr. Dela Rosa stated they could provide details with respect to day to day operations on where they thought they were having difficulties, but in terms of adjusting the appropriations that is the legislature's responsibility.

Senator Sanford asked Mr. Bordallo if we reduce the GRT to 4% for the remaining half of this fiscal year based on their projections, whether it will amount to less than \$15 million?

Mr. Bordallo stated his estimates show it will amount to \$25 million until the end of the fiscal year.

Senator Sanford stated if you take BBMR's projections for the remaining half of the fiscal year, and work the numbers backward and project it at four percent, the impact would be less than \$15 million.

She asked him if he had reported that four months ended January 2004, BBMR reported that Actual revenues were \$35 million more than estimated? Mr. Bordallo affirmed.

Senator Sanford stated given just the first four months, actual revenues had already exceeded the projections by \$35 million, which is much less than the projected less than calculated \$15 million negative impact for the GRT rollback over the last remaining six months of the fiscal year.

Mr. Bordallo reported that some one time occurrences, some large payments, were received early in this fiscal year and that it may impact the total projected revenues. Senator Sanford asked Mr. Bordallo to quantify those one time payments and identify the months they were received?

Senator Forbes stated that's an interesting footnote.

Mr. Bordallo stated we projecting to meet the collections that were projected in the budget of \$31 million; however, the trending you're seeing now is not a true trending of the collections because there was a one time collection of about \$14 million – October of this fiscal year.

Senator Sanford stated using BBMR's projections for April, May, June, July, August and September and calculating GRT receipts at 4%, the negative impact on the reduction from the 6% tax rate will amount to less than \$15 million.

Senator Forbes asked whether revenue projections fall under the purview of the Budget Committee? Senator Sanford stated although she appreciated Senator's Forbes' input – these same questions were asked at the Roundtable with the Budget Committee – I'm just repeating the information for the record.

She emphasized Bill 267 was introduced because the financial information given by BBMR of an increase in projected revenues for \$15 million would allow for an offset of an anticipated less than \$15 million of GRT revenue loss. Basically it would be a “wash.”

She noted that the responsible thing to do was to share any excess revenues with the people if the revenues were in excess of the balance budget projected revenues, instead of just increasing government spending.

Senator Forbes stated that ultimately under the organic act of Guam, the power to pass a budget is with the Legislature. He noted that Senator Sanford’s request for the Governor to identify where appropriation cuts should be made may not be a reasonable request.

He noted I believe when the legislature passes this bill – the governor will sign the bill into law . Do you have anything to tell me that should this pass; it will be signed into law? Mr. Dela Rosa stated the one concern that the Administration has is that we address the appropriations the expenditure side of this as well. Senator asked is there anything you can tell me to dissuade me that the governor is very likely to sign it into law? Mr. Dela Rosa stated he has nothing in his personal knowledge that I can tell you that would dissuade you.

Senator Sanford reemphasized the people do really want this GRT rollback; they’ve shared the burden for a year and if there is any kind of relief I remain hopeful that the business community will pass these reductions back to the people.

Senator Leon Guerrero stated she was to be very clear about the reduction to the appropriation side to the budget – however, my understanding is even with the roll back – and at a maintained and sustained budget of \$410 million that as we continue as we are, we can meet that \$410 million by the end of the fiscal year. She stated Mr. Bordallo said this at the Round Table discussion because I specifically asked him if we roll back the GRT would we still be able to fund the budget of \$410 million which says to me the appropriations side of the budget would still be okay given the roll back of the GRT. If there is anything different from that I’m not familiar with that, however, I was very specific with my question. When Senator did her analysis based on the numbers you gave her it was certainly a wash – it didn’t impact the \$410 million. Mr. Bordallo stated when you asked that question, yes we would be able to meet the appropriation side but the appropriation side is insufficient.

Senator Leon Guerrero stated she understands that - the operational requirements is \$429 million, however we passed a budget of \$410 million and that ‘s the budget we’re looking at. According to what your statements are, there is no need to reduce that appropriations side because it is already adequate with the budget we had put forward. We did not pass a \$429 million appropriation budget; we passed a \$410 million appropriations budget. So when John says the position of the governor is yes we would roll it back but be very mindful that the legislature needs to also have a corresponding reduction to the appropriations we don’t really have to do that because we’re basing it on a \$410 million budget not a \$429 budget. So all those fundings that we had appropriated for that expenditure is going to stay, it will remain even if we roll back the GRT from 4 to 6%.



Mr. Dela Rosa stated the budget also authorizes the government to use lapsed funds from previous years – our concern that without the cash to support that we're still going to fall short in several critical areas: Corrections, DPW Fire and Police. Senator Leon Guerrero stated those lapses are specific to departments it is not a lapse of the General Fund. It was specific to health; education and I don't even know if it was for public safety. Mr. Bordallo stated that there was also a provision for executive branch carry over authorization; as those are carried over they are not paid out of lapse cash, they're paid out of cash from this fiscal year. The \$410 million was short and that's why we're moving lapses.

The hearing was adjourned at 2:00 pm.

### III. COMMITTEE FINDINGS

The Committee on Economic Development, Retirement, Insurance, Public Works, and Regulatory Functions finds that several other suggestions provided by those testifying were appropriate and would improve the legislation and therefore has made the following changes:

- Added to Legislative Findings and Intent.
- Added a new section to include the roll back of the temporary reduction in Gross Receipts Tax Exemptions from October 1, 2005 to April 1, 2004, at which time the exemption amounts shall be restored to \$50,000 with the income cap of \$500,000:  
**SECTION 3. Gross Receipt Tax Exemptions.** Section 7 of Chapter V of Public Law 27-05 is hereby amended to read:  
“Section 7. Reduction of Gross Receipt Tax Exemptions.  
Notwithstanding any other provision of law, the Fifty Thousand Dollars (\$50,000.00) exemptions contained in items (9), ~~(28)~~, (29), (30), (31), and (32) of 11 GCA §26203(k) are reduced to Thirty-Five Thousand Dollars (\$35,000.00) effective April 1, 2003. In addition, the Five Hundred Thousand Dollars (\$500,000.00) recent tax year caps contained in the same items are decreased to Three Hundred Thousand Dollars (\$300,000.00) effective April 1, 2003.  
This Section shall cease to be effective after ~~September 30, 2005~~ March 31, 2004, at which time the original Fifty Thousand (\$50,000.00) and Five Hundred Thousand (\$500,000.00) amounts are restored.
- Added, a new section to the bill requiring the Dept of Revenue and Taxation to provide for the electronic receipt of monthly returns filed by GRT and Use Tax taxpayers opting to file electronically, beginning with returns for the month of October 2004:  
**SECTION 9. Electronic Filing of Monthly Returns Allowed.** The Department of Revenue and Taxation shall provide for the electronic receipt of monthly returns filed by Gross Receipts Taxpayers required under §28108 of Chapter 28, Title 11 GCA and under §26110(b) of Chapter 26, Article 1 Division 2 of Title 11 GCA, commencing with returns for the month of October 2004; provided however, that such provisions shall not prohibit Gross Receipts Taxpayers from opting to file non electronic returns.
- Added, a new section requiring the Governor of Guam within 15 day of passage to submit a revised Fiscal Year 2005 budget reflecting the anticipated revenue adjustments resulting from the rollback of Gross Receipts Taxes resulting from this Act.
- Deleted, the words ‘and deposits made’ from the Section Gross Receipts Tax Returns and Added, the monthly return shall be filed and any tax then due shall be paid no later than the 20<sup>th</sup> date of the following month at authorized banks, financial institutions or at designated offices of the government of Guam.

- Deleted the section of the bill to add new §26110.2 to Chapter 26 of Title 11 GCA to provide for quarterly deposits.
- Added, two new sections to the bill to repeal §26110.1, §26111(d)(1) and (2) all of Chapter 26, Article 1 Division 2 of Title 11 GCA which refer to deposits, provisions. These provisions will not longer be applicable or necessary because all taxpayers will now be required to file *monthly* returns.
- Deleted, the words ‘and deposits made’ from the Section Use Tax Returns and Added, the monthly return shall be filed and any tax then due shall be paid no later than the 20<sup>th</sup> day of the following month.
- Substituted, the specific sections of the GCA in place of the words ‘Gross Receipts Returns, Use Tax Returns, and Deposit of Gross Receipts Tax’ in Section Effective Date of the bill; deleted, the date ‘April 1, 2004’ and added the words ‘commencing with returns for the month of April 2004’; added, language to authorize Dept of Revenue and Taxation to develop a standard form substantially similar to Form BR20 to be used for the required monthly return filings; and renumbered, applicable sections of the bill to which the effective monthly return is applied:  
**SECTION 10. Effective Dates.** Amendments made to §28108 of Chapter 28, Title 11 GCA and §26110 (b), §26110.1, and §26111 of Chapter 26, Article 1 Division 2 of Title 11 GCA as contained in Sections 4, 5, 6, and 8 of this Act shall be effective commencing with returns covering the month of April 2004.  
Notwithstanding the Administrative Adjudication Law, the Director of the Department of Revenue and Taxation is authorized to develop a standard form substantially similar to Form BR20 to be implemented for the purpose of meeting the required monthly filing of returns.
- Technical amendment to the Section Gross Receipt Tax Rates of the bill, reworded to clarify the deletion of Subsection (b) and renumbering of Subsection (c) of Section 6 of Public Law 27-5:  
**SECTION 2. Gross Receipts Tax Rates.**  
(A) Subsection (a) of Section 6 Chapter V of Public Law 27-5 is hereby amended to read:  
“(a) Notwithstanding any other provision of law, the four percent (4%) gross receipts tax rate contained in 11 GCA §26202 (a), (c), (d), (e), (f), (g), (h), (i), and (j) shall be *amended* to six percent (6%), effective April 1, 2003. This Section shall cease to be effective after ~~September 30, 2005~~ March 31, 2004, at which time the rate shall revert to four percent (4%).”  
(B). Subsection (b) of Section 6 Chapter V of Public 27-5 is deleted in its entirety and subsection (c) of the same shall be renumbered accordingly.
- Technical amendment to Section Use Tax amendment to reflect this bill is further amending PL 27-5; deleted word ‘until’ and added through March 31, 2004, after’ for clarity.

#### IV. COMMITTEE RECOMMENDATIONS

The Committee on Economic Development, Retirement, Investments, Public Works, and Regulatory Functions recommends that Bill No. 267 be amended as indicated in Section III. Above, and further recommends that Bill No. 267 as substituted by the Committee on Economic Development Retirement, Investments, Public Works and Regulatory Functions be reported out with the recommendation TO DO PASS.

## COMMITTEE ON ECONOMIC DEVELOPMENT, RETIREMENT, INSURANCE, PUBLIC WORKS, AND REGULATORY FUNCTIONS

PUBLIC HEARING: MONDAY, MARCH 1, 2004

LOCATION: Legislature Public Hearing Room, Hagatña

BILL NO. 267

	PRINT NAME	TITLE	COMPANY	ADDRESS	POSITION for / against
✓	Marty McDowell	VICE Chairman	Guam Chamber of Commerce		For
✓	Isao MAMADA	GM	PMT		For
✓	MONTE MESA	CHAIRMAN	COMMITTEE TO GET SALEM WORKING		FOR
✓	N. Oscar Miyashita	Managing Partner	ERNST & Young		For
✓	Charles Teronjan	Comptroller & Law	AG		Modify
✓	MANFRED H. PIEPER	CHIEF FINANCIAL	CHRYSLER		FOR
Govt	Manny Coz	Director	BSA		For
Govt	John Camacho	Deputy Director	Rev & TAX		
✓	Robert Ross	BFT Director	BFT		Against
✓	Torri Cruz	PC	Self		Against
	Joe Camacho	<del>VP</del> VP, Finance	DPS	WRITTEN ONLY	For
At	Carlos Bordallo	Acting Director	BBMR		
	Jeff Jones	Ex. VP	Tripple J	WRITTEN ONLY	FOR
	<del>Isao Mamada</del>	<del>Pres</del>	JGTA	LISTED ABOVE	FOR
✓	ERNIE GALIÑO	GUB			FOR
	JOHN DELA ROSA	GOV SPOKESMAN			
	CHARLENE GOO	OUTRIGGER HOTELS	WRITTEN ONLY		FOR





Guam Visitors Bureau  
*Setbision Bisitan Guahan*

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**COMMITTEE ON ECONOMIC DEVELOPMENT, RETIREMENT,  
INVESTMENT, PUBLIC WORKS AND REGULATORY FUNCTIONS  
TESTIMONY FOR BILL 267  
MARCH 1, 2004**

Buenas Dias Yan Hafa Adai,

Madame Chairperson, Senator Toni Sanford and members of the Committee on Economic Development, Retirement, Investment, Public Works and Regulatory Functions. My name is Ernie Galito, Acting General Manager of the Guam Visitors Bureau, I appear before you today in the absence of our General Manager Tony Lamorena who is currently off-island.

On February 26, 2004 the Board of Directors of the Guam Visitors Bureau approved a motion to support the intent of Bill 267, "An act to roll back the temporary increase of the Gross Receipts and Use Tax rates by amending certain sections of P.L. 27-5 relative to changing the termination date of the increase from Sept. 30, 2005 to March 31, 2004, and to amend certain sections of Chapter 26 & 27 of 11 GCA relative to GRT and Use Tax return and deposit requirements.

As you are all well aware last year our visitor industry suffered its worst decline in its 30-year history. It was also the first time in Guam's history for Government of Guam employees to take a 20% pay cut in order for the Government to recover from the devastations of Typhoon Posonga, the Afghanistan invasion, the Iraqi war and the SARS outbreak. All these events were major blows to our economy.

We saw thousands of our people lose private sector jobs as well as the closure of numerous businesses and hotels. Many of our residents were forced to relocate off-island to seek employment. With tourism providing 70% of our economy and Guam's primary economic driver our island faced an uncertain future.

The need to initially raise the GRT may have been necessary for the Government of Guam to continue to provide the day-to-day services to our people.

Not only did the increase present a challenge to drive our visitor arrivals, but also the visible GRT created a sense of confusion for many of our visitors. As of last week GVB Japan received over 45 complaints regarding the visible GRT and the various travel agents have also received other complaints. Most of the complaints centered on that not all businesses charge the tax and they felt cheated. They questioned whether the tax really exists. The other issue revolves around Guam's "Duty Free" status. Most of these complaints come from returning visitors who never paid a tax in the past.

The Board of Directors supports the roll back of the GRT from 6% to 4% as well as maintaining the GRT reporting on a quarterly basis until an electronic system of filing the GRT on a monthly basis is established.

We also kindly request this august body to introduce an amendment that would reinstate the GRT as an imbedded tax. The GRT is a business privilege tax and not a tax on consumers as the display of the GRT on the customer receipt implies.

Guam is constantly faced with increased competition from various destinations. Tax increases and visible taxes only add to the difficulties of growing our visitor industry.

Guam is well on its way to recovering its visitor industry. Our first quarter arrivals have shown positive signs and continue to improve from month to month. We have confidence in the growth of our visitor industry and with the support of our policy makers we are even more confident.

Again, on behalf of the Board of Directors of the Guam Visitors Bureau I would like to thank you for providing me the privilege of submitting testimony for Bill 267. If you have any questions please do not hesitate to contact the Guam Visitors Bureau.

Sincerely yours,

Ernie Galito

Acting General Manager



## **BUREAU OF BUDGET & MANAGEMENT RESEARCH**

OFFICE OF THE GOVERNOR  
Post Office Box 2950, Hagåtña Guam 96932

**FELIX PEREZ CAMACHO**  
GOVERNOR

**KALEO SCOTT MOYLAN**  
LIEUTENANT GOVERNOR

**CARLOS P. BORDALLO**  
DIRECTOR

**JOSE S. CALVO**  
Deputy Director

**TESTIMONY ON BILL 267**  
**Committee on Economic Development, Retirement, Investments,**  
**Public Works & Regulatory Functions**  
*Carlos Bordallo, Director of BBMR*  
**March 1, 2004**

Good morning and Hafa Adai...Madam Chair and members of *I Mina' Bente Siete Na Liheslaturan Guåhan*. Thank you for the opportunity to present testimony on Bill 267. I am Carlos Bordallo, Director of BBMR.

As you know, FY2003 was an extremely difficult year for the government of Guam. Due to the dire financial situation of this government, the Administration undertook unprecedented measures to keep government services running. We implemented a 32-hour workweek, managed the cash of this government on a daily basis and started to meet past obligations. In FY03, the Department of Administration and Revenue & Taxation paid out \$36 million in tax refunds. Already, in just the first five months of FY04, we have paid out more than \$30 million in refunds. We have paid supplemental annuities to retirees, as mandated by Public Law 27-29. And we continue to hold vendor payables to under 90 days for payment.

The measures we took to hold the line on spending have stabilized the finances of this government, but they have by no means brought us out of crisis mode. It is true that the cash flow of this government is more consistent and higher than it was one year ago. It is also true that revenues collected are tracking higher than projected in the FY2004 officially adopted revenue projections. And that is why we have been able to improve our financial condition these past few months. But, many obligations must still be paid.



The work Governor Camacho has done to restore stability and accountability in government and to stimulate economic activity is clearly beginning to show success and restore confidence in our community. However, while Gross Business Activity has risen by \$99 million in the first quarter of this year, Income Taxes continue to decline as a result of changes in the federal tax code. As we presented in our roundtable meeting held by Vice Speaker Aguon on February 25<sup>th</sup>, income taxes have eroded by close to \$120 million over the last four years. I have attached a copy of our presentation for your committee.

We must also be mindful that many critical agencies were under-funded for FY2004. That is the very reason this body authorized the use of lapsed funds to cover operational shortfalls within the government agencies. And while the use of lapsed funds provision remains, without the cash to support the authorization, we will not be able to sustain the projected operational requirements for FY2004. In fact, based on the FY2004 budget appropriations, this government will fall \$13.9 million short of funding existing operational requirements before the end of this fiscal year.

Based on the current funding levels, the Guam Police Department, the Department of Corrections and the Department of Public Works will run out of their appropriation by June of this year... the Guam Fire Department, by August. The only way to ensure that we can keep their services operating is to support the lapsed fund authorization with actual cash to pay for their operational needs. Earlier this year, the Department of Education requested an additional \$12 million to cover its shortfall for this year and to provide for increases in salaries for teachers and school nurses. With a lower revenue base, teachers and nurses salary adjustments and increments will not be able to be paid this or next fiscal year.

In addition to the operational shortfalls of this government, we still face more than \$155 million in outstanding prior and current year payables and the obligation to pay out the Earned Income Tax Credits at a cost of \$135 million.

Madam Chair, the Administration is not opposed to the restoration of a 4% Gross Receipts Tax rate. In fact, we supported Bill 133 and continue to support Bill 227 to allow the electorate of this

island to decide on this critical issue. And we commend you for listening to the concerns of the community.

However, Madam Chair, the restoration of the 4% GRT rate, as represented in Bill 267 addresses only half of the equation. As we have cautioned all along, **any reduction in revenues must be accompanied with a corresponding reduction to the appropriation side of the budget.** As it currently stands, the operational requirement of this government sits at \$429 million while agencies remain under-funded even at the \$409 appropriation level. The projected impact of the restoration of the 4% GRT will be a reduction by \$25 million in revenues into the government. That will leave an already under-funded government short of even its authorized appropriation levels and will leave no room to use lapsed funds to cover those shortfalls.

In addition to reductions in the existing budget, we also must ask the Legislature to re-establish the spending priorities of our government. The outstanding supplemental annuities payments, tax refunds and the Earned Income Tax Credit payments will not be possible without a marked reduction in the overall operating expenditures of this government by as much as half the existing appropriation levels.

To simply restore the 4% GRT without adjusting the spending authorizations and priorities of this government may put us back from where we came just one short year ago... when we were faced with imposing a reduction in government work hours and providing less in essential services just to make ends meet.

As always, the Administration will provide any additional information you may require in order for the Legislature to incorporate provisions in Bill 267 to amend FY 2004 appropriation levels to balance with the decrease in revenues based on the restoration of the 4% Gross Receipts Tax rate.

Thank you again for the opportunity to provide this testimony.

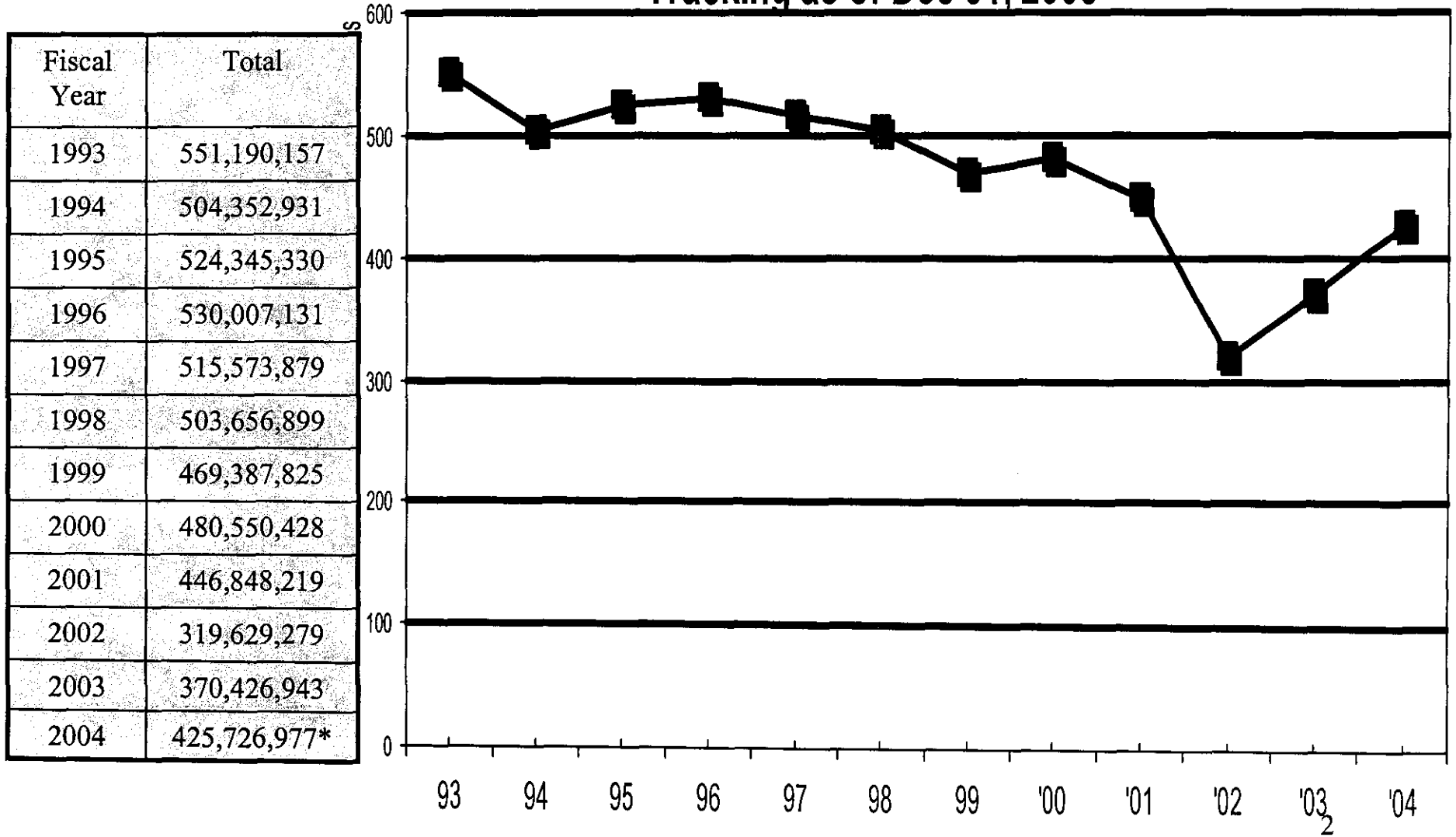


# **Government of Guam**

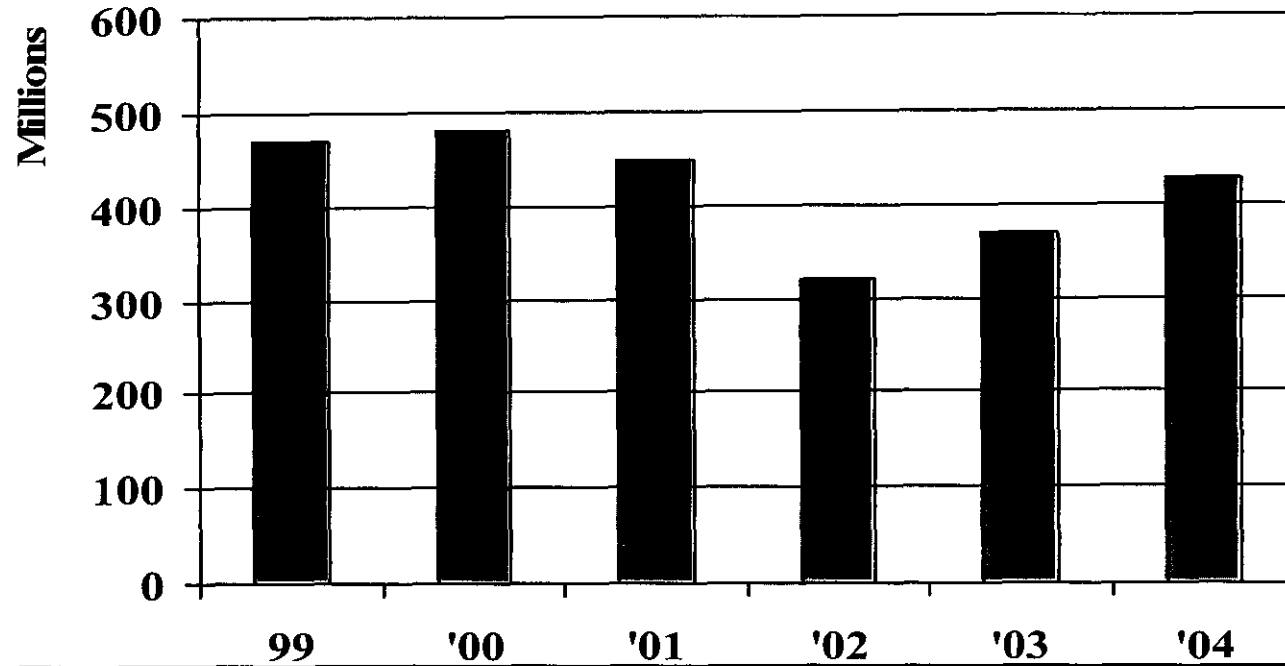
## **General Fund**

# General Fund Revenues

Tracking as of Dec 31, 2003\*

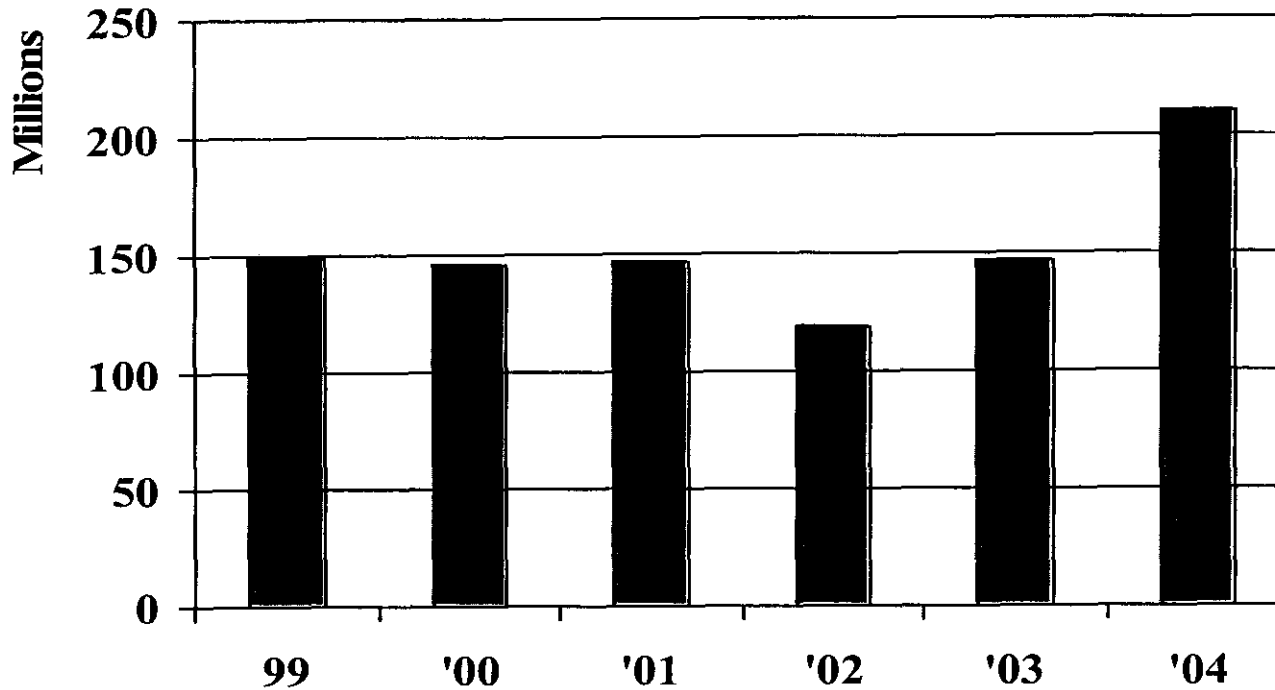


# General Fund Revenues Tracking



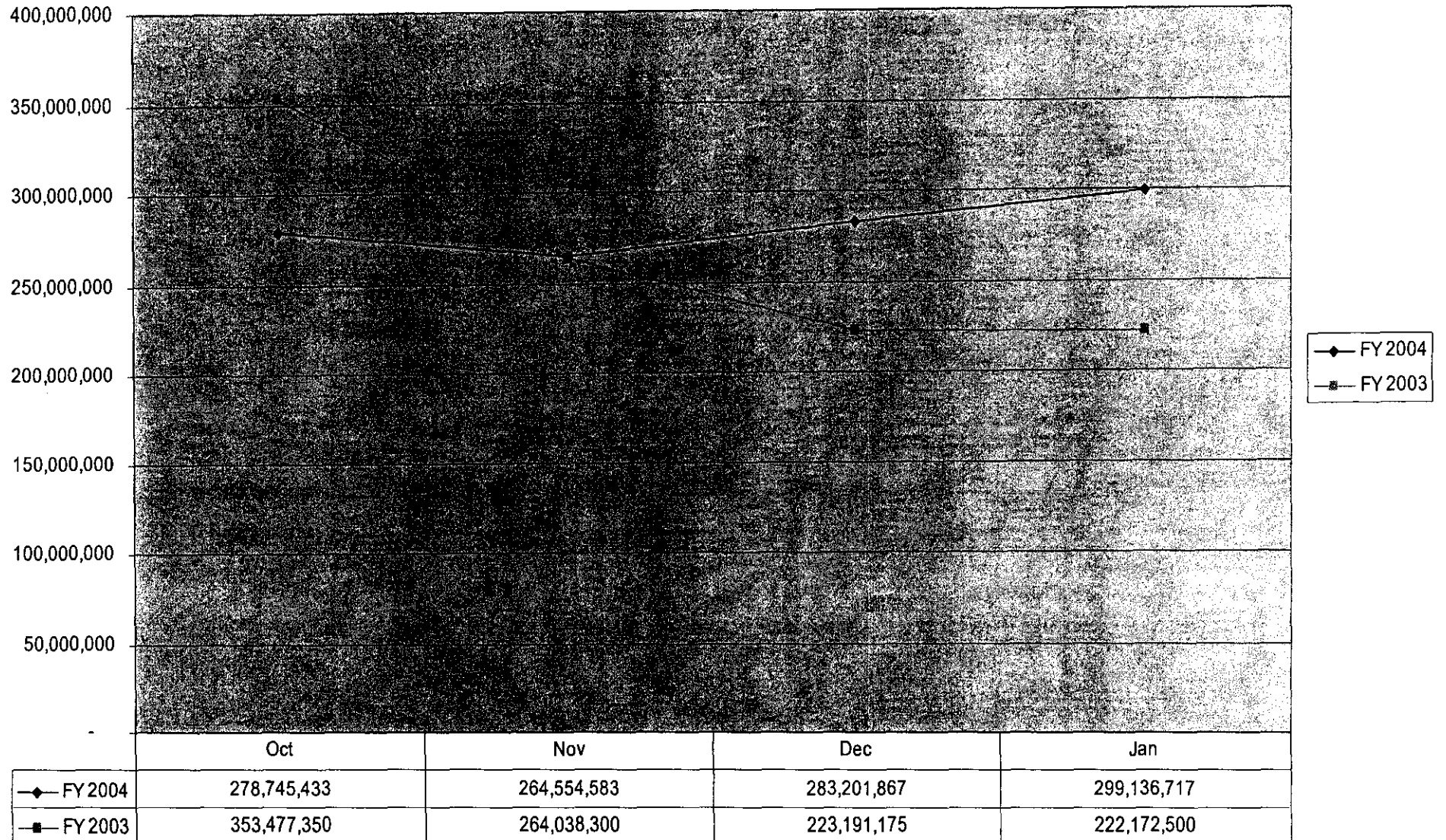
Fiscal Years	1999	2000	2001	2002	2003	2004 Tracking
Actual	469,387,824	480,550,429	448,822,388	319,629,279	370,426,843	425,726,977
\$ Change		11,162,605	(31,728,041)	(129,193,109)	50,797,564	55,300,134
% Change		2.38%	(6.60%)	(28.78%)	15.89%	14.93%

# General Fund Gross Receipts Tax



Fiscal Years	1999	2000	2001	2002	2003 Draft	2004 Tracking
Actual	148,963,676	146,488,598	147,514,689	119,321,110	146,551,060	210,946,439
\$ Change		(2,475,078)	1,026,091	(28,193,579)	27,229,950	64,395,379
% Change		(1.66%)	.70%	(19.11%)	22.82%	21.68%

### Gross Business Activity (GRT)

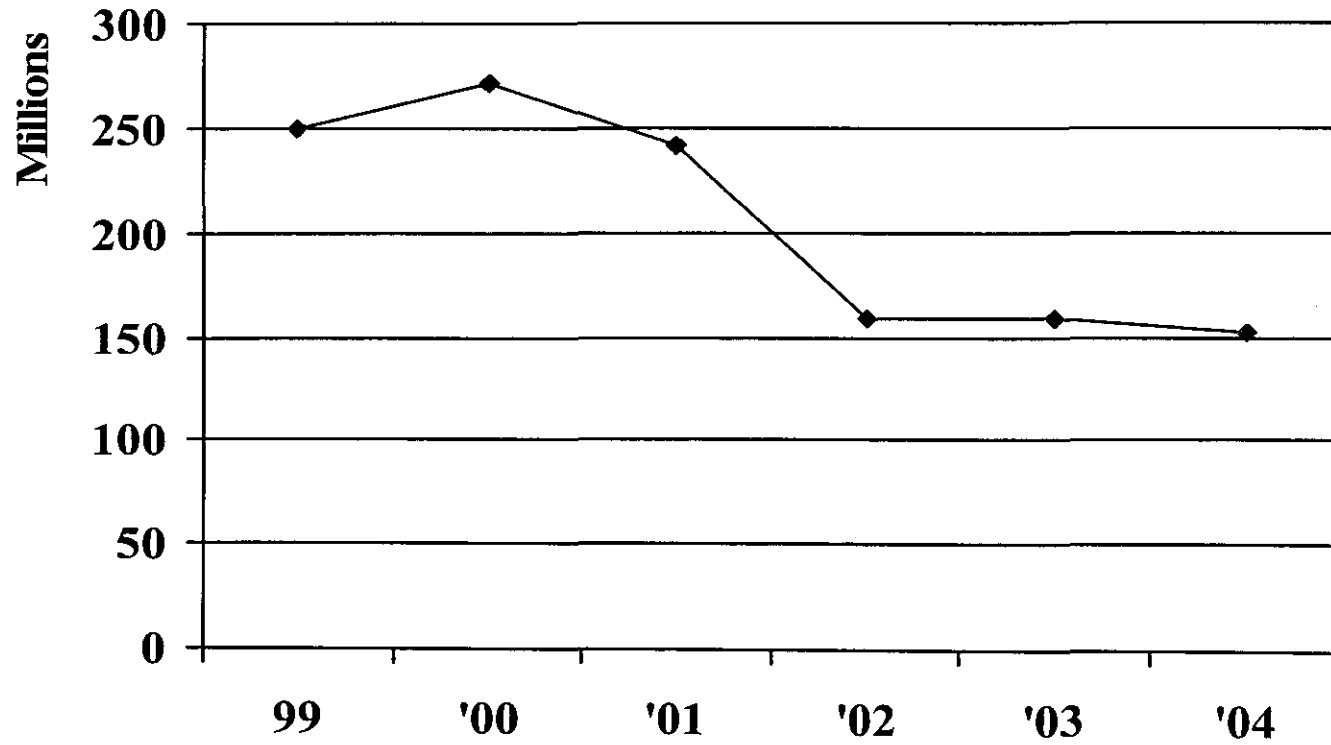


## Gross Receipts Business Activity

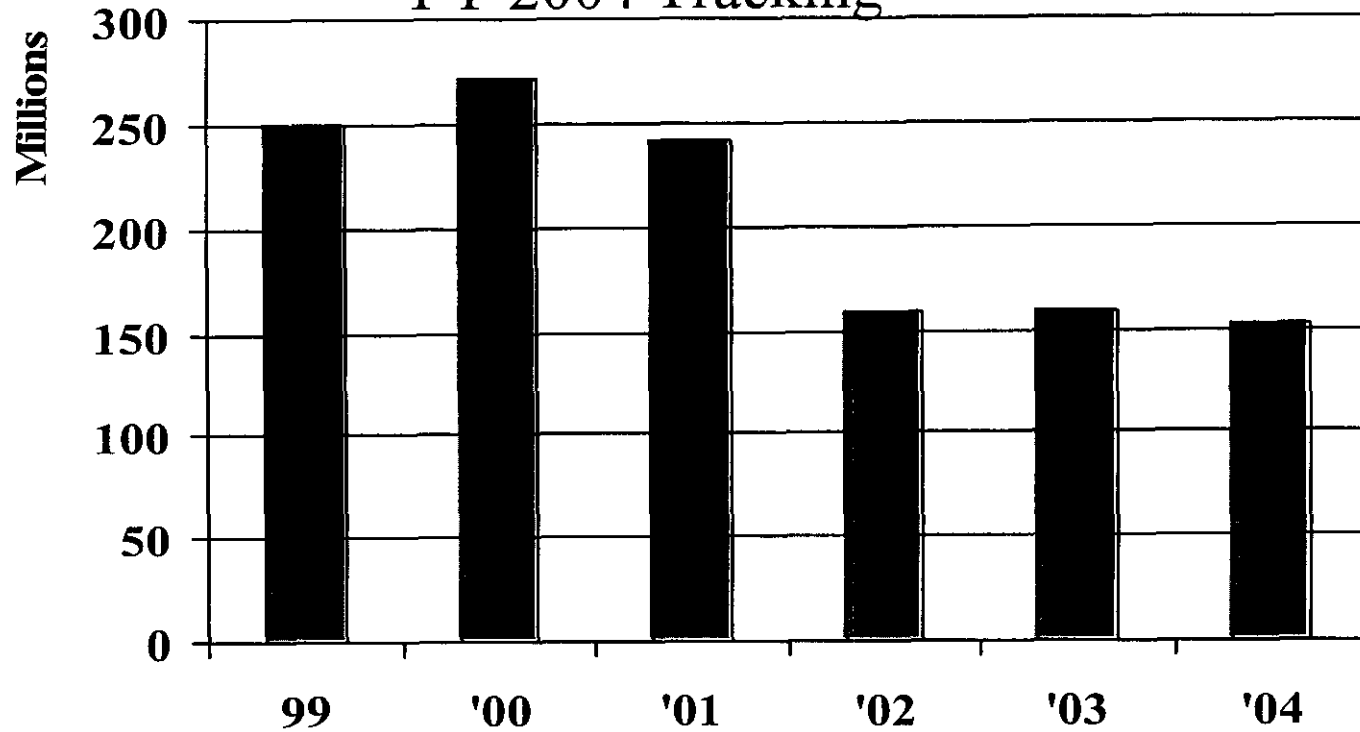
- Comparing last quarter FY03 to 1<sup>st</sup> quarter FY04, there is \$99 million more in Gross Receipts indicating stabilization has occurred early in FY04 and business activity has increased.
- Draft numbers for January 2004 show even further growth in business activity.



# General Fund Income Tax FY 2004 Tracking



## General Fund Income Tax FY 2004 Tracking



Fiscal Years	1999	2000	2001	2002	2003 Draft	2004 Tracking
Actual	250,377,894	271,041,118	241,613,006	159,317,880	151,570,634	138,726,435
\$ Change		20,663,224	(29,428,112)	(82,295,126)	(7,747,246)	(12,844,199)
% Change		8.25%	(10.85%)	(34.06%)	(4.86%)	(8.47%)

## Income Taxes

- Income taxes have steadily declined since FY 2000, when they generated \$271 million in tax revenue.
- Current tracking for income taxes for FY 2004 is \$139 million.
- Income taxes have decreased over the last four fiscal years (FY2000 to FY 2003) by close to \$120 million.
- Income tax revenues are projected to decline even further in FY04 (by another \$13 million) from FY03 due primarily to the effects of the Jobs and Growth Tax Relief Reconciliation Act of 2003.
- Income tax revenues are not projected to increase, however may stabilize depending upon employment.

# General Fund Payables

## As of December 31, 2003

Tax Refunds (Individual & Corporate 2002 and Prior Years (\$62M) Balance and 2003 Estimated (\$72M))	\$134,000,000
Vendors Regular	5,500,000
Vendors (MIP)	6,000,000
Autonomous Agencies (DOE,UOG, GCC)	9,000,000
Utilities	500,000
Payroll vendors	100,000
<b>Total</b>	<b>\$155,100,000</b>

# Other Payables

- Earned Income Tax Credit  
Current estimates for tax years  
1998 to 2003: \$135,000,000
- Total payables with EITC: \$290,100,000

# Conclusion

- **Income tax revenues are projected to decline even further for FY 2004 from levels experienced in FY 2003.**
- **Military activity is projected to increase.**
- **Tourist arrivals are projected to exceed 1.1 million for FY04.**
- **Economy has stabilized and business activity is showing growth as indicated by first four months of FY04.**
- **Increased revenues has allowed us to improve our financial condition.**
- **Decline in income taxes represents a structural change in General Fund revenues and is not foreseen to reflect growth over the next three years (or longer if tax credits are extended).**
- **Gross Receipts Business activity has improved, but not to the extent of offsetting the structural decline of over \$120 million experienced in the past few fiscal years.**
- **Continuing to improve our financial condition enhances our ability to secure favorable ratings and ultimately more competitive financing (ie. P.L. 27-19 bond).**



March 1, 2004

27<sup>th</sup> Guam Legislature:

We strongly support the passing of Bill 267 which accelerates the roll back of the increase in the gross receipts tax rate from October 1, 2005 to April 1, 2004.

As the tourism industry continues its recovery, private sector employment begins to stabilize and construction and military activities increase, rolling back the GRT would provide a "shot in the arm" toward Guam's economic recovery. The reduction in GRT would increase consumer spending and provide businesses with additional cash flow for reinvestment. New business would also be encouraged.

Although Guam's tourism is exhibiting signs of recovery, businesses continue to adjust to the GRT increase through reduction of payroll, other expenses and the delay of capital projects, actions that stifle economic recovery.

Now is a good time to roll back the GRT to help sustain the positive momentum Guam is currently seeing.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Camacho", written over a horizontal line.

Joseph F. Camacho  
Vice President, Finance



Charlene Goo  
Vice President-Operations  
Pacific Region

Outrigger Hotels & Resorts

March 1, 2004

Senator Toni Sanford  
27<sup>th</sup> Guam Legislature  
Suite 15B, Sinajana Shopping Center  
777 Route 4  
Sinajana, GU 96926

RE: BILL NO. 267, ROLL BACK TEMPORARY INCREASE  
IN GRT

Dear Senator Sanford:

On behalf of the Outrigger Guam Resort, OHANA Bayview Guam and OHANA Oceanview Guam, I submit testimony in support of Bill No. 267 proposing to accelerate the roll back of the temporary 50% increase in GRT to April 1, 2004 from October 1, 2005. The three hotels combined represent an employer with almost 400 employees.

During the most difficult of times, while our community was recovering from the devastation of Typhoon Pongsona and downturn in visitor arrivals decreasing even further from the effects of the Iraq War and SARS, we were forced to endure a 50% GRT tax increase. With 2003 annual revenues significantly less than 2002, our tax expense was still greater than 2002. Losses were magnified due to this unexpected increase. The future survival of our business entities is in jeopardy if this roll back is not accelerated.

Economic recovery can only continue if businesses are profitable. The current tax situation creates losses, prevents pay increases and does not support economic growth.

Additionally because the GRT is a business tax, measures need to be taken to repeal the showing of the GRT on consumer receipts.

Sincerely,

  
Charlene Goo

1255 Pale San Vitores Road  
Tamuning, Guam 96913  
Phone: 671-649-9000  
Fax: 671-647-9710  
Email: charlene.goo@  
outriggerguam.com

**Toll-free Reservations  
USA, Guam & Canada**  
Phone: 1-800-OUTRIGGER  
(1-800-688-7444)  
Fax: 1-800-622-4852

**Internet Website**  
outrigger.com  
ohanahotels.com

Hotel, resorts and  
condominiums throughout  
Hawaii and the Pacific.  
Affiliated hotels across  
the U.S.





February 26, 2004

Senator Toni Sanford, Chairperson  
Committee on Investment, Public Works & Regulatory Functions  
Twenty-Seventh Guam Legislature  
155 Hesler Street  
Hagåtña, Guam 96910

**RE: Bill 267**

Dear Senator Sanford

Triple J is a Guam based family business; our interests include automotive, food distribution, and restaurant management. Our businesses and our employees' lives are affected greatly by the Government of Guam's tax policy. I believe this was understood well by those in the 24<sup>th</sup> Guam Legislature, which enacted **Public Law 24-222 (3 GCA § 17311)**, which provides in relevant part that no increase in real property tax, liquid fuel tax, gross receipts tax, or any locally enacted and administered tax on Guam shall go into effect without the approval of the voters of Guam in a referendum held during a General Election.

Notwithstanding this, certain members of the 26<sup>th</sup> Guam Legislature chose by their action to ignore this law and take away the people's right to choose what is best for themselves and their families. The result of this action was not only higher taxes for everyone but also a feeling of the voters that their right to choose had been taken away by some of the very people they had elected.

I strongly support Bill 267 which will right the wrong committed by the majority of the 26<sup>th</sup> Guam Legislature on the residents and voters of Guam. If this group had listened to the people of the community to begin with and followed the existing law governing tax increases we could have all saved much time effort and money.

Thank you,

  
**JEFFREY B. JONES**  
Executive Vice President

**TRIPLE J ENTERPRISES, INC.**  
P.O. BOX 6066 • TAMUNING, GUAM 96931 • TEL: (671) 646-9126 • FAX: (671) 646-9487



Dipårtamenton Kontribusion yan Adu'ána

DEPARTMENT OF

# REVENUE AND TAXATION

GOVERNMENT OF GUAM

Gubetnamenton Guåhan

FELIX P. CAMACHO, Governor Maga'låhi  
KALEO S. MOYLAN, Lt. Governor Tifente Gubetnadot

ARTEMIO B. ILAGAN, Director  
Direktot  
JOHN P. CAMACHO, Deputy Director  
Segundo Direktot

MAR 01 2004

Senator Antoinette (Toni) Sanford, Chairwoman  
Committee on Economic Development, Retirement  
Investments, Public Works and Regulatory Functions  
Suite 15B Sinajana Mall  
777 Route 4  
Sinajana, GU 96926

In re: Bill No. 267 (COR)

Dear Senator Sanford:

The Department of Revenue & Taxation (DRT), hereby, would like to submit written testimony in response to Bill No. 267 (COR). After reviewing the bill, DRT proposes that the following changes be made so as to insure that the island community fully understands and easily adapts to the bill's provisions. DRT proposes the following changes so as to maintain uniformity while obtaining effective administration and compliance with these tax laws:

1) Gross Receipts Tax Exemption: The first proposed change addresses the Gross Receipts Tax Exemption. Item 31 in this provision should be stricken and item 33 of 11 GCA 26203(k) added. This change is necessary since item 31 is inapplicable and item 33 was overlooked in the original drafting of this bill.

2) Returns: This proposed change affects Section 21160 of Chapter 26 Article 1 Division 2 of Title 11. The general definition of returns must be included in this legislation so as to insure uniformity with all related taxes and returns under this provision, not just Gross Receipt tax returns. This provision requires all taxpayers to file a return whether or not such taxpayer owes taxes.

Subsection (a) of this provision should address the requirements of monthly filing of returns of taxes. This section should read “ (a) Monthly Returns. Each taxpayer shall make and file monthly returns of taxes with the Tax Commissioner summarizing the tax on or before the 20<sup>th</sup> day following the close of the calendar month in which the taxes shall accrue and in the form and in accordance with the rules and regulations prescribed by the Tax Commissioner. Except as may be specifically hereafter provided, payment covering the full amount of tax liability as evidenced by the monthly return shall accompany such monthly return.

Also, the following Subsections (b), (c), (d), (e) and (f) should be changed as Annual Information Return, Erroneous Returns, Tax Year, Consolidated Returns of Interrelated

Businesses of Like Character, and Returns of Interrelated Businesses of Different Character respectively.

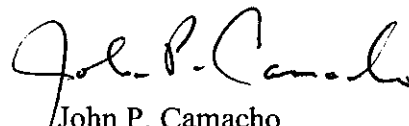
3) Deposit Requirement for Gross Receipts Taxes and Late Deposit penalty. Sections 26110.1, 26111(d)(1) and (2) of Chapter 26, Article 1 Division 2 of Title 11 should be repealed since they are no longer applicable.

4) Use Tax Returns: Under Section 28108, the language "and deposits made" should be stricken since it would be inapplicable.

5) Effective Dates: This Section should read as follows to add related sections that were not included in the language: "Amendments made to Section 28108 of Chapter 28 Title 11 GCA and Sections 26110, 26110.1 and 26111(d)(1) and (2) of Chapter 26 Article 1 Division 2 of Title 11 GCA as continued in subsections (4), (5), (6) and (8) of this act shall be effective commencing with returns for the month of April 2004."

This section should also authorize the Director of DRT to develop a standard form substantially similar to form BR20 to be implemented for the purpose of meeting the required monthly filing of returns, notwithstanding the Administrative Adjudication Laws. This is necessary to allow DRT the flexibility so as to meet the effective date of this legislation.

While the DRT acknowledges the legislative findings and intent to rollback the Gross Receipts Tax rates and restore the minimum exemption amounts and gross income caps of the Dave Santos Act, it supports reverting to the monthly filing requirements whether or not a tax is due so as to minimize and simplify the documentation needed to comply with this act, to revive the enforcement capabilities of DRT and to allow the gathering of the much needed statistical information for our government. Along with this testimony is a copy of this bill with the proposed revisions inserted.

  
John P. Camacho  
Deputy Director