

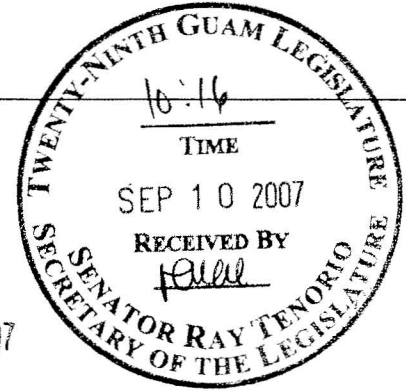


Office of the Governor of Guam

P.O. Box 2950 Hagåtña, Guam 96932
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Felix P. Camacho
Governor

Michael W. Cruz, M.D.
Lieutenant Governor



07 SEP 2007

The Honorable Edward J.B. Calvo
Acting Speaker
Mina' Bente Nuebi Na Liheslaturan Guåhan
155 Hessler Street
Hagåtña, Guam 96910

29-07-0827
Office of the Speaker
MARK FORBES

Date: 9/7/07
Time: 5:30pm
Rec'd by: [Signature]
Print Name: Carl Quintana

2007 SEP 10 11 06 47 am

Dear Mr. Speaker:

Transmitted herewith is Bill. No. 53 (EC) entitled "AN ACT TO AMEND §51102 and §51106 OF CHAPTER 51 OF TITLE 11 GUAM CODE ANNOTATED, RELATIVE TO EXPEDITING PAYMENT OF INCOME TAX REFUNDS" which I have vetoed.

Bill No. 53 amends the current law that requires income tax payments made to the government to be deposited into the Income Tax Refund Efficient Payment Trust Fund. Unfortunately, the amendment does not take into account the government's deficit which precludes the government from setting aside cash for future disbursement when the cash is being used to pay the bills that are due now.

The problem with the reserve is that this year's collections are being used to pay for prior years' refunds. This bill would only stall, if not halt, refund payments for prior years. A delay in the disbursement of prior years' refunds only aggravates our financial situation because interest on refunds is compounded daily at 8% interest. This amounts to approximately \$2 million in compounded annual interest payments. Already this government owes \$43 million in interest payments for unpaid tax refunds from prior years. If this measure is enacted into law and we are unable to pay prior years' tax refunds, it would further compound those interest payments, for tax years 2005 and 2006, by nearly \$10 million.

Already, the law contains a set-aside provision to meet tax refund requirements for the current tax year. However, in order to meet the prior year tax refund requirements, the government has been using a portion of current year cash receipts to pay the outstanding refunds. Unfortunately, there is not enough cash coming into the government to pay outstanding refunds and reserve cash for future refunds and yet sustain government operations and pay other governmental obligations.

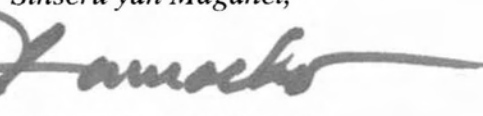
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This bill proposes a redundant mechanism that would only exacerbate the government's cash flow problems. The government will be able to set aside cash for future payment of refunds once the government catches up with refund payments and brings our deficit to a manageable level.

The government's growing deficit of more than \$524 million does not allow the government to set aside funds for anything without jeopardizing current year operations. There are refinancing proposals submitted to the Legislature for its consideration to address the government's deficit. The bond proposal seeks to address the more immediate concern of paying the outstanding refunds to the people of Guam by converting these deficit items into long-term debt obligations, while paying to the people what is rightfully theirs. I am sure that the members of the Legislature will agree that our people need this money to meet the rising cost of living and that this money would be best served by circulating it into our economy.

Additionally, restoration of the full revenue base of this government as well as full restoration of allotment control to BBMR would ensure that all expenditure obligations of this government can be met. Once the government is in a better position to manage its deficit and has caught up with refund payments for prior years, then it would be capable of setting aside revenue for future refunds.

Sinseru yan Magâhet,



FELIX P. CAMACHO

*I Maga'lâhen Guâhan
Governor of Guam*

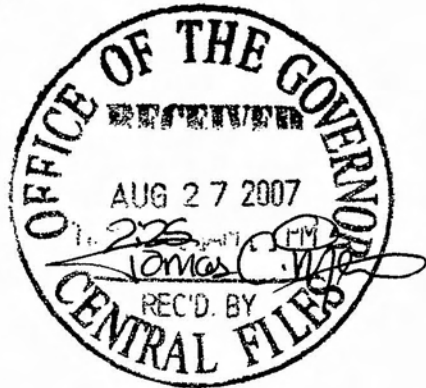
cc: The Honorable Ray Tenorio
Senator and Legislative Secretary



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

August 27, 2007

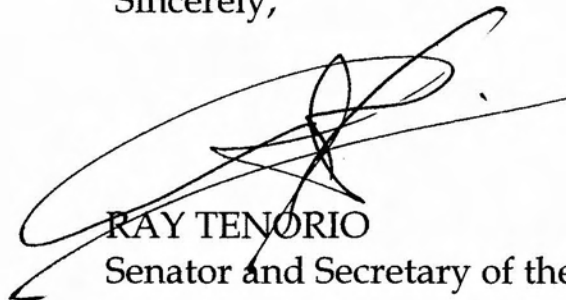
The Honorable Felix P. Camacho
I Maga'lahaen Guåhan
Ufisinan I Maga'lahi
Hagåtña, Guam 96910



Dear *Maga'lahi* Camacho:

Transmitted herewith are Bill Nos. 3(LS), 6(LS), 27(EC), 53(EC), 57(EC), 60(EC), 61(EC), 62(EC), 100(LS) and Substitute Bill Nos. 2(LS), 17(EC), 22(EC), 40(EC), 52(EC), 97(LS) & 112(EC) which were passed by *I Mina'Bente Nuebi Na Liheslaturan Guåhan* on August 23, 2007.

Sincerely,


RAY TENORIO
Senator and Secretary of the Legislature

Enclosures (16)

I MINA'BENTE NUEBI NA LIHESLATURAN GUÅHAN
2007 (FIRST) Regular Session

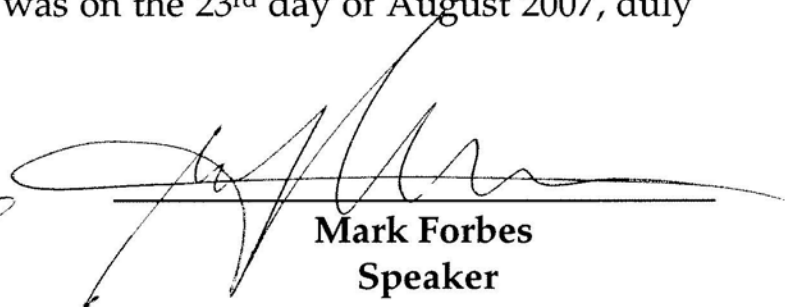
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that **Bill No. 53 (EC), "AN ACT TO AMEND §51102 AND §51106 OF CHAPTER 51 OF TITLE 11 GUAM CODE ANNOTATED, RELATIVE TO EXPEDITING PAYMENT OF INCOME TAX REFUNDS,"** was on the 23rd day of August 2007, duly and regularly passed.

Attested:



Ray Tenorio
Senator and Secretary of the Legislature



Mark Forbes
Speaker

This Act was received by *I Maga'lahaen Guåhan* this 27th day of Aug, 2007, at 2:25 o'clock P.M.



Assistant Staff Officer
Maga'lahaen's Office

APPROVED: **VETO**

FELIX P. CAMACHO
I Maga'lahaen Guåhan

Date: _____

Public Law No. _____

I MINA'BENTE NUEBI NA LIHESLATURAN GUÁHAN
2007 (FIRST) Regular Session

Bill No. 53 (EC)

As amended by the author.

Introduced by:

v. c. pangelinan
Frank F. Blas, Jr.
James V. Espaldon
Edward J.B. Calvo
Mark Forbes
Judith Paulette Guthertz
Frank T. Ishizaki
J. A. Lujan
Tina Rose Muña Barnes
A. B. Palacios, Sr.
R. J. Respicio
David L.G. Shimizu
Ray Tenorio
A. R. Unpingco
J. T. Won Pat

**AN ACT TO *AMEND* §51102 AND §51106 OF CHAPTER 51 OF
TITLE 11 GUAM CODE ANNOTATED, RELATIVE TO
EXPEDITING PAYMENT OF INCOME TAX REFUNDS.**

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

2 **Section 1. Legislative Findings and Intent.** Income tax refunds are
3 overpayments of withholding tax made by individual and corporate taxpayers that
4 are not the property of the government but are held in trust until the overpayment is
5 determined and refunded. Any overpayment made by a Guam taxpayer *should* be
6 refunded in a timely and consistent manner.

7 *I Liheslatura* sets aside the estimated amount of overpayments to provide for
8 income tax refunds, earned income tax credit, and child tax credit payments when

1 it enacts the annual operating budget of the government of Guam. Setting aside
2 cash to refund overpayments should not impact the resources available to operate
3 the government.

4 Therefore, *I Liheslaturan Guahan* intends to create an efficient tax refund
5 trust fund that automatically receives deposits from income tax payments
6 including, but *not* limited to, individual, corporate, withholding tax, interest and
7 penalties received by the government to ensure that cash is available to make
8 timely refunds.

9 **Section 2.** §51102 of Chapter 51 of Title 11 Guam Code Annotated is
10 hereby *amended* to read as follows:

11 **“51102. Deposit of Funds.** The Director of the Department of
12 Administration (DOA) *shall* directly deposit, upon receipt of any payment of
13 income tax, including, but *not* limited to, individual, corporate and withholding
14 taxes, interest and penalties, to the Trust Fund a portion of the tax payment
15 received to be calculated by multiplying the amount of the tax payment received by
16 the quotient derived by the provision for tax refunds (the dividend) divided by the
17 total income taxes, including, but *not* limited to, individual, corporate and
18 withholding taxes, interest and penalties, (the divisor) amounts adopted in the
19 pertinent government of Guam fiscal year budget, so that, at the end of the fiscal
20 year, the total amount set aside in said budget for income tax refunds, the earned
21 income tax credit and advanced child tax credits *shall* have been deposited in said
22 Fund. The funds deposited in the Trust Fund by the Director of Administration
23 *shall* immediately be transferred to the Income Tax Reserve Fund upon the written
24 request of the Tax Commissioner for payments made pursuant to §50105 of
25 Chapter 50, Division 2 of Title 11 of the Guam Code Annotated. The interest
26 earned by money in the Trust Fund *shall* be held in the Fund.”

1 **Section 3.** §51106 of Chapter 51 of Title 11 Guam Code Annotated is
2 *amended* to read:

3 “**§51106. Reports.** The Tax Commissioner and the Director of
4 Administration *shall* report to *I Maga’lahen Guåhan* and *I Liheslaturan*
5 *Guåhan* regarding the total deposits in each month and the current balance
6 of the Trust Fund within fifteen (15) calendar days of the end of each
7 month.”

8 **Section 4. Severability.** *If* any of the provisions of this Act or the
9 application thereof to any person or circumstance is held invalid, such invalidity
10 shall *not* affect any other provision or application of this Act which can be given
11 effect without the invalid provision or application, and to this end the provisions of
12 this Act are severable.