

I Mina'Trentai Dos Na Liheslaturan Guahan
Bill Log Sheet

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES
205-32 (COR) - VETOED	Dennis G. Rodriguez, Jr. Brant T. McCreadie R. J. Respicio	AN ACT TO PROMOTE ECONOMIC DEVELOPMENT BY AUTHORIZING THE ISSUANCE OF TAX CREDITS TO ENTITIES WHO ASSIST WITH THE DEVELOPMENT OF GUAM'S AGRICULTURAL AND "GUAM PRODUCT SEAL" PRODUCTS EXPORT INITIATIVE THROUGH CONTRIBUTIONS TO OFFSET SHIPPING COSTS, BY ADDING A NEW ARTICLE 6 TO CHAPTER 77, DIVISION 2 OF TITLE 12, GUAM CODE ANNOTATED.	10/10/13 3:03 p.m.	10/10/13	Committee on Health & Human Services, Health Insurance Reform, Economic Development, and Senior Citizens	10/17/13 9 a.m.	10/28/13 11:43	Fiscal Note Request 10/14/13 Fiscal Note Received 10/17/13
	DATE PASSED	TITLE	TRANSMITTED		DUE DATE	<small>DATE SIGNED BY I MAGA'LAHEN GUAHAN</small>	PUBLIC LAW NO.	NOTES
	11/12/2013	AN ACT TO ADD A NEW ARTICLE 6 TO CHAPTER 77, DIVISION 2 OF TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO PROMOTING ECONOMIC DEVELOPMENT BY AUTHORIZING THE ISSUANCE OF TAX CREDITS TO ENTITIES WHO ASSIST WITH THE DEVELOPMENT OF GUAM'S AGRICULTURAL AND "GUAM PRODUCT SEAL" PRODUCTS EXPORT INITIATIVE THROUGH CONTRIBUTIONS TO OFFSET SHIPPING COSTS.	11/15/13	11:28 a.m.	11/27/2013			As substituted by the Committee on Health & Human Services, Health Insurance Reform, Economic Development, and Senior Citizens; and amended on the Floor. 11/27/13 - VETOED

EDDIE BAZA CALVO
Governor



RAY TENORIO
Lieutenant Governor

Office of the Governor of Guam

32-13-1010
Office of the Speaker
Judith T. Won Pat, Ed. D.

NOV 27 2013

Date 11.27.13
Time 5:11 PM
Received by: [Signature]

Honorable Judith T. Won Pat, Ed.D
Speaker
I Mina'trentai Dos Na Liheslaturan Guåhan
155 Hesler Street
Hagåtña, Guam 96910

Dear Madame Speaker:

Attached is Bill No. 205-32 (COR), entitled, ***"AN ACT TO ADD A NEW ARTICLE 6 TO CHAPTER 77, DIVISION 2 OF TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO PROMOTING ECONOMIC DEVELOPMENT BY AUTHORIZING THE ISSUANCE OF TAX CREDITS TO ENTITIES WHO ASSIST WITH THE DEVELOPMENT OF GUAM'S AGRICULTURAL AND "GUAM PRODUCT SEAL" PRODUCTS EXPORT INITIATIVE THROUGH CONTRIBUTIONS TO OFFSET SHIPPING"*** which I have vetoed.

As written, the bill entitles business entities to take tax credits against any income tax liabilities, and a portion of business privilege taxes, for revenue related to the export of qualified agricultural or Guam Product Seal products.

Tax credits against business privilege taxes are permissible. However, under Section 1421(e) of the Organic Act of Guam, income tax liabilities (referred to as the "Guam Territorial Income Tax" or "GTIT") payable to the Government of Guam, and except as manifestly otherwise required, are governed by the Internal Revenue Code of the United States, as amended ("IRC"). The IRC applies to Guam in the same manner that it applies to the rest of the United States in a process commonly referred to as "mirroring." *Sayre & Co. v. Riddell*, 395 F.2d 407 (9th Cir. 1968). The Ninth Circuit Court of Appeals has held that any deviations from the IRC as it applies to Guam is a matter that must be left to Congress, and that the Government of Guam does not have authority to amend or deviate from the GTIT. *Id.*

Thus, to the extent that Bill 205-32 seeks to exempt certain revenues from the application of the GTIT laws as mirrored in the IRC, the bill violates the Organic Act and is impermissible. See also, AG Op. DOA 07-0868; AG Op. DRT 08-0013.

My Administration fully supports local industry, and believes that the intention and goals of Bill 205-32 should be pursued. For this reason, we would be happy to work with *i Liheslatura* in

1010

2013 NOV 27 [Signature]

accomplishing the objectives of Bill 205-32 within parameters permissible by the Organic Act and the laws of Guam,

Senseramente,

A handwritten signature in black ink, consisting of several overlapping, fluid strokes that form a stylized representation of the name Eddie Baza Calvo.

EDDIE BAZA CALVO
Governor of Guam

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2013 (FIRST) Regular Session

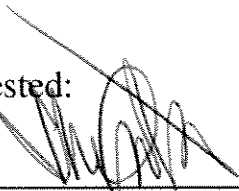
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that **Substitute Bill No. 205-32 (COR)**, "AN ACT TO ADD A NEW ARTICLE 6 TO CHAPTER 77, DIVISION 2 OF TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO PROMOTING ECONOMIC DEVELOPMENT BY AUTHORIZING THE ISSUANCE OF TAX CREDITS TO ENTITIES WHO ASSIST WITH THE DEVELOPMENT OF GUAM'S AGRICULTURAL AND "GUAM PRODUCT SEAL" PRODUCTS EXPORT INITIATIVE THROUGH CONTRIBUTIONS TO OFFSET SHIPPING COSTS", was on the 12th day of November 2013, duly and regularly passed.



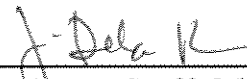
Judith T. Won Pat, Ed.D.
Speaker

Attested:



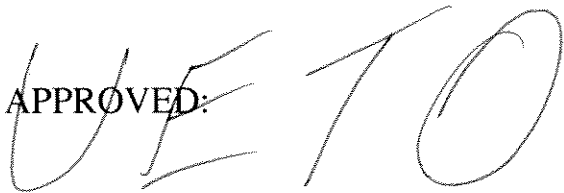
Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'lahen Guåhan* this 15th day of Nov.,
2013, at 11:28 o'clock A.M.



Assistant Staff Officer
Maga'lahi's Office

APPROVED:



EDWARD J.B. CALVO
I Maga'lahen Guåhan

Date: NOV 27 2013

Public Law No. _____

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2013 (FIRST) Regular Session

Bill No. 205-32 (COR)

As substituted by the Committee on Health & Human Services, Health Insurance Reform, Economic Development, and Senior Citizens; and amended on the Floor.

Introduced by:

Dennis G. Rodriguez, Jr.
Brant T. McCreadie
R. J. Respicio
Tommy Morrison
FRANK B. AGUON, JR.
Michael T. Limtiaco
Chris M. Dueñas
Michael F. Q. San Nicolas
Vicente (ben) C. Pangelinan
T. C. Ada
V. Anthony Ada
B. J.F. Cruz
T. R. Muña Barnes
Aline A. Yamashita, Ph.D.
Judith T. Won Pat, Ed.D.

AN ACT TO ADD A NEW ARTICLE 6 TO CHAPTER 77, DIVISION 2 OF TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO PROMOTING ECONOMIC DEVELOPMENT BY AUTHORIZING THE ISSUANCE OF TAX CREDITS TO ENTITIES WHO ASSIST WITH THE DEVELOPMENT OF GUAM'S AGRICULTURAL AND "GUAM PRODUCT SEAL" PRODUCTS EXPORT INITIATIVE THROUGH CONTRIBUTIONS TO OFFSET SHIPPING COSTS.

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

2 **Section 1.** A new Article 6 is hereby *added* to Chapter 77 of Division 2,

3 Title 12, Guam Code Annotated, to read:

1 It is the consensus of *I Liheslaturan Guåhan* that the issuance of tax
2 credits to entities who assist with the development of Guam’s export
3 initiative through contributions that offset shipping costs is a vital incentive
4 for the creation and sustainability of this new and developing economic
5 sector. By allowing tax credits for export transshipment, Guam producers
6 will be able to offset one of the largest costs prohibiting the pursuit of
7 profitable exportation, expansion into new markets, and the ability to
8 provide competitive pricing. The tax credits will surely promote export
9 activity by mitigating one of the key cost components of doing business
10 abroad, thus providing a competitive edge on product pricing regionally, as
11 well as in the global marketplace.

12 Currently, there is little to no tax revenue generated from the sale of or
13 shipping of commodities for export. The tax credits will provide the added
14 incentive for the renaissance of Guam’s agricultural sector and Guam
15 Product Seal products by refocusing collaborative efforts and providing new
16 market opportunities, and a new, broader-based, economic stimulus.

17 With increased opportunities abroad, Guam exports will prove to be
18 more attractive and lucrative which, in turn, will increase manufacturing
19 activity, create more jobs and preserve cultural socioeconomic activities.

20 With the award and success of the State Trade and Export Promotions
21 grant in 2011 and 2012, the Guam Economic Development Authority has
22 conducted extensive research in the area of exporting and has set the
23 groundwork to develop this initiative; and has identified that this tax credit is
24 crucial to the success of this new developing industry. It is the intent of *I*
25 *Liheslaturan Guåhan* that further economic development efforts are taken to
26 promote Guam’s local businesses through the export of its Guam Product
27 Seal and agricultural products.

1 **§ 77601. Definitions.**

2 As used in this Article:

3 (a) *Contributions shall* mean and can be made either as the
4 sponsorship of shipping costs, applying preferred shipping rates, or
5 the discount provided by transshipment companies solely for shipping
6 charges related to the exportation of agricultural products and/or
7 produce, and certified Guam Product Seal products.

8 (b) *Export shall* mean, for the purposes of this Article, the
9 business activity where an item or service produced on Guam is
10 purchased by foreign dollars.

11 (c) *Shipping costs shall* mean the normal, posted and actual
12 cost of shipping freight, as would normally occur when conducted
13 without sponsorship, preferred shipping rates and/or discounts. This
14 *does not* include fees and taxes that are *not* retained by the company
15 or third party charges.

16 (d) *Discounted shipping cost shall* mean the normal, posted
17 and actual cost of shipping freight, minus the sponsored, preferred
18 shipping rate, or discounted price charged for qualified freight as
19 provided pursuant to this Article.

20 (e) The applicable *tax credit value shall* mean the difference
21 between the shipping cost and the discounted shipping cost actually
22 charged for the export of qualified products.

23 (f) *Transshipment shall* mean the shipment of goods to
24 another destination via air or ocean, and *shall* include, when
25 applicable, to change the means of transport during the journey (for
26 example from road transport to air transport), known as trans-loading,

1 and/or to combine or consolidate small shipments into a large
2 shipment (consolidation).

3 (g) *Agricultural produce and/or products shall* mean, but *not*
4 be limited to, plant produce and products (packaged, canned and/or
5 otherwise preserved as necessary), as well as live seedlings, plants and
6 trees manufactured or grown on Guam. The meaning *shall* also
7 include meat products (packaged, canned and/or otherwise preserved
8 as necessary), as well as living livestock, and aquaculture products
9 (packaged, canned and/or preserved as necessary), and living aquatic
10 species.

11 (h) *Guam Product Seal products shall* mean those domestic
12 products made on Guam, as provided pursuant to Chapter 50, Article
13 2, of this Title.

14 (i) *The Authority or GEDA shall* mean the Guam Economic
15 Development Authority.

16 (j) *Contributors shall* mean Guam sole proprietorships,
17 partnerships, limited liability companies, and corporations licensed to
18 do business on Guam that make qualifying contributions as set forth
19 in §77601(a).

20 (k) *Business privilege tax shall* mean the business privilege
21 tax imposed by §26201 of Article 2, Chapter 26 of Title 11, Guam
22 Code Annotated.

23 **§ 77602. Tax Credits.**

24 (a) Guam sole proprietorships, partnerships, limited liability
25 companies and corporations conducting business in the areas of air
26 cargo, ocean shipping or transshipment, which shall be duly licensed
27 to conduct business on Guam, *shall* be entitled to tax credits against

1 any income tax liabilities, and a portion of the business privilege taxes
2 levied against the contributor for those revenue portions of the
3 business activity related *solely* to exporting qualified freight (§77601
4 (g) and (h)) from Guam. All tax credits referred to in this Article
5 *shall* mean tax credits applied against income tax and business
6 privilege tax liabilities incurred for the tax year the contribution was
7 made, and as further provided pursuant to this Section.

8 (b) Effective Date and Applicability of Tax Credits. The
9 provisions of this Act *shall* take effect on the first day of the
10 succeeding month after enactment into law. Offsets on taxable
11 amounts *shall* be effective beginning in Tax Year 2013, and annually
12 thereafter.

13 (c) Qualifying Exports. The issuance of tax credits for
14 contributions made pursuant to this Article *shall only* be applicable to
15 the categories of products defined pursuant to §77601(g) and (h).

16 **§ 77603. Maximum Tax Credits and Participatory Incentive.**

17 The tax credits authorized *shall* include utilization for income tax and/or
18 business privilege tax liabilities, as further provided:

19 (a) Income Tax Credit. The aggregate maximum amount of
20 tax credits authorized for utilization for income tax liability offsets
21 *shall not exceed* Five Hundred Thousand Dollars (\$500,000) per year,
22 which *shall* be limited to Fifty Thousand Dollars (\$50,000) per
23 exporting vendor of products, as defined by §77601(g) and (h) of this
24 Article, per year. The utilization of tax credits in excess of this
25 amount, for future tax years, *must* be reviewed by the Authority's
26 Compliance Division, and approved by the Department of Revenue
27 and Taxation.

1 (1) As an incentive to promote participation utilizing
2 income tax credit offsets, the additional amount of twenty
3 percent (20%) *shall* be added to the base tax credit value, which
4 *shall* then be the amount of the tax credit to be issued.

5 (2) The added twenty percent (20%) incentive *shall*
6 *not* apply to the calculation and issuance of business privilege
7 tax credits.

8 (b) Business Privilege Tax Credit. The maximum amount of
9 tax credits authorized for utilization for tax-offsets for each
10 contributor *shall not* exceed Two Hundred Fifty Thousand Dollars
11 (\$250,000) per tax year. As an added incentive to promote
12 participation at the onset, an additional amount of up to, but *not to*
13 *exceed*, One Hundred Thousand Dollars (\$100,000) *shall* be added,
14 annually, to the tax credit value cap. The application of the added
15 incentive *shall* expire December 31, 2015, and, thereafter, the
16 maximum amount of the tax credit authorized to be issued *shall not*
17 *exceed* Two Hundred Fifty Thousand Dollars (\$250,000) per tax year.
18 The additional incentive *shall* be applied on an increasing,
19 proportionately graduated basis commensurate with the amount of the
20 contribution.

21 (1) The added One Hundred Thousand Dollars
22 (\$100,000) incentive *shall not* apply to the calculation and
23 issuance of income tax credits.

24 **§ 77604. Calculation of Tax Credit.** The tax credit value in
25 §77601(e) *shall* be the basis from which the tax credit to be issued is
26 calculated for a qualified contribution. The applied credit amount will be a
27 dollar for dollar match of the contribution to the corresponding tax credit.

1 (a) The Authority, in conjunction with the Department of
2 Revenue and Taxation, *shall* annually determine the maximum
3 amount of business privilege tax credits which may be authorized for
4 utilization for tax liability offsets, as provided pursuant to this Article.

5 (b) The Authority *shall* submit annually, to *I Maga'laha*
6 *Guåhan* and the Speaker of *I Liheslaturan Guåhan*, the determination
7 by the Authority and the Department as to the aggregate sum of
8 available business privilege tax credits determined to be available as
9 BPT offsets for contributions.

10 **§ 77605. Approval of Contributions and Tax Credits.** The
11 GEDA Business Development Division, or its designee, *shall* be responsible
12 for providing to the Department of Revenue and Taxation an approved list of
13 agricultural producers and eligible Guam Product Seal holders. The
14 Department of Revenue and Taxation *shall* review requested tax credits, and
15 *shall* subsequently authorize the tax credits for requests found to be
16 compliant with this Article.

17 **§ 77606. Miscellaneous.**

18 (a) The tax credits authorized by this Article *shall* be subject
19 to the following conditions:

20 (1) Approved tax credits can be applied in amounts,
21 which *shall not exceed* Two Hundred Fifty Thousand Dollars
22 (\$250,000) in a single tax year, *except* during the initial
23 incentivized period up to December 31, 2015.

24 (2) To be eligible for the tax credits authorized by this
25 Article, contributors must be licensed to do business on Guam.

1 (3) Agricultural producers and Guam Product Seal
2 holders must register at the Guam Economic Development
3 Authority, and must be in full compliance with the programs.

4 (4) Any credit against the business privilege tax, as
5 authorized herein, *shall only* apply to the unpledged portion of
6 the business privilege tax (currently one percentage point of the
7 current four percent business privilege tax rate). The credit
8 *shall not* apply to the first three percentage points of the
9 business privilege tax, so as *not* to violate the government's
10 covenants to bondholders of the Government of Guam Business
11 Privilege Tax Bonds, Series 2011A, Series 2012B and Series
12 2013C authorized through P.L. 31-76, P.L. 31-196 and P.L. 31-
13 276.

14 (b) This Article *shall not* be applicable to any product,
15 *except as solely* identified pursuant to Subsections (g) and (h) of
16 §77601 of this Article. Any imported product shipped to and landed
17 on Guam *shall not* qualify as a Guam product for subsequent export
18 which qualifies for a tax offset. This exclusion *shall* be applicable to
19 all entities licensed to do business on Guam, and *shall* preclude them
20 from trying to qualify any imported product as a Guam product
21 pursuant to this Article, which is *solely* intended for legitimate Guam
22 products; and further, *shall* also prohibit, at a minimum, the
23 registering and/or re-registering, packaging and/or repackaging,
24 labeling and/or relabeling, branding, and/or by any other means trying
25 to identify any imported product as a Guam product, so as to
26 circumvent the spirit and intent of this Article.

1 **§ 77607. Equitable Distribution and Timely Issuance.** The
2 Authority, in consultation with the Department of Revenue and Taxation,
3 *shall* develop an equitable and timely process pursuant to which:

4 (a) the availability and equitable distribution of the tax
5 credits are provided for, and ensures maximum participatory access
6 for all Guam product exporters seeking contributors; and

7 (b) the issuance of the tax credits authorized is expedited to
8 the extent practicable.”

9 **Section 2. Sunset Provision.** This Act *shall* remain in effect for a term of
10 ten (10) years, at the expiration of which period, this Act *shall* automatically be
11 deemed repealed. Upon expiration, any outstanding tax credit balances due
12 contributors *shall* remain valid and enforceable for utilization to offset tax
13 liabilities for an additional period until exhausted.

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

19 **Section 4. Effective Date.** This Act *shall* become effective upon
20 enactment.



FILE COPY

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
THIRTY-SECOND GUAM LEGISLATURE
155 Hesler Place, Hagåtña, Guam 96910

November 13, 2013

The Honorable Edward J.B. Calvo
I Maga'lahaen Guåhan
Ufisinan I Maga'lahi
Hagåtña, Guam 96910

OFFICE OF THE GOVERNOR
CENTRAL FILES
J. Dela Rosa
RECEIVED BY
TIME 11:28 AM DATE 11/13/13

Dear *Maga'lahi* Calvo:

Transmitted herewith are Bill and Substitute Bill Nos. 35-32(COR), 74-32(LS), 75-32(LS), 91-32(COR), 94-32(COR), 98-32(LS), 99-32(LS), 108-32(COR), 112-32(COR), 116-32(COR), 133-32(COR), 134-32(COR), 140-32(COR), 141-32(COR), 143-32(COR), 145-32(LS), 150-32(COR), 153-32(COR), 154-32(COR), 156-32(COR), 157-32(COR), 158-32(COR), 160-32(COR), 161-32(COR), 162-32(LS), 165-32(COR), 170-32(LS), 176-32(COR), 189-32(COR), 193-32(COR), 194-32(COR), 195-32(COR), 196-32(COR), 200-32(COR), 205-32(COR), 210-32(COR), 211-32(COR) and 217-32(LS) which were passed by *I Mina'Trentai Dos Na Liheslaturan Guåhan* on November 12, 2013.

Sincerely,

Tina Rose Muña Barnes
Legislative Secretary

Enclosures (38)

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2013 (FIRST) Regular Session

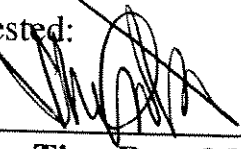
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that **Substitute Bill No. 205-32 (COR), "AN ACT TO ADD A NEW ARTICLE 6 TO CHAPTER 77, DIVISION 2 OF TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO PROMOTING ECONOMIC DEVELOPMENT BY AUTHORIZING THE ISSUANCE OF TAX CREDITS TO ENTITIES WHO ASSIST WITH THE DEVELOPMENT OF GUAM'S AGRICULTURAL AND "GUAM PRODUCT SEAL" PRODUCTS EXPORT INITIATIVE THROUGH CONTRIBUTIONS TO OFFSET SHIPPING COSTS"**, was on the 12th day of November 2013, duly and regularly passed.



Judith T. Won Pat, Ed.D.
Speaker

Attested:



Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'lahen Guåhan* this 15th day of Nov., 2013, at 11:28 o'clock A.M.



Assistant Staff Officer
Maga'lahi's Office

APPROVED:

EDWARD J.B. CALVO
I Maga'lahen Guåhan

Date: _____

Public Law No. _____

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2013 (FIRST) Regular Session

Bill No. 205-32 (COR)

As substituted by the Committee on Health & Human Services, Health Insurance Reform, Economic Development, and Senior Citizens; and amended on the Floor.

Introduced by:

Dennis G. Rodriguez, Jr.
Brant T. McCreadie
R. J. Respicio
Tommy Morrison
FRANK B. AGUON, JR.
Michael T. Lintiaco
Chris M. Dueñas
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Judith T. Won Pat, Ed.D.

AN ACT TO ADD A NEW ARTICLE 6 TO CHAPTER 77, DIVISION 2 OF TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO PROMOTING ECONOMIC DEVELOPMENT BY AUTHORIZING THE ISSUANCE OF TAX CREDITS TO ENTITIES WHO ASSIST WITH THE DEVELOPMENT OF GUAM'S AGRICULTURAL AND "GUAM PRODUCT SEAL" PRODUCTS EXPORT INITIATIVE THROUGH CONTRIBUTIONS TO OFFSET SHIPPING COSTS.

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

2 **Section 1.** A new Article 6 is hereby *added* to Chapter 77 of Division 2,

3 Title 12, Guam Code Annotated, to read:

1 "ARTICLE 6

2 **GUAM EXPORT TAX CREDIT FOR AGRICULTURAL AND "GUAM**
3 **PRODUCT SEAL" PRODUCTS**

4 § 77600. Legislative Findings and Intent.

5 § 77601. Definitions.

6 § 77602. Tax Credits.

7 § 77603. Maximum Amount of Tax Credits Authorized.

8 § 77604. Calculation of Tax Credit and Participatory Incentive.

9 § 77605. Approval of Contributions and Tax Credits.

10 § 77606. Miscellaneous.

11 § 77607. Equitable Distribution and Timely Issuance.

12 **§ 77600. Legislative Findings and Intent.** Guam has many
13 impediments when it comes to international business such as customs,
14 quarantine, immigration and shipping because of its status as an
15 unincorporated territory of the United States, and because of our remoteness.
16 That notwithstanding, in the early 1900s, Guam once had an agricultural
17 industry that was developed to the extent that it supported and satisfied the
18 requirements of Guam society with a large variety of produce. Further,
19 production was sufficient to the extent that this local, homegrown, Guam
20 based industry also supported opportunities in exporting. With the advent of
21 modernization, restrictions on shipping, competition with imported
22 processed foods, and other social economic factors, these two economic
23 activities lost momentum and over time contributed little to nothing to
24 Guam's economy. It is the intent of *I Liheslaturan Guåhan* that significant
25 stimulus is required, and should be dedicated, to re-develop Guam's
26 agricultural export market, as well as the economic development of markets
27 for local Guam Product Seal exports.

1 It is the consensus of *I Liheslaturan Guåhan* that the issuance of tax
2 credits to entities who assist with the development of Guam’s export
3 initiative through contributions that offset shipping costs is a vital incentive
4 for the creation and sustainability of this new and developing economic
5 sector. By allowing tax credits for export transshipment, Guam producers
6 will be able to offset one of the largest costs prohibiting the pursuit of
7 profitable exportation, expansion into new markets, and the ability to
8 provide competitive pricing. The tax credits will surely promote export
9 activity by mitigating one of the key cost components of doing business
10 abroad, thus providing a competitive edge on product pricing regionally, as
11 well as in the global marketplace.

12 Currently, there is little to no tax revenue generated from the sale of or
13 shipping of commodities for export. The tax credits will provide the added
14 incentive for the renaissance of Guam’s agricultural sector and Guam
15 Product Seal products by refocusing collaborative efforts and providing new
16 market opportunities, and a new, broader-based, economic stimulus.

17 With increased opportunities abroad, Guam exports will prove to be
18 more attractive and lucrative which, in turn, will increase manufacturing
19 activity, create more jobs and preserve cultural socioeconomic activities.

20 With the award and success of the State Trade and Export Promotions
21 grant in 2011 and 2012, the Guam Economic Development Authority has
22 conducted extensive research in the area of exporting and has set the
23 groundwork to develop this initiative; and has identified that this tax credit is
24 crucial to the success of this new developing industry. It is the intent of *I*
25 *Liheslaturan Guåhan* that further economic development efforts are taken to
26 promote Guam’s local businesses through the export of its Guam Product
27 Seal and agricultural products.

1 **§ 77601. Definitions.**

2 As used in this Article:

3 (a) *Contributions shall* mean and can be made either as the
4 sponsorship of shipping costs, applying preferred shipping rates, or
5 the discount provided by transshipment companies solely for shipping
6 charges related to the exportation of agricultural products and/or
7 produce, and certified Guam Product Seal products.

8 (b) *Export shall* mean, for the purposes of this Article, the
9 business activity where an item or service produced on Guam is
10 purchased by foreign dollars.

11 (c) *Shipping costs shall* mean the normal, posted and actual
12 cost of shipping freight, as would normally occur when conducted
13 without sponsorship, preferred shipping rates and/or discounts. This
14 *does not* include fees and taxes that are *not* retained by the company
15 or third party charges.

16 (d) *Discounted shipping cost shall* mean the normal, posted
17 and actual cost of shipping freight, minus the sponsored, preferred
18 shipping rate, or discounted price charged for qualified freight as
19 provided pursuant to this Article.

20 (e) The applicable *tax credit value shall* mean the difference
21 between the shipping cost and the discounted shipping cost actually
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23 (f) *Transshipment shall* mean the shipment of goods to
24 another destination via air or ocean, and *shall* include, when
25 applicable, to change the means of transport during the journey (for
26 example from road transport to air transport), known as trans-loading,

1 and/or to combine or consolidate small shipments into a large
2 shipment (consolidation).

3 (g) *Agricultural produce and/or products shall* mean, but *not*
4 be limited to, plant produce and products (packaged, canned and/or
5 otherwise preserved as necessary), as well as live seedlings, plants and
6 trees manufactured or grown on Guam. The meaning *shall* also
7 include meat products (packaged, canned and/or otherwise preserved
8 as necessary), as well as living livestock, and aquaculture products
9 (packaged, canned and/or preserved as necessary), and living aquatic
10 species.

11 (h) *Guam Product Seal products shall* mean those domestic
12 products made on Guam, as provided pursuant to Chapter 50, Article
13 2, of this Title.

14 (i) The *Authority* or *GEDA shall* mean the Guam Economic
15 Development Authority.

16 (j) *Contributors shall* mean Guam sole proprietorships,
17 partnerships, limited liability companies, and corporations licensed to
18 do business on Guam that make qualifying contributions as set forth
19 in §77601(a).

20 (k) *Business privilege tax shall* mean the business privilege
21 tax imposed by §26201 of Article 2, Chapter 26 of Title 11, Guam
22 Code Annotated.

23 **§ 77602. Tax Credits.**

24 (a) Guam sole proprietorships, partnerships, limited liability
25 companies and corporations conducting business in the areas of air
26 cargo, ocean shipping or transshipment, which shall be duly licensed
27 to conduct business on Guam, *shall* be entitled to tax credits against

1 any income tax liabilities, and a portion of the business privilege taxes
2 levied against the contributor for those revenue portions of the
3 business activity related *solely* to exporting qualified freight (§77601
4 (g) and (h)) from Guam. All tax credits referred to in this Article
5 *shall* mean tax credits applied against income tax and business
6 privilege tax liabilities incurred for the tax year the contribution was
7 made, and as further provided pursuant to this Section.

8 (b) Effective Date and Applicability of Tax Credits. The
9 provisions of this Act *shall* take effect on the first day of the
10 succeeding month after enactment into law. Offsets on taxable
11 amounts *shall* be effective beginning in Tax Year 2013, and annually
12 thereafter.

13 (c) Qualifying Exports. The issuance of tax credits for
14 contributions made pursuant to this Article *shall only* be applicable to
15 the categories of products defined pursuant to §77601(g) and (h).

16 **§ 77603. Maximum Tax Credits and Participatory Incentive.**

17 The tax credits authorized *shall* include utilization for income tax and/or
18 business privilege tax liabilities, as further provided:

19 (a) Income Tax Credit. The aggregate maximum amount of
20 tax credits authorized for utilization for income tax liability offsets
21 *shall not exceed* Five Hundred Thousand Dollars (\$500,000) per year,
22 which *shall* be limited to Fifty Thousand Dollars (\$50,000) per
23 exporting vendor of products, as defined by §77601(g) and (h) of this
24 Article, per year. The utilization of tax credits in excess of this
25 amount, for future tax years, *must* be reviewed by the Authority's
26 Compliance Division, and approved by the Department of Revenue
27 and Taxation.

1 (1) As an incentive to promote participation utilizing
2 income tax credit offsets, the additional amount of twenty
3 percent (20%) *shall* be added to the base tax credit value, which
4 *shall* then be the amount of the tax credit to be issued.

5 (2) The added twenty percent (20%) incentive *shall*
6 *not* apply to the calculation and issuance of business privilege
7 tax credits.

8 (b) Business Privilege Tax Credit. The maximum amount of
9 tax credits authorized for utilization for tax-offsets for each
10 contributor *shall not* exceed Two Hundred Fifty Thousand Dollars
11 (\$250,000) per tax year. As an added incentive to promote
12 participation at the onset, an additional amount of up to, but *not to*
13 *exceed*, One Hundred Thousand Dollars (\$100,000) *shall* be added,
14 annually, to the tax credit value cap. The application of the added
15 incentive *shall* expire December 31, 2015, and, thereafter, the
16 maximum amount of the tax credit authorized to be issued *shall not*
17 *exceed* Two Hundred Fifty Thousand Dollars (\$250,000) per tax year.
18 The additional incentive *shall* be applied on an increasing,
19 proportionately graduated basis commensurate with the amount of the
20 contribution.

21 (1) The added One Hundred Thousand Dollars
22 (\$100,000) incentive *shall not* apply to the calculation and
23 issuance of income tax credits.

24 **§ 77604. Calculation of Tax Credit.** The tax credit value in
25 §77601(e) *shall* be the basis from which the tax credit to be issued is
26 calculated for a qualified contribution. The applied credit amount will be a
27 dollar for dollar match of the contribution to the corresponding tax credit.

1 (a) The Authority, in conjunction with the Department of
2 Revenue and Taxation, *shall* annually determine the maximum
3 amount of business privilege tax credits which may be authorized for
4 utilization for tax liability offsets, as provided pursuant to this Article.

5 (b) The Authority *shall* submit annually, to *I Maga'laha*
6 *Guåhan* and the Speaker of *I Liheslaturan Guåhan*, the determination
7 by the Authority and the Department as to the aggregate sum of
8 available business privilege tax credits determined to be available as
9 BPT offsets for contributions.

10 **§ 77605. Approval of Contributions and Tax Credits.** The
11 GEDA Business Development Division, or its designee, *shall* be responsible
12 for providing to the Department of Revenue and Taxation an approved list of
13 agricultural producers and eligible Guam Product Seal holders. The
14 Department of Revenue and Taxation *shall* review requested tax credits, and
15 *shall* subsequently authorize the tax credits for requests found to be
16 compliant with this Article.

17 **§ 77606. Miscellaneous.**

18 (a) The tax credits authorized by this Article *shall* be subject
19 to the following conditions:

20 (1) Approved tax credits can be applied in amounts,
21 which *shall not exceed* Two Hundred Fifty Thousand Dollars
22 (\$250,000) in a single tax year, *except* during the initial
23 incentivized period up to December 31, 2015.

24 (2) To be eligible for the tax credits authorized by this
25 Article, contributors must be licensed to do business on Guam.

1 (3) Agricultural producers and Guam Product Seal
2 holders must register at the Guam Economic Development
3 Authority, and must be in full compliance with the programs.

4 (4) Any credit against the business privilege tax, as
5 authorized herein, *shall only* apply to the unpledged portion of
6 the business privilege tax (currently one percentage point of the
7 current four percent business privilege tax rate). The credit
8 *shall not* apply to the first three percentage points of the
9 business privilege tax, so as *not* to violate the government's
10 covenants to bondholders of the Government of Guam Business
11 Privilege Tax Bonds, Series 2011A, Series 2012B and Series
12 2013C authorized through P.L. 31-76, P.L. 31-196 and P.L. 31-
13 276.

14 (b) This Article *shall not* be applicable to any product,
15 *except* as *solely* identified pursuant to Subsections (g) and (h) of
16 §77601 of this Article. Any imported product shipped to and landed
17 on Guam *shall not* qualify as a Guam product for subsequent export
18 which qualifies for a tax offset. This exclusion *shall* be applicable to
19 all entities licensed to do business on Guam, and *shall* preclude them
20 from trying to qualify any imported product as a Guam product
21 pursuant to this Article, which is *solely* intended for legitimate Guam
22 products; and further, *shall* also prohibit, at a minimum, the
23 registering and/or re-registering, packaging and/or repackaging,
24 labeling and/or relabeling, branding, and/or by any other means trying
25 to identify any imported product as a Guam product, so as to
26 circumvent the spirit and intent of this Article.

1 **§ 77607. Equitable Distribution and Timely Issuance.** The
2 Authority, in consultation with the Department of Revenue and Taxation,
3 *shall* develop an equitable and timely process pursuant to which:

4 (a) the availability and equitable distribution of the tax
5 credits are provided for, and ensures maximum participatory access
6 for all Guam product exporters seeking contributors; and

7 (b) the issuance of the tax credits authorized is expedited to
8 the extent practicable.”

9 **Section 2. Sunset Provision.** This Act *shall* remain in effect for a term of
10 ten (10) years, at the expiration of which period, this Act *shall* automatically be
11 deemed repealed. Upon expiration, any outstanding tax credit balances due
12 contributors *shall* remain valid and enforceable for utilization to offset tax
13 liabilities for an additional period until exhausted.

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

19 **Section 4. Effective Date.** This Act *shall* become effective upon
20 enactment.

LEGISLATIVE SESSION

I MINA'TRENTAI DOS NA LIHESLATURAN

2013 (FIRST) Regular Session

Voting Sheet

Bill No. 205-32 (COR)

Speaker Antonio R. Unipingco Legislative Session Hall

As substituted by the Committee on Health & Human Services, Health Insurance Reform, Economic Development, and Senior Citizens; and amended on the Floor

November 12, 2013

NAME	Yea	Nay	Not Voting/ Abstained	Out During Roll Call	Absent
Senator Thomas "Tom" C. ADA	✓	I			
Senator V. Anthony "Tony" ADA	✓				
Senator Frank Blas AGUON Jr.	✓				
Vice-Speaker Benjamin J.F. CRUZ	✓				
Senator Christopher M. DUENAS	✓				
Senator Michael LIMTIACO	✓				
Senator Brant McCREADIE	✓				
Senator Thomas "Tommy" MORRISON	✓				
Senator Tina Rose MUÑA BARNES	✓				
Senator Vicente (ben) Cabrera PANGELINAN	✓				
Senator Rory J. RESPICIO	✓				
Senator Dennis G. RODRIGUEZ, Jr.	✓				
Senator Michael F. Q.SAN NICOLAS	✓				
Speaker Judith T. WON PAT, Ed.D.	✓				
Senator Aline A. YAMASHITA, Ph.D.	✓				

TOTAL

15

Yea

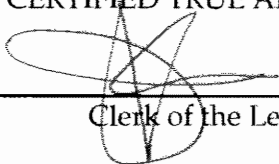
Nay

Not Voting/
Abstained

Out During
Roll Call

Absent

CERTIFIED TRUE AND CORRECT:



 Clerk of the Legislature

I = Pass



SENATOR DENNIS G. RODRIGUEZ, JR.

OCT 25 2013

Honorable Benjamin J.F. Cruz
Acting Speaker
I Mina' Trentai Dos Na Liheslaturan Guahan
155 Hesler Place
Hagatna, Guam 96910

VIA: The Honorable Rory J. Respicio
Chairperson, Committee on Rules

RE: Committee Report – Bill No. 205-32 (COR), as Substituted.

Dear Vice Speaker Cruz:

- Transmitted herewith, for your consideration, is the **Committee Report on BILL 205-32 (COR), as Substituted- An act to promote economic development by authorizing the issuance of tax credits to entities who assist with the development of Guam's agricultural and "Guam Product Seal" products export initiative through contributions to offset shipping costs, by adding a new Article 6 to Chapter 77, Division 2 of Title 12, Guam Code Annotated;** Introduced by Sen. Dennis G. Rodriguez, Jr., Sen. Brant McCreadie, and Sen. Rory J. Respicio and referred to the Committee on Health & Human Services, Health Insurance Reform, Economic Development and Senior Citizens. Bill No. 205-32 (COR), as introduced, was publicly heard on October 17, 2013.

Committee votes are as follows:

 7 TO PASS
 0 NOT TO PASS
 0 ABSTAIN
 0 TO REPORT OUT ONLY
 0 TO PLACE IN INACTIVE FILE

Senseramente,

Senator Dennis G. Rodriguez, Jr.
Chairman

Attachments

2013 OCT 29 AM 11:43

**COMMITTEE REPORT
ON**

BILL NO. 205-32 (COR)

As Substituted.

An act to promote economic development by authorizing the issuance of tax credits to entities who assist with the development of Guam's agricultural and "Guam Product Seal" products export initiative through contributions to offset shipping costs, by adding a new Article 6 to Chapter 77, Division 2 of Title 12, Guam Code Annotated.




SENATOR DENNIS G. RODRIGUEZ, JR.

October 23, 2013

MEMORANDUM

To: **ALL MEMBERS**
Committee on Health & Human Services, Health Insurance Reform, Economic Development and Senior Citizens.

From: **Senator Dennis G. Rodriguez, Jr.** 
Committee Chairperson

Subject: **Committee Report on Bill no. 205-32 (COR), as Substituted.**

- Transmitted herewith, for your consideration, is the **Committee Report on BILL 205-32 (COR)-An act to promote economic development by authorizing the issuance of tax credits to entities who assist with the development of Guam's agricultural and "Guam Product Seal" products export initiative through contributions to offset shipping costs, by adding a new Article 6 to Chapter 77, Division 2 of Title 12, Guam Code Annotated;** Introduced by Sen. Dennis G. Rodriguez, Jr., Sen. Brant McCreadie, and Sen. Rory J. Respicio and referred to the Committee on Health & Human Services, Health Insurance Reform, Economic Development and Senior Citizens.

This report includes the following:

- Committee Voting Sheet
- Committee Report Narrative/Digest
- Copy of Bill No. 205-32 (COR)
- Copy of Bill No. 205-32 (COR), as Substituted
- Public Hearing Sign-in Sheet
- Copies of Submitted Testimony and Supporting Documents
- Copy of COR Referral of Bill No. 205-32 (COR)
- Notices of Public Hearing (1st and 2nd)
- Copy of the Public Hearing Agenda
- Related News Articles (Public hearing publication of public notice)

Please take the appropriate action on the attached voting sheet. Your attention to this matter is greatly appreciated. Should you have any questions or concerns, please do not hesitate to contact me.

Si Yu'os Ma'åse'!



SENATOR DENNIS G. RODRIGUEZ, JR.

COMMITTEE VOTING SHEET

Substitute BILL 205-32 (COR); An act to promote economic development by authorizing the issuance of tax credits to entities who assist with the development of Guam's agricultural and "Guam Product Seal" products export initiative through contributions to offset shipping costs, by adding a new Article 6 to Chapter 77, Division 2 of Title 12, Guam Code Annotated

Table with 7 columns: SIGNATURE, TO PASS, NOT TO PASS, ABSTAIN, REPORT OUT ONLY, PLACE IN INACTIVE FILE. Rows include: DENNIS G. RODRIGUEZ, Jr. Chairman (checked 10/23), V. ANTHONY ADA Vice Chairman (checked 10/24), BENJAMIN J. F. CRUZ Vice-Speaker, TINA ROSE MUNA-BARNES Legislative Secretary, FRANK B. AGUON, Jr. (checked 10/24/13), VICENTE C. PANGELINAN, RORY J. RESPICIO (checked 10/24/13), ALINE A. YAMASHITA, Ph.D., THOMAS MORRISON (checked 10/20), MICHAEL LIMTIACO, BRANT T. MCCREADIE, CHRISTOPHER M. DUENAS (checked 10/26).



SENATOR DENNIS G. RODRIGUEZ, JR.

COMMITTEE REPORT DIGEST

Bill No. 205-32 (COR)

I. OVERVIEW: The Committee on Health & Human Services, Health Insurance Reform, Economic Development and Senior Citizens conducted a public hearing on **October 17, 2013**. The hearing convened at 9:04AM in I Liheslatura's Public Hearing Room. Among the items on the agenda was the consideration of **BILL 205-32 (COR)- An act to promote economic development by authorizing the issuance of tax credits to entities who assist with the development of Guam's agricultural and "Guam Product Seal" products export initiative through contributions to offset shipping costs, by adding a new Article 6 to Chapter 77, Division 2 of Title 12, Guam Code Annotated**; Introduced by Sen. Dennis G. Rodriguez, Jr., Sen. Brant McCreadie, and Sen. Rory J. Respicio.

II. Public Notice Requirements

Notices were disseminated via hand-delivery/fax and/or email to all senators and all main media broadcasting outlets on October 10, 2013 (5-day notice), and again on October 15, 2013 (48-hour notice).

Senators Present

Senator Dennis G. Rodriguez, Jr.	Chairman
Senator V. Anthony Ada	Vice-Chairman
Senator Frank Aguon, Jr.	Committee Member
Senator Brant McCreadie	Committee Member
Senator Christopher M. Duenas	Committee Member
Senator Mike Limtiaco	Committee Member

The public hearing on agenda item Bill No. 205-32 (COR) was called to order at 9:04AM.

II. SUMMARY OF TESTIMONY & DISCUSSION.

Chairman Rodriguez: We would like to ask former Senator Mana Silva-Taijeron, thank you for being here this morning, also the Acting Administrator of GEDA. We also have Mr. Greg Sablan and all others who wish to testify. Uncle Ernie Wusstig who will be coming up and I see Ms. Monica Cruz, if you are going to testify, please come up.

Just a brief synopsis of Bill 205. It's an act to promote economic development by authorizing the issuance of tax credits to entities who assist with the development of Guam's agricultural and Guam Products Seal Product Export initiative through contributions to offset shipping costs, by adding a



SENATOR DENNIS G. RODRIGUEZ, JR.

new Article 6, Chapter 77 of Division 2 of Title 12 Guam Code Annotated. And I want to recognize really, Mr. Greg Sablan from GEDA who has been working really hard with the committee in putting this bill together. It was 2 months ago that he and I spoke and he said that at that time he was running another division within GEDA and so we know that for many times, as much as, how many times GEDA goes out on trade missions, we're told over and over again that the quality of products we have from Guam, whether it be agriculture or other Guam Product Seals, that these are really viable and good quality products that could be used for export. However, every time you put the components together, one of the things that is always an impediment is the shipping costs. So this initiative here, this bill, what it does here is it gives this tax credit to shippers whether it be airfreight, seafreight, whatever contributions they give to reduce that shipping cost, they can take it up as a tax credit. And we also built in some incentives so that the shippers would actually be attracted to this program. We'll have Greg speak more about it, but I would now like to recognize Senator, if you can give your testimony.

Mana Silva-Taijeron: Thank you Senator and good morning to you and to the Senators of the 32nd Guam Legislature. I would like to look at you as partners in economic recovery and growth.

Please read written testimony, attached.

Chairman Rodriguez: Thank you Senator, Greg.

Greg Sablan: Good morning Senators. I don't really have anything really prepared because I have been working with it really intimately with this process and I could speak freely on it.

My whole career at GEDA has been really working with small businesses and the farmers, since 1995. And I've seen the growth and development, and the struggles that they have and there is a lot of obstacles they have in doing business on Guam. In particular with the farmers, we compete with the imports obviously, and because of that type of work, it's really not attractive to the newer generations and we're starting to lose that part. And if it was a lucrative operations, we can see in maintaining the sustainability of the agriculture industry. And so with our exports, we are finding that in the Asian markets for Guam products. Now, with the Hot Bond and the development of that Farmers Co-op facility, we had an idea that if we could get everybody to get together instead of competing with each other, one guy grows cucumber, the other guy grows cucumber, it drives the price, we can grow that process at the facility and there will be a known shipper and then export from there and that's an idea that we are pitching to the Hot Bond Committee. But what affects that is shipping rates. And Mr. Wusstig will testify that his corn in comparison to the United States corn is almost like \$2.00 more per pound. That's how bad the shipping rates are. Because we have less frequency and I guess the Jones Act may have come into play, but, mostly it's frequency, we don't have as much business going that way and that's why the tax credit won't really affect the tax base now, because there is no revenue from shipping going in that directions.

Now on the small business side, the manufacturing, we really pushed to get the Guam Product Seal, because we saw it was an effective program but didn't really have any incentives. No one has any real value to it, but adding this tax credit, it gives them the ability to compete, not only locally, but abroad and it is an incentive, if you have a product seal or made in Guam product, now that you can



SENATOR DENNIS G. RODRIGUEZ, JR.

take advantage in utilizing this program. We've looked at it and we got the consensus of the shipping industry, we've talked to the Guam Product Seal holders, we consulted with bond counsel and we think we've come up with a pretty decent deal, and it wasn't overnight, it probably was a 10 month to almost a year process. And it's kind of been refined to this point, but of course, with anything it could be always improved with some comments. I am in favor of it, I helped develop it and I think the feedback right now from all the Guam Product Seal holders and local manufacturers, they will take advantage of this especially Hong Kong and Japan. Thank you.

Chairman Rodriguez: Greg, just before we pass it on, if you could share with the committee, as some of the trade missions, the expos that you guys have been out to. You have clients already, right? That are waiting to see what type, especially the agriculture, the things we get on our farms, maybe you can tell us a little more about that and how we have people ready to buy stuff.

Greg Sablan: Sure, there are just a, less than a handful, maybe one or two companies right now that are engaging in exporting in the Japan market and it took them over a year, maybe almost two years to strike a deal, to get solidified. When we won the Step Grant, the State Trade Export Promotions Grant, we formulated a plan, its supposed to be a 3 year program, the 3rd year was not approved, but in the 2 years, we've formulated a plan that we would go and investigate these markets and figure out why or how we can infiltrate. What it came out to really was shipping. And besides what we found out was that some people were shipping to Japan, but the process of shipping a whole container and the costs involved and how it affected their pricing, not only to the end user, but the placement on the shelves, how its categorized, how its quantified, it may be up with the higher end products, it doesn't have that same appeal, but because of the mitigating costs, now its an upper end shelf and it may not have as much attraction, something that is packaged in the gold foil and things like that. So it really affects the shelving, where its placed at in the market. I think right now we have 2 successful companies, Coco Jo's and Tita's, they are doing really nice volumes, but if we can mitigate the shipping costs, I think their business will double or even triple, because when we went to the Hong Kong food expo 2 months ago, the Guam booth was swamped, I mean, just the interest we were unique, we always promote- we're unique, we're tropical, we're US, we're clean, and those are the products they're seeking, compared to something from China that's lead based or whatever. Demand will build capacity, we're not worried about that, but they won't even address that situation if its going to cost \$2 more than the United States. I think it was eighty five cents a kilo in the United States, we're \$2.85. It's ridiculous.

Chairman Rodriguez: Greg what about the story with bananas. Because that's what kind of got me interested.

Greg Sablan: You know, the grower with the hydroponic lettuce, he's actually on the table right now trying to strike a deal, but its just pricing, and again the pricing is an obstacle. The bananas, just to give you an idea, I believe the regular bananas that we sell here for \$1.85 a pound, its like \$5 in Hong Kong. So even with the shipping, we can be closely competitive but it has to be air cargo which is more expensive than the shipping route, because the shipping route is still 14 days. We can overnight it aircargo, get a discounted rate, what we're not asking is for a 100% of shipping, we can give a 30% discount and in turn get a 30% waiver tax credit on their GRT. But that just gives the ability to drop the price. Because I think the farmers here have their set wholesale price when it

Chairman, Committee on Health & Human Services, Health Insurance Reform, Economic Development, & Senior Citizens

Ufisinan Todu Guam • I Mina' Trenta Dos Na Libeslaturan Guahan • 32nd Guam Legislature

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SENATOR DENNIS G. RODRIGUEZ, JR.

comes to make money. But that added shipping cost just makes it unreal for the buyer. But there's potential for cucumbers, for bananas, we met with UOG on one potential buyer and avocados, the whole works, and corn.

Chairman Rodriguez: And of course we have the tocino and the meat products.

Greg Sablan: The meat products are great because they are a USDA Certified facility. So that's another attraction. Just to give you another, one farmer that I worked with from 1995 is Mr. Hamamoto, Hamamoto Fruit World. And now they are doing honey, organic honey. He got approached to do 600% what his capacity is now and is working diligently to supply a labler in China. But with this bill, he'd probably be able to get that deal, so we have a lot of potential that's waiting in the wings, but the obstacle there is a little bit hard too.

Monica Cruz: Thank you Senator and good morning. I am the daughter of Gabriel Cruz and we own Cruz Best Foods, we are local manufacturers of tocino and longaniza which is a sausage. We are USDA approved, it's a Filipino specialty product. I was one of the exhibitors that joined GEDA in that program in Hong Kong in August. It was fortunate for me and my family to be able to participate. When I went to the exhibit, I had a couple of exporters from different countries, even for Guam to get products from Guam so they can also export to the Middle East, to Japan, one was from the Philippines, we all know that tocino is from the Philippines, its still different of course, going to the Japan market and the Middle East, they need the USDA approval and its unfortunate they have to go to the states, to California, just to get these products, when they prefer to get it from Guam. The only problem is our costs is already given that, our wholesale is on the island, is already expensive because the cost is already at a max. So for us to expand our market globally, exporting fees and shipping costs really triggers our costs to be more what we can provide, and so, one of the exporters from the Philippines said that, the containers coming to Guam is full, but leaving Guam is almost empty and that doesn't even, it shows we are not even using the maximum capacity of these containers and there is so much growth, there's so much potential that Guam can provide global markets, but the exporting, with the Jones Act, the fact that although Guam is a US territory, it is considered as an international shipping are. It'll help, we are all taxpayers, for if our revenues grow, we're going to be able to give, return it to the community and this bill it'll be able to help the small business manufacturers to be able to compete globally in the market. Thank you.

Chairman Rodriguez: Thank you very much Monica. Uncle Ernie?

Ernie Wusstig: Good morning Mr. Chairman, good morning Senators. My name is Ernest Sablan Wusstig, a full time farmer and also the Vice President for the Guam Farmers Co-Op, and also, I am the counter committee chair for the Farmers Servers Agency. Right now, at this moment the Parks Service Agency is not functioning, so I'm really out of a job, except for being a full time farmer. I am in support of this tax credit, but I think we should go a little bit further and we should look into it more to make it equitably, because as I look at this, I think it max out to \$250,000 per participant or per shipper and the other thing that I was worried about this is what if someone starts producing a lot and then they finished that \$250,000 and there's nothing left for me and the others, so I think we should look at this and craft this in a way that it'll be equitable for everybody to participate and also the freight that is coming in like Mr. Sablan says is eighty five cents per kilo coming in from the



SENATOR DENNIS G. RODRIGUEZ, JR.

mainland and its \$2.85 from here. How can we bring it down and make sure that we are cheaper than the mainland. How can we beat that eighty five cents kilo and make it more attractive? Since this is the early stage, I think if you can look at this bill and find a way so we can make sure there is no limit, no to limit, because what if I decided, what if a bunch of us farmers get together and ship a million pounds of something a month. We can identify a crop, for example cucumbers, we can ship out a million pound a month. They probably at \$250,000, a million pounds won't even cover that. On this tax credit, maybe you can, you know the corporate tax, maybe give it out, make it open so that we can have the opportunity to start exporting because right now, it seems like everything we do in our island is like there is a thumb that's holding us down, even if we want to expand, we can't. Sometimes I just want to give up because everything is limited, but to start with this, this is very good but you got to look into it to make sure it's equitable and make sure that we are able to send out millions of pound of produce. And see, if we can get the freight down, to lower to eighty five cents per kilo, by air, just imagine the money that we're getting back into Guam. There is more money, we can make more money by bringing in that money and having that money circulated here. I know we got to open our minds, with the possibilities. Like many years ago, I heard one testimony says, about agriculture, the sleeping giant. We are a sleeping giant and we can do it. I have 60 acres, other farmers got 50-100 acres. We can start shipping. By the way, I did attend that expo in Hong Kong and a buyer wants to buy my corn, he looks at it and he says I want to do it, I gave him samples about 6 months ago, I sent it to Macau and they said they love it. But the price is just, I can bring in corn from the states, fly it in from the west coast, \$16 a box, 32 pounds, the product and the freight is \$16 a box, over here it's costing me a dollar a pound to grow it. So my cost, before even the box, even refrigerating it is already is costing me \$32, so how can we get in the market. I can diversify very easily, if its cucumbers if it more lucrative, then I'll switch to cucumbers for shipping, it doesn't have to be corn. We can look at other product like Kabocha Squash that is utilized in Japan, tons and tons they're importing it from Mexico and from Oregon. I know a farmer from Oregon that was exporting Kabocha, almost 20 years ago, exporting Kabocha to Japan. We can do that here, but you know its in your hands, you can help us move our island forward and help our livelihood, and I spent 23 years in the states, there's no reason why we are still held down, we got to open it up. Thank you.

Chairman Rodriguez: Thank you very much Uncle Ernie. You brought up some very good points that we, the first point you brought up about the amount, the \$250,000 cap, that's something that we really struggled with and worked with GEDA on. Knowing that we are just starting this, we wanted to perhaps start at, slow and smaller but, I hear what you're saying, there's so much possibility and we don't want that thumb to hold us down, so we will look into this more and gather more data, so that when we look at this through, we will work to make sure that this is really feasible and that is can provide. So thank you very much.

Senator Tony Ada: Mr. Sablan, I was just looking at the bill. Is the intent of this bill to promote our products just to the Asian market or European market or globally?

Greg Sablan: Yes, you know, how this all came about was when we were introduced to the Step Grant, we came across a definition of what an export is, and its really anything purchased by a foreign dollar, so even further, just 3 months ago, we chatted with SBA that the Republic of Palau and the FSM, even if they use US Currency, it's a foreign market and we can go that way too. I was



SENATOR DENNIS G. RODRIGUEZ, JR.

under the impression that they were under the US guise, it would be interstate commerce. Yes, the whole purpose of this was to go completely foreign.

Senator Tony Ada: I was just looking at that, looking at page 3 under 707601B the purchase by foreign dollars, I was wondering, what was meant by foreign dollars. So it is, as long as we are going into foreign markets, that is the meaning of the...

Greg Sablan: Yes, in year one, we didn't have the game plan solidified yet, we were still doing the research. We found out that there was direct and indirect. And the indirect exporting is, you know when they go to the JP Superstore and the tourist spends their money, that's indirect, they call it a carry on export. That's fine, manufacturers can take advantage of that. But now, going abroad on these trade missions and meeting with these prospective companies, they want to start bringing the products over there and that's direct exporting and that's what we are trying to address now, is setting the stage for these guys who are doing it or ready to do it. And I think going back to the cap real quick, because I think we are limited to the 1% for the bonds, for the GRT, we want to make sure we don't convolute anything or disrupt any cashflows or revenue. The same that Ernie said, I think we may come close to that, but right now, I think there is only a handful of people ready to do it. To me now, to hit that \$250,000 may be good and then come back and amend it if we find more data that more is needed. I think it's a safe benchmark to go.

Senator Tony Ada: I'm looking at that section now and it says 250, but then as an added incentive to promote participation on the onset an additional amount of \$100,000 shall be added to the tax credit.

Greg Sablan: It's for the first 2 years.

Senator Tony Ada: For 3 years.

Greg Sablan: Well if we get this passed in 2013, then its 3 years.

Senator Tony Ada: How would this work if, a ship is going to Hawaii or to, would this have any affect at all, there's no...

Greg Sablan: That's interstate commerce and there are different guidelines, and like with what Monica said, we are an international destination and Hawaii has jurisdiction over our Customs and all that. Right now if you try to start an EBay business, and would mail something a \$100 or more to California, Hawaii has a right to slap (inaudible) on that even to exceed the cost of the item. So that's why you don't have all those internet businesses going up on Guam, even to sell a used musical instrument on line for \$200, Hawaii would slap a duty on that and we've written to the Post Master General, it's really because of the US Customs jurisdiction and we're international, that's why we go through the baggage claim out there in Hawaii.

Senator Tony Ada: Alright, thank you.



SENATOR DENNIS G. RODRIGUEZ, JR.

Senator Aguon: First and foremost, I just want to commend you for putting this legislation together because I think that anytime we try to assist our local industry, whether its expanding internally in Guam, in the region or internationally, (inaudible) it is going to help our businesses.

I noticed that there is a sunset provision though, in regards to this legislation, in 10 years the act shall remain in effect for 10 years after which period, this act shall be repealed. Why would you incorporate such provision?

Greg Sablan: Originally, I didn't, it was from the collaboration and...

Chairman Rodriguez: And I think that, you know, the intent was that we were starting a new industry really, we only have one or two people here who are exporting. We wanted to make sure that we can build that industry out and maybe in 10 years its built up and its flourishing and it can carry on it own, but of course as anything else, before that sunset comes up, we afford it the opportunity to come back.

Greg Sablan: Yes, and I think that if this gets started and we start to do regular exporting, the hope is that now that we have consistency and frequency then the price automatic the natural, the business would come down, that's what we hope.

Senator Aguon: I'm just thinking about the shipment opportunities and the volume that many of our farmers and producers are able to provide. We are always going to be in competition with major jurisdictions whether it be Japan or the Philippines or the US, that's why I'm looking beyond the 10 years, in that particular case, and I understand that we can certainly come back and make appropriate amendments. You know, when I look at promoting and advocating for international business and creating opportunities such as this, where in fact we can create, we can provide financial incentives, the reality is have we started at home? When I say started at home, it reminds me of when I was a little kid, flying up to CNMI and getting apigigi and ice keki, every time those shipments come in, it costs in tax dollars, is there any way that we can look at the region first, have a cooperative and obviously this will go to the Chief Executive, and possibly the APIL and MILA which is the Mariana Island Legislature, but if we created an environment would the free trade zone between Guam and the region, perhaps you can start from there. See how that materializes because, guess what, if we could ship things at a lower cost within the region, perhaps many of the CNMI residents may take advantage of purchasing more items from Guam, and likewise the exchange, so that may be an option that could be explored in terms of looking at it also from the regional perspective and then, (inaudible) the international component, I certainly hope that this will be realized in providing additional opportunities here so they can, not only generate revenues for the local island community, but also from the region and then the international. But that may be a little bit to address, perhaps encouraging transshipment as well as free trade amongst the Mariana Islands, amongst the Micronesian region and then possibly to expand that because, literally, if we're able to for example, import taxes (inaudible), if we were to market those, lets say, based on quantity we were to ship on an annual basis, this is what benefit we'd give you in terms of non-payment or relinquishing of tax obligation, but in exchange for that, it may cause the transshipment people, businesses, from Guam to transship even more to the CNMI or to the region. But I guess that's separate and apart from this, but is a carry over from the concept



SENATOR DENNIS G. RODRIGUEZ, JR.

Greg Sablan: Exactly. I think in some of the earlier drafts, Senator Rodriguez was talking about some importing and some reverse exporting and unfortunately, we would like to help our brothers and sisters in the CNMI, but because they're under the Commonwealth status, its inner-state commerce. So, at least what we are looking at now is exporting, to bring more foreign money to Guam and develop the economy. We can certainly work on an inner state commerce bill next and try to address that and help, because, you're right, we need to start doing more inter state commerce within our region, and to also add to that, when we took over the Guam Product Seal Program, it lost it's luster, it started getting down to maybe 10 from about 100. We're back up to almost 50 now because of enthusiasm and enforcement, and now with this added incentive, people are really going forward with developing their business and hope to do more business loans to get them the more capacity and start generating more manufacturing on Guam which is an industry that we've been trying to develop for years now. And now we have a proponent, with this bill and I think it really started a fire.

Senator Aguon: Okay. Coming back to the proposal on the provision on the sunset provision, Mr. Chairman, I certainly because there is a reporting mechanism on an annual basis to the Legislature, I think that would be a great opportunity perhaps, applying the sunset provision to (inaudible) existing businesses, but also allowing for it to extend beyond that 10 year time frame so that new businesses can participate in this type of activity may be able to benefit. So, rather than having a sunset provision, you sunset all those who are taking advantage of it, but then you also allow new businesses to come into the arena, so that they can benefit as a result of it beyond a 10 year time period, so that's just a suggestion. It's just that when we are looking at promoting economic development, I understand what you are talking about, because you can take that concept and apply it to the Qualifying Certificate. If a lot of these hotels that are benefitting, why are they getting renewals, they are already existing, they are already providing jobs, they are already meeting some of the requirements, but GEDA and the Government of Guam has made the decision to allow for renewals, and why is that they continue to meet those requirements and sustain local jobs for our people and continue generating from here. So that's why I look at that as a continuing program and something like this will directly benefit either the farmers or other businesses outside the major industry that we have, the tourism industry, certainly (inaudible) a sunset provision may perhaps, may need to be revisited or allow new businesses to be able to participate. So if it's flourishing in 5 years, then by all means, it would encourage more businesses to get involved. Thank you very much Mr. Chairman, thank you Greg.

Senator Limtiaco: Pretty much Senator for legislation that obviously is looking to grow our economy, we need more vehicles to do so. I do have a couple of questions though, regarding, and I think both Senator Ada and Senator Aguon have alluded to it. The definition of export and the terminology referring to foreign dollars, so we are not referring to exports to the outer islands.

Greg Sablan: Well, like I mentioned, we just discovered ourselves, in terms of the CNMI its inner state commerce, because of their position with the United States government. But the compact FSM and Palau, they're considered foreign entities, even though they use US currency. So we can consider exporting to the Marshalls, Kosrae... So it would involve all of those islands except the Commonwealth of the Northern Mariana Islands?



SENATOR DENNIS G. RODRIGUEZ, JR.

Greg Sablan: Unfortunately.

Senator Limtiaco: Okay, and then the other question I had was regarding the definition of transshipment and its applicability. Typically when we are referring to transshipment, they are products that are coming through Guam and transshipped to the outer islands, so the definition sort of infers that it, what your true definition might want it to say it was multi modal, you can use various types of transportation from one point to the other, so it can get on a railroad and then get on a ship and then get on the air. The reason why I'm concerned with the wording in the tax credits, is in the transshipments, there are products that come through Guam and there's the shipping costs associated with it, its all rolled in, and then let's say it's transshipped to Yap, I'm concerned that those tax credits shouldn't really apply unless it's a true export.

So you just suggest, that when we discussed with Senator, so its agricultural products which could be produce, they even considered honestly, cookies and honey and jams as agricultural products. So its agricultural products and Guam Product Seal things and so we can't do things like cars in transshipment. And I think also, we were talking about, for example, for us to ship to Hong Kong, there may be a destination that's truck or rail to somewhere in China. So that would mean air or ship to Hong Kong and then trucking, and if we need to define that clear, we can do that, but I like that multi-modal.

The one thing I'm concerned about this is for example, if a exporter or someone that's handling the shipment, let's say a freight forwarder, loads a container and say what they call nose loads, all the product that's going to let's say Yap, for example, is nose loaded into the container and then the tail load you have shipments that are bound for Guam, and when that shipment comes in, they remove the tail load that is the cargo for Guam and then they load on these exportable items that qualify, there's a cost that's associated with that shipment that's already going to Yap anyway, that may be this and I'm not sure if we need to define it, whether or not we are losing out on tax revenue that would have otherwise paid, normally, but now that we have an exportable item riding on that same container as a transshipment, potentially it could the cost could basically get rolled into a tax credit when it shouldn't.

Greg Sablan: We're hoping it would be based on origin. So if that original shipment didn't come out of Guam is shouldn't be qualified. I know you're saying it possibly may affect shipping rates, but that's, we're finding that the rates to those outer areas are exorbitant and really high, so it would be the shipper to say, okay I'll give you 50% but its only going to be based on that bill.

Senator Limtiaco: Right, and so just so that we leave this hearing, is just making sure that the word transshipment should even be part of section 707602 because your true intent is just (inaudible) originating from Guam, not transshipment, because it's a true origin shipment from Guam. Not coming through Guam

Greg Sablan: No.

Senator Limtiaco: And then somehow...



SENATOR DENNIS G. RODRIGUEZ, JR.

Greg Sablan: Originating from Guam and...

Senator Limtiaco: So we just want to take a look at that because there are instances in which freight forwarders are tail loading and there's certain amount of freight already going to another outer island and then they just load on shipments that have come in from Guam whether it came in air and they just want to add it on to that consolidation and then they export it out. So, you may not want to include transshipment in, if we are truly trying to address the export market.

But I want to go back to Mr. Wusstig's testimony, because obviously, even with this program, when we use Mr. Wusstig's example, just the cost to manufacture, to produce, we're not even in the ball game when its compared to an all in pricing, what works out to 50 cents per pound for corn in Hong Kong, so when you were doing the analysis, what were those products that have been identified that this tax credit will actually have an immediate affect on.

Greg Sablan: Well, that was something that we were asked and I asked directly with several interested buyers and it comes down to US laws and standards and quality. And yes, they can buy if from California or Midwest or whatever if there's capacity, but the uniqueness of Guam is just that, its tropical, its clean, its remote it follows US standards. It's more of a branding selling point really, at one point it the curiosity factor, like I said when they came to Guam, people were just looking at the booth, it amazes me, where are you guys, where is Guam, you know, Philippines, we were right next to Mexico which had tons of products, and I wish I had brought pictures with me today, but we were inundated constantly for those three days, I mean and got so many inquiries from businesses, and even though the fact of the matter because we were a little bit pricier because the demand is not up, hopefully, what are you doing now, 30 acres, hopefully if he gets to 40 acres hopefully it'll mitigate some of his cost because now he has capacity and he's buying in bulk. The proximity, we're closer, they can get the corn faster, fresher, again they viewed Guam as paradise, we're buying products from paradise, we're not buying it from Midwest or something like that. It's a branding thing as well.

Senator Limtiaco: So there was the anticipation of having a higher pricing point that would otherwise...

Greg Sablan: We're looking from mid to high level right there, but the trick to pulling the trigger is the cost of shipping because they know they are going to pay a little bit more, but they don't want to pay that much more. Do I pay \$2 or do I pay the 75cents.

Senator Limtiaco: Our office initially worked with the Japan Consulate and one of the, we asked, what were their top 10 imports and I think number 7 was watermelon. So, when we speak about Japan, I don't know if any of your export analysis showed that, I would say that I've had watermelon in several countries and our watermelon is actually really, really good compared to a lot of tropical climates that I've had watermelon before. Have we looked at watermelon and Japan?

Greg Sablan: The very beginning we were very discouraged because we were focusing on Japan and in Japan we had to get the different radiation machines, we had to get all these clearances. And the

Chairman, Committee on Health & Human Services, Health Insurance Reform, Economic Development, & Senior Citizens

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SENATOR DENNIS G. RODRIGUEZ, JR.

only things that good in Japan right now are the processed foods, cookies and things like that. And even at that, there was a whole shipment that had to be returned because there was this slight ingredient in the soy or the vanilla extract that is not allowed in Japan, but it was like on line 500, then they finally found it, well reject the shipment. But we went to Hong Kong and we met with US Commercial Services and the FAS, the Agricultural Services Offices and its pretty much wide open. They have their regulations and guidelines but it's a wide open market and we had the US Commercial Service sit in our booth promoting Guam based products to all these people from Hong Kong, China, Middle East, Japan, Korea and people were just asking questions. So, the gateway right now is Hong Kong and into China, hopefully. Japan is a very tough market for us, but it is being penetrated right now, the only one being penetrated right now.

Senator Limtiaco: Right now I'm not familiar with any feeder vessel that has direct transit from Guam to Hong Kong.

Greg Sablan: With direct shipping it's Q lines, they go around 14 days. United was...

Ernie Wusstig: United just added 2 more flights, they have 4 flights going to Hong Kong.

Senator Limtiaco: So we're leaning more towards air cargo.

Greg Sablan: Yes, whoever would get involved in the program but it also depends on the commodity. If its bananas, we can go ocean because the ripening process can be done there. In Mr. Wusstig's case with the corn, the faster the better.

Senator Limtiaco: Okay.

Greg Sablan: It can be L-7 on a jet or...

Ernie Wusstig: I'd just like to add this on. In Hong Kong their, they know that we are under the USDA regulations and they know that it is safe and it is clean. That's why they wanted to entertain Guam and while I was there I visited some supermarkets and the corn that's coming in from Japan, I was told that it was on a trial basis because of their radiation. They're selling one ear of corn for approximately \$5.00 and two corn a little bit smaller coming in from China is \$5.00 so its still \$2.50 coming in from China. They told me that they'll pick their produce in the evening in southern China and it'll be in Hong Kong the following morning. But they still want our produce because they know what they're getting, they don't know what they're getting from China so even the buyers in the supermarket they're always aware, always looking for US or for something that is clean.

Senator Limtiaco: Thank you.

Senator Duenas: I know that I was supposed to be number four on this, but you forgot, just kidding. This is a great bill. You know on the issue of shipping, I know in recent meetings that I had Matson, they're also looking with their empty containers because they're looking as some of their different routing so that actually, probably may be a reality and then with all the other shipping lines, that's their major issue getting out of Guam is empty cans. And so, this is really, really timely and a good



SENATOR DENNIS G. RODRIGUEZ, JR.

idea. The one thing I think, Ernie, you've been my mentor in terms of short term, long term crop, informing me of what farming is all about. I thank you for that. And I agree Greg, what it comes down to, is as we look at as we go, we may still want to amend this on the floor because, the economies at scale is what Ernie is talking about here, and that is, for him to go from 14 to 40 acres, he's got to know that he is going to have a destination and that marketing is something that he is going to get a return on. But I really think also, is we are doing this with our electric vehicle bill and we pretty much got the data down packed, is the return of the money staying on Guam is really where its at. So you give this opportunity, you give this marketing tool and where your real turn around and benefit is, where your money is circulating in the economy and staying here so that your direct rate of return is going to have to be something supported. And I think that even with bond council, as long as your numbers will have to be put together correctly and even with the EV model, they are not against it because you are not eroding your tax base, your actually building your tax base, because of the money staying on Guam so the positive impact to the multiplier effect which is a minimal 2.5 on the bond right now as calculated, so with Ernie keeping a million dollars on Guam, even though the tax benefit came forward, is so much more, that's two and a half, maybe 3 million dollars on the multiplier. So if we do a little bit more work with the numbers, we might want to go ahead and expand this. Ernie, I just wanted to get your comment in terms on the economy on the scale at what you're looking at especially with produce.

Ernie Wusstig: There's an opportunity right now, there's the opportunity to grow bananas here on Guam. Cucumber we can do for as much as they need. Cucumbers is unlimited. Kabocha Squash we haven't really looked into it, but I know that a lot of it comes from Mexico and from Oregon, California. And if we can move the volume over there, just imagine, I think we can surpass the tourism. We can surpass the tourism. So, maybe this is the right time to start looking into that and allow us to do this. But we got to find a way to get that freight down and be competitive and it will give us the edge, it will give us the edge on selling our produce because, just because they know its clean. So they'll buy ours first, let's say, the price of corn is twenty five cents from the west coast, the price of corn here is \$1 for example. And their freight coming in from over there is eighty five cents a kilo, now if we can bring that freight to eighty five cents a kilo, and even if our price is a little bit higher but, it's a lot fresher just picked in the morning and its there in the evening. It's only 3 hours, 4 hours, picked in the morning it will be there in less than 12 hours since it's picked. So that's our advantage and we can get farmers together and we can move this numbers.

Senator Duenas: Greg you are right about the market too, we just came from the JATA, when Tony and I were there, Senator Ada, and only got called because their Nikko, they flew their staff over because it was a big celebration, it was their 50th and they hosted a lot of the Guam based businesses that have been doing tourism for the longest time and they had the two tables one was the fiesta table done by Nikko and they were able to get, cause believe me, one of the chefs was my neighbor and they brought a lot of Guam product in, but, there was almost nobody on the other side of the room to eat some of their local based foods and things like that, I mean, those guys were restocking the side of the Chamorro food at (inaudible) so you are exactly right in terms that, Greg I think you are right there in terms of the (inaudible) issue, even with the coffee industry with Mexico, I think you were talking about. I think theres a balance here is scale plus novelty on Guam, and I think we're on to something and its all workable on the floor. Thank you Mr. Chair.



SENATOR DENNIS G. RODRIGUEZ, JR.

Senator Limtiaco: Just to go back to that one item on why we are not extending the tax credits on shipments to Saipan, because it's a GRT credit, why wouldn't we be able to extend it, I know we were initially talking about foreign currency or foreign dollars, but because it's a Guam established tax credit, why wouldn't we want to extend that to shipments to the Commonwealth of the Northern Mariana Islands?

Greg Sablan: We probably could but it would be the Guam export tax and inter state commerce credit, because you couldn't really define sales to the CNMI as an export. I mean, if we are just going by definitions, just to be clear cut, if Ken Lujan comes down here and says that is not an export its inter state commerce, we don't want to be called on our lack of definition. But if you want to modify that to include the CNMI, I don't know how that is going to convolute anything, I'm up for anything small business so if its not going to affect the tax base or mess us up with this bill, then I'd be for it, but if we want to address inter state commerce on a separate note, I'm all for that too, we can craft something, because we have a lot of concerns coming in as well like, stock and things like that, that we need to look at and supplying the base materials for these producers and manufacturers. And I think just in light of the timing and the need the constituents as written with a couple of modifications we could get this out quicker, I think it would be a win for everybody and we can address that, no problem. We're not against that though, to answer your question.

Senator Limtiaco: Thank you.

Senator Tony Ada: I just have one more question on the foreign dollar. If you ship to Palau, the meaning of export shall mean, for the purposes of this article is business activity wherein an item or service is produced on Guam is purchased by foreign dollars. So if you ship something to Palau, that means that they would have to use a foreign currency to buy the product.

Greg Sablan: That's what threw us off initially, because they use US currency, I believe the FSM. But they're categorized under SBA and US Department of Commerce as a foreign entity.

Senator Tony Ada: They may be a foreign entity but then we're saying purchased by foreign dollars, it's a ...

Greg Sablan: It's a foreign government, this is coming from SBA, not from us. And it was addressed when the committee looked at this too, because you cannot include the Compact, the FSM as a foreign state, but they use US money, that's an SBA thing for us.

Senator Tony Ada: So instead of foreign dollars, should we put foreign countries? I'm just...

Chairman Rodriguez: This is something that we can work on after this hearing just to refine it a little bit more.

Greg Sablan: Maybe foreign dollars and recognized foreign entities or countries.

Senator Tony Ada: Yes, something like that.



SENATOR DENNIS G. RODRIGUEZ, JR.

Greg Sablan: I know what you're saying, we don't want to limit it.

Senator Tony Ada: In the end, it makes the product more expensive, if they're purchasing it with foreign currency. Because the value, the dollar is much more on some foreign currencies than it is dollar per dollar. And then just one more question I had was that, would the, would those producers or those Product Seal, would they have to be registered to take advantage of the export credits?

Greg Sablan: Yes, it'll be in the best interest of the program and compliance.

Senator Tony Ada: Because I didn't see anything in here...(inaudible) okay, I didn't see it there.

Chairman Rodriguez: Thank you very much.

Ernie Wusstig: I would like to add on, there is a federal program like going back 7, 8 years ago, I used to be with the Saltwater Conservation, I used to be the President for the (inaudible) Basin, and I used to attend national meeting. At one time I was in Houston, and I was addressing a crowd of about 3,000 people and I was explaining the cost of doing business on Guam and also Hawaii came up and reiterated on it. With that conversation that I did there, the following year when I went back to Washington, D.C., a senator came up to me and said you have something coming because of what you did in Houston, so now, they're giving the farmers from Hawaii, Alaska, Guam CNMI, American Samoa, the US Virgin Islands, they're giving us twenty five cents on the dollar for freight for agriculture products either you're importing fertilizer or you're exporting stuff, they're giving twenty five cents on the dollar. It'd be nice if you guys can match that, if you Senators can match that. If the federal government is going out helping us little guys, if you can add on another twenty five cents on the dollar it'd be nice. So, instead of the freight, if the freight a dollar a pound, its costing us fifty cents a pound, it'll be more attractive, so that it will (inaudible) our cost of operations, now that they are giving us, you know, so maybe in this bill you can put that in there, farmers and not products.

Greg Sablan: I just want to end it on a positive note, one success story that is making it right now. I brought up Hamamoto Fruit World, they do this honey and it is certified organic. He's gotten approached by a private labeling firm in China, and you have to buy membership, its kind of a higher end Costco, you pay a membership because the products you are getting are unique, are clean and organic, they are top shelf things. And this is the gem I was (inaudible) the current capacity is about 10,000 jars a month, but they want 60,000. And so, he's going to think about it. Because the honey on Guam here is really pure because of the tropical flowers, and the water, its pristine, when he was showing me samples at the GET show, it was perfectly clear, it had the coloring, the crystallization. And you know, to lose 60,000 units for a small business on Guam, that's one guy, that's major, and so that's the potential there that we don't even know about and there's a lot of guys out there with a lot of creative ideas that once something like this gets started and their peers have success, I think we have something to add to the fire here. I just wanted to end with that.

Chairman Rodriguez: Thank you very much Greg for your work, and Mana and the folks at GEDA. And Uncle Ernie, thank you.



SENATOR DENNIS G. RODRIGUEZ, JR.

There being no other testimony, or comments by Senators, Chairman Rodriguez declared the bill as having been heard, and concluded the public hearing on Bill No. 205-32 (COR).

Fiscal Note: Attached.

III. FINDINGS AND RECOMMENDATIONS

Pursuant to public hearing testimony and recommendations, the following amendments were made and are incorporated in Substitute Bill No. 205-32 (COR):

§77602(a). Language was added to the provision including any income tax liabilities as a tax off-set for applicable Tax Credits (page 5, starting at line 1 of the Bill, as introduced). The § was amended, to read:

“§77602. **Tax Credits.** (a) Guam sole proprietorships, partnerships, limited liability companies and corporations conducting business in the areas of air cargo, ocean shipping or transshipment, which shall be duly licensed to conduct business on Guam, shall be entitled to tax credits against income taxes levied against the contributor, and/or a portion of the business privilege taxes levied against the contributor for those revenue portions of the business activity related *solely* to exporting qualified freight (§77601 (g) and (h)) from Guam. All tax credits referred to in this Article shall mean tax credits applied against income tax and business privilege tax liabilities incurred for the tax year the contribution was made, and as further provided pursuant to this Section.”

[Note: Subsections (b) and (c), as introduced, remain unchanged]

§77603. Added new Subsection (a) relative to including income tax offsets, participatory incentives and annual utilization limitations; and

Added a new Subsection (b), amending the Business Privilege Tax provision benefits for purposes of clarification as to the number of years the added incentive would be applicable, and the start-end date. Additional language was added to the provision prorating the application of the \$100K with amount of contribution (page 5, starting at line 17), and

The amended §77603 now, reads:

“§77603. **Maximum Tax Credits Authorized for Utilization for Tax-Offset per Tax Year.** The tax credits authorized shall include utilization for Income Tax and/or Business Privilege Tax liabilities, as further provided:

(a) Income Tax Credit. The aggregate maximum amount of tax credits authorized for utilization for income tax liability offsets shall not exceed Five Hundred Thousand Dollars



SENATOR DENNIS G. RODRIGUEZ, JR.

(\$500,000) per year. The utilization of tax credits in excess of this amount, for future tax years, must be reviewed by the Authority's Compliance Division, and approved by the Department of Revenue and Taxation.

(1) As an incentive to promote participation utilizing income tax credit offsets, the additional amount of TWENTY PERCENT (20%) shall be added to the base tax credit value, which shall then be the amount of the tax credit to be issued.

(2) The added Twenty percent (20%) incentive shall not apply to the calculation and issuance of Business Privilege Tax credits.

(b) Business Privilege Tax. The maximum amount of tax credits authorized for utilization for tax-offsets for each contributor shall not exceed Two Hundred Fifty Thousand Dollars (\$250,000) per tax year. As an added incentive to promote participation at the onset, an additional amount of up to, but not to exceed, One Hundred Thousand Dollars (\$100,000) shall be added, annually, to the tax credit value cap. The application of the added incentive shall to expire December 31, 2015, and, thereafter, which shall then be the maximum amount of the tax credit authorized to be issued shall not exceed and will revert back to Two Hundred Fifty Thousand Dollars (\$250,000) per tax year thereafter. The additional incentive shall be applied on an increasing, proportionately graduated basis commensurate with the amount of the contribution.

(1) The added One Hundred Thousand Dollars (\$100,000) incentive shall not apply to the calculation and issuance of Income Tax credits."

§77606 – Miscellaneous. (Page 6, at line 20 of Bill, as introduced) A new Subsection (b) was added to §77606 to further prevent the importation and subsequent export of products not intended to qualify as a Guam products pursuant to this Article, to read:

"(b) This Article shall not be applicable to any product, except as solely identified pursuant to subsections (g) and (h) of §77601 of this Article. Any imported product shipped to and landed on Guam shall not qualify as a Guam product for subsequent export which qualifies for a tax offset. This exclusion shall be applicable to all entities licensed to do business on Guam, and shall preclude them from trying to qualify any imported product as a Guam product pursuant to this Article, which is solely intended for legitimate Guam products; and, further, shall also prohibit, at a minimum, the registering and/or re-registering, packaging and/or repackaging, labeling and/or relabeling, branding, and/or by any other means trying to identify any imported product as a Guam product, so as to circumvent the spirit and intent of this Article."

[Note: Parts (1), (2), (3) and (4) of Subsections (a), as introduced, remain unchanged]

§77607 - Term and Effective Date, page 7, at line 12, was amended, to read:



SENATOR DENNIS G. RODRIGUEZ, JR.

“§77607. Equitable Distribution and Timely Issuance. ~~Term and Effective Date.~~

The Authority, in consultation with the Department of Revenue and Taxation, shall develop an equitable and timely process pursuant to which:

- (1) **the availability and equitable distribution of the tax credits are provided for, and ensures maximum participatory access for all Guam product exporters seeking contributors; and,**
- (2) **the issuance of the tax credits authorized is expedited to the extent practicable.”**

To allow for continuing utilization of tax credits accrued until exhausted, the Sunset Provision, on page 7 at line 13, was renumbered and amended, to read:

“Section 2. Sunset Provision: This Act shall remain in effect for a term of ten (10) years, at the expiration of which period, this Act shall automatically be deemed repealed. Upon expiration, any outstanding tax credit balances due contributors shall remain valid and enforceable for utilization to offset tax liabilities for an additional period until exhausted.”

The Committee on Health & Human Services, Health Insurance Reform, Economic Development and Senior Citizens, hereby reports out **Bill No. 205-32 (COR), as Substituted**, with the recommendation to pass.

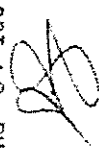
I MINA'TRENTAI DOS NA LIHESLATURAN GUÁHAN
2013 (FIRST) Regular Session

Bill No. 205-32 (COR)

Introduced by:

D. G. RODRIGUEZ, JR. 
B. MCCREADIE 
R. J. RESPICIO 

AN ACT TO PROMOTE ECONOMIC DEVELOPMENT BY
AUTHORIZING THE ISSUANCE OF TAX CREDITS TO
ENTITIES WHO ASSIST WITH THE DEVELOPMENT OF
GUAM'S AGRICULTURAL AND "GUAM PRODUCT SEAL"
PRODUCTS EXPORT INITIATIVE THROUGH
CONTRIBUTIONS TO OFFSET SHIPPING COSTS, BY
ADDING A NEW ARTICLE 6 TO CHAPTER 77, DIVISION 2
OF TITLE 12, GUAM CODE ANNOTATED.

2013 OCT 10 PM 3:03 

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. A new Article 6 is hereby added to Chapter 77 of Division 2, Title
3 12, Guam Code Annotated, to read:

4 Article 6

5 GUAM EXPORT TAX CREDIT FOR AGRICULTURAL AND "GUAM
6 PRODUCT SEAL" PRODUCTS

- 7 §77600. Legislative Findings and Intent
- 8 §77601. Definitions
- 9 §77602. Tax Credits
- 10 §77603. Maximum Amount of Tax Credits Authorized
- 11 §77604. Calculation of Tax Credit
- 12 §77605. Approval of Contributions
- 13 §77606. Miscellaneous

1 §77607. Rules and Regulations

2 §77600. **Legislative Findings and Intent.** Guam has many
3 impediments when it comes to international business such as customs, quarantine,
4 immigration and shipping because of its status as an unincorporated territory of the
5 United States and because of our remoteness. That notwithstanding, in the early
6 1900's, Guam once had an *agricultural* industry that was developed to the extent that
7 it supported and satisfied the requirements of Guam society with a large variety of
8 produce. Further, production was sufficient to the extent that this local, homegrown,
9 Guam based, industry also supported opportunities in *exporting*. With the advent of
10 modernization, restrictions on shipping, competition with imported processed foods,
11 and other social economic factors, these two economic activities lost momentum and
12 over time contributed little to nothing to Guam's economy. It is the *intent* of *I*
13 *Liheslaturan Guåhan* that significant stimulus is required, and should be dedicated,
14 to *re-develop* Guam's agricultural export market, as well as the economic
15 development of markets for local Guam Product Seal exports.

16 It is the consensus of *I Liheslaturan Guåhan* that the issuance of tax credits
17 to entities who assist with the development of Guam's export initiative through
18 contributions that offset shipping costs is a vital incentive for the creation and
19 sustainability of this new and developing economic sector. By allowing tax credits
20 for export transshipment, Guam producers will be able to offset one of the largest
21 costs prohibiting the pursuit of profitable exportation, expansion into new markets and
22 the ability to provide competitive pricing. The tax credits will surely promote export
23 activity by mitigating one of the key cost components of doing business abroad thus
24 providing a competitive edge on product pricing regionally, as well as in the global
25 marketplace.

26 Currently there is little to no tax revenue generated from the sale of or

1 shipping of commodities for export. The tax credits will provide the added
2 incentive for the renaissance of Guam's Agricultural sector and Guam Product Seal
3 products by refocusing collaborative efforts and providing new market
4 opportunities providing a new, broader-based, economic stimulus.

5 With increased opportunities abroad, Guam exports will prove to be more
6 attractive and lucrative which, in turn, will increase manufacturing activity, create
7 more jobs and preserve cultural socioeconomic activities.

8 With the award and success of the State Trade and Export Promotions grant
9 in 2011 and 2012, the Guam Economic Development Authority has conducted
10 extensive research in the area of exporting and have set the groundwork to develop
11 this initiative and have identified that this tax credit is crucial to the success of this
12 new developing industry. It is the *intent* of *I Liheslaturan Guåhan* that further
13 economic development efforts be taken to promote Guam's local businesses
14 through the export of their Guam Product Seal and agriculture products.

15 **§77601. Definitions, as applied in this Act.**

16 (a) *Contributions* shall mean and can be made either as the sponsorship of
17 shipping costs, applying preferred shipping rates, or the discount provided by
18 transshipment companies solely for shipping charges related to the exportation of
19 agricultural products and/or produce and certified Guam Product Seal products.

20 (b) *Export* shall mean, for the purposes of this Article, the business activity
21 where an item or service produced on Guam is purchased by foreign dollars.

22 (c) *Shipping Costs*, shall mean the normal, posted and actual cost of shipping
23 freight, as would normally occur when conducted *without* sponsorship, preferred
24 shipping rates and/or discounts. This does not include fees and taxes that are not
25 retained by the company or third party charges.

26 (d) *Discounted Shipping Cost*, shall mean the normal, posted and actual cost of

1 shipping freight, *minus* the sponsored, preferred shipping rate, or discounted price
2 charged for qualified freight as provided pursuant to this Article.

3 (e) The applicable *Tax Credit Value* shall mean the difference between the
4 *shipping cost* and the *discounted shipping cost* actually charged for the export of
5 qualified products.

6 (f) *Transshipment* shall mean the shipment of goods to another destination via
7 air or ocean, and shall include, when applicable, to change the means of transport
8 during the journey (for example from road transport to air transport), known as trans-
9 loading, and/or, to combine or consolidate small shipments into a large shipment
10 (consolidation).

11 (g) *Agricultural produce and/or products* shall mean, but not be limited to,
12 plant produce and products (packaged, canned and/or otherwise preserved as
13 necessary), as well as live seedlings, plants and trees manufactured or grown on
14 Guam. The meaning shall also include meat products (packaged, canned and/or
15 otherwise preserved as necessary), as well as living livestock, and, aquaculture
16 products (packaged, canned and/or preserved as necessary), and living aquatic species.

17 (h) *Guam Product Seal Products* shall mean those domestic products made on
18 Guam, as provided pursuant to §1201 of Chapter 1, Article 2, Guam Code Annotated.

19 (i) The *Authority* or *GEDA* shall mean the Guam Economic Development
20 Authority.

21 (j) *Contributors* shall mean Guam sole proprietorships, partnerships, limited
22 liability companies, corporations licensed to do business on Guam who make
23 qualifying contributions as set forth in §77601(a).

24 (k) *Business Privilege Tax* shall mean the business privilege tax imposed by
25 Section 26201 of Article 2 of Chapter 26 of Title 11 of the Guam Code Annotated.

1 **§77602. Tax Credits.** (a) Guam sole proprietorships, partnerships, limited
2 liability companies and corporations conducting business in the areas of air cargo,
3 ocean shipping or transshipment, which shall be duly licensed to conduct business on
4 Guam, shall be entitled to tax credits against a portion of the business privilege taxes
5 levied against the contributor for those revenue portions of the business activity
6 related solely to exporting qualified freight (§77601 (g) and (h)) from Guam. All tax
7 credits referred to in this Article shall mean tax credits applied against business
8 privilege tax liabilities incurred for the tax year the contribution was made, and as
9 further provided pursuant to this Section.

10 (b) Effective date and applicability of tax credits: Provisions of this Act shall
11 take effect on the first day of the succeeding month after enactment into law. Offsets
12 on taxable amounts shall be effective beginning in Tax Year 2013, and annually
13 thereafter.

14 (c) Qualifying exports: The issuance of tax credits for contributions made
15 pursuant to this Article shall only be applicable to the categories of products defined
16 pursuant to §77601(g) and (h).

17 **§77603. Maximum Tax Credits Authorized for Utilization for Tax-Offset**
18 **per Tax Year.** The maximum amount of tax credits authorized for utilization for tax-
19 offsets for each contributor shall not exceed Two Hundred Fifty Thousand Dollars
20 (\$250,000) per tax year. As an added incentive to promote participation at the onset,
21 an additional amount of One Hundred Thousand Dollars (\$100,000) *shall* be added to
22 the *tax credit value cap per tax year* to expire December 31, 2015, which *shall* then be
23 the amount of the tax credit to be issued and will revert back to Two Hundred Fifty
24 Thousand Dollars (\$250,000) per tax year thereafter.

25

1 **§77604. Calculation of Tax Credit and Participatory Incentive.** The *tax*
2 *credit value* (§77601(e)) shall be the basis from which the tax credit to be issued is
3 calculated for a qualified contribution. The applied credit amount will be a dollar for
4 dollar match of the contribution to the corresponding tax credit.

5 (1) The Authority, in conjunction with the Department of Revenue &
6 Taxation, shall annually determine the maximum amount of BPT tax credits
7 which may be authorized for utilization for tax liability offsets, as provided
8 pursuant to this Article.

9 (A) The Authority *shall* submit, annually, to *I Maga'lahaen Guåhan*, and
10 to the Speaker, *I Liheslaturan Guåhan*, the determination by the
11 Authority and the Department as to the aggregate sum of available
12 Business Privilege Tax credits determined to be available as BPT offsets
13 for *contributions*.

14 **§77605. Approval of Contributions and Tax Credits.** The GEDA Business
15 Development Division, or its designee, shall be responsible for providing to The
16 Department of Revenue and Taxation an approved list of agricultural producers and
17 eligible Guam Product Seals holders. The Department of Revenue and Taxation shall
18 review requested tax credits and, shall subsequently authorize the tax credits for
19 requests found to be compliant with this Article.

20 **§77606. Miscellaneous.** (a) The tax credits authorized by this Article shall
21 be subject to the following conditions:

22 (1) Approved tax credits can be applied in amounts, which shall not exceed
23 Two Hundred Fifty Thousand Dollars (\$250,000) in a single tax year except
24 during the initial incentivized period up to December 31, 2015.

25 (2) To be eligible for the tax credits authorized by this Article, contributors
26 must be licensed to do business on Guam.

1 (3) Agricultural producers and Guam Product Seal holders must register at the
2 Guam Economic Development Authority and must be in full compliance
3 with the programs.

4 (4) Any credit against the Business Privilege Tax, as authorized herein, shall
5 only apply to the unpledged portion of the Business Privilege Tax (currently
6 one percentage point of the current four percent Business Privilege Tax
7 rate). The credit shall not apply to the first three percentage points of the
8 Business Privilege Tax, so as not to violate the government's covenants to
9 bondholders of the Government of Guam Business Privilege Tax Bonds,
10 Series 2011A, Series 2012B and Series 2013C authorized through P.L. 31-
11 76, P.L. 31-196 and P.L. 31-276.

12 **§77607. Term and Effective Date.**

13 **Section 1. Sunset Provision:** This Act shall remain in effect for a term of ten
14 (10) years, at the expiration of which period, this Act shall automatically be deemed
15 repealed.

16 **Section 3. Severability.** If any provision of this act or its application to any
17 person or circumstances is found to be invalid contrary to law, such invalidity shall
18 not affect other provisions or applications of this act which can be given effect without
19 the invalid provisions or applications, and to this end the provisions of this act are
20 severable.

21 **Section 4. Effective Date.** This Act shall become immediately effective upon
22 enactment.

1 §77607. Rules and Regulations

2 §77600. **Legislative Findings and Intent.** Guam has many
3 impediments when it comes to international business such as customs, quarantine,
4 immigration and shipping because of its status as an unincorporated territory of the
5 United States and because of our remoteness. That notwithstanding, in the early
6 1900's, Guam once had an *agricultural* industry that was developed to the extent that
7 it supported and satisfied the requirements of Guam society with a large variety of
8 produce. Further, production was sufficient to the extent that this local, homegrown,
9 Guam based, industry also supported opportunities in *exporting*. With the advent of
10 modernization, restrictions on shipping, competition with imported processed foods,
11 and other social economic factors, these two economic activities lost momentum and
12 over time contributed little to nothing to Guam's economy. It is the *intent* of *I*
13 *Liheslaturan Guåhan* that significant stimulus is required, and should be dedicated,
14 to *re-develop* Guam's agricultural export market, as well as the economic
15 development of markets for local Guam Product Seal exports.

16 It is the consensus of *I Liheslaturan Guåhan* that the issuance of tax credits
17 to entities who assist with the development of Guam's export initiative through
18 contributions that offset shipping costs is a vital incentive for the creation and
19 sustainability of this new and developing economic sector. By allowing tax credits
20 for export transshipment, Guam producers will be able to offset one of the largest
21 costs prohibiting the pursuit of profitable exportation, expansion into new markets and
22 the ability to provide competitive pricing. The tax credits will surely promote export
23 activity by mitigating one of the key cost components of doing business abroad thus
24 providing a competitive edge on product pricing regionally, as well as in the global
25 marketplace.

26 Currently there is little to no tax revenue generated from the sale of or
27 shipping of commodities for export. The tax credits will provide the added

1 incentive for the renaissance of Guam’s Agricultural sector and Guam Product Seal
2 products by refocusing collaborative efforts and providing new market
3 opportunities providing a new, broader-based, economic stimulus.

4 With increased opportunities abroad, Guam exports will prove to be more
5 attractive and lucrative which, in turn, will increase manufacturing activity, create
6 more jobs and preserve cultural socioeconomic activities.

7 With the award and success of the State Trade and Export Promotions grant
8 in 2011 and 2012, the Guam Economic Development Authority has conducted
9 extensive research in the area of exporting and have set the groundwork to develop
10 this initiative and have identified that this tax credit is crucial to the success of this
11 new developing industry. It is the *intent* of *I Liheslaturan Guåhan* that further
12 economic development efforts be taken to promote Guam’s local businesses
13 through the export of their Guam Product Seal and agriculture products.

14 **§77601. Definitions, as applied in this Act.**

15 (a) *Contributions* shall mean and can be made either as the sponsorship of
16 shipping costs, applying preferred shipping rates, or the discount provided by
17 transshipment companies solely for shipping charges related to the exportation of
18 agricultural products and/or produce and certified Guam Product Seal products.

19 (b) *Export* shall mean, for the purposes of this Article, the business activity
20 where an item or service produced on Guam is purchased by foreign dollars.

21 (c) *Shipping Costs*, shall mean the normal, posted and actual cost of shipping
22 freight, as would normally occur when conducted *without* sponsorship, preferred
23 shipping rates and/or discounts. This does not include fees and taxes that are not
24 retained by the company or third party charges.

25 (d) *Discounted Shipping Cost*, shall mean the normal, posted and actual cost of
26 shipping freight, *minus* the sponsored, preferred shipping rate, or discounted price

1 charged for qualified freight as provided pursuant to this Article.

2 (e) The applicable *Tax Credit Value* shall mean the difference between the
3 *shipping cost* and the *discounted shipping cost* actually charged for the export of
4 qualified products.

5 (f) *Transshipment* shall mean the shipment of goods to another destination via
6 air or ocean, and shall include, when applicable, to change the means of transport
7 during the journey (for example from road transport to air transport), known as trans-
8 loading, and/or, to combine or consolidate small shipments into a large shipment
9 (consolidation).

10 (g) *Agricultural produce and/or products* shall mean, but not be limited to,
11 plant produce and products (packaged, canned and/or otherwise preserved as
12 necessary), as well as live seedlings, plants and trees manufactured or grown on
13 Guam. The meaning shall also include meat products (packaged, canned and/or
14 otherwise preserved as necessary), as well as living livestock, and, aquaculture
15 products (packaged, canned and/or preserved as necessary), and living aquatic species.

16 (h) *Guam Product Seal Products* shall mean those domestic products made on
17 Guam, as provided pursuant to §1201 of Chapter 1, Article 2, Guam Code Annotated.

18 (i) The *Authority* or *GEDA* shall mean the Guam Economic Development
19 Authority.

20 (j) *Contributors* shall mean Guam sole proprietorships, partnerships, limited
21 liability companies, corporations licensed to do business on Guam who make
22 qualifying contributions as set forth in §77601(a).

23 (k) *Business Privilege Tax* shall mean the business privilege tax imposed by
24 Section 26201 of Article 2 of Chapter 26 of Title 11 of the Guam Code Annotated.

25 **§77602. Tax Credits.** (a) Guam sole proprietorships, partnerships, limited
26 liability companies and corporations conducting business in the areas of air cargo,

1 ocean shipping or transshipment, which shall be duly licensed to conduct business on
2 Guam, shall be entitled to tax credits against any income tax liabilities, and a portion
3 of the business privilege taxes levied against the contributor for those revenue portions
4 of the business activity related *solely* to exporting qualified freight (§77601 (g) and
5 (h)) from Guam. All tax credits referred to in this Article shall mean tax credits
6 applied against income tax and business privilege tax liabilities incurred for the tax
7 year the contribution was made, and as further provided pursuant to this Section.

8 (b) Effective date and applicability of tax credits: Provisions of this Act shall
9 take effect on the first day of the succeeding month after enactment into law. Offsets
10 on taxable amounts shall be effective beginning in Tax Year 2013, and annually
11 thereafter.

12 (c) Qualifying exports: The issuance of tax credits for contributions made
13 pursuant to this Article shall only be applicable to the categories of products defined
14 pursuant to §77601(g) and (h).

15 **§77603. Maximum Tax Credits Authorized for Utilization for Tax-Offset**
16 **per Tax Year.** The tax credits authorized shall include utilization for Income Tax
17 and/or Business Privilege Tax liabilities', as further provided:

18 (a) Income Tax Credit. The aggregate maximum amount of tax credits
19 authorized for utilization for income tax liability offsets shall not exceed Five
20 Hundred Thousand Dollars (\$500,000) per year. The utilization of tax credits in
21 excess of this amount, for future tax years, must be reviewed by the Authority's
22 Compliance Division, and approved by the Department of Revenue and Taxation.

23 (1) As an incentive to promote participation utilizing income tax credit
24 offsets, the additional amount of TWENTY PERCENT (20%) *shall* be added to
25 the base *tax credit value*, which *shall* then be the amount of the tax credit to be
26 issued.

1 (2) The added Twenty percent (20%) incentive *shall* not apply to the
2 calculation and issuance of Business Privilege Tax credits.

3 (b) Business Privilege Tax Credit. The maximum amount of tax credits
4 authorized for utilization for tax-offsets for each contributor shall not exceed Two
5 Hundred Fifty Thousand Dollars (\$250,000) per tax year. As an added incentive to
6 promote participation at the onset, an additional amount of up to, but not to exceed,
7 One Hundred Thousand Dollars (\$100,000) *shall* be added, annually, to the *tax credit*
8 *value cap*. The application of the added incentive *shall* expire December 31, 2015,
9 and, thereafter, the maximum amount of the tax credit authorized to be issued *shall*
10 not exceed Two Hundred Fifty Thousand Dollars (\$250,000) per tax year. The
11 additional incentive shall be applied on an increasing, proportionately graduated basis
12 commensurate with the amount of the contribution.

13 (1) The added One Hundred Thousand Dollars (\$100,000) incentive
14 *shall* not apply to the calculation and issuance of Income Tax credits.

15 **§77604. Calculation of Tax Credit and Participatory Incentive.** The *tax*
16 *credit value* (§77601(e)) shall be the basis from which the tax credit to be issued is
17 calculated for a qualified contribution. The applied credit amount will be a dollar for
18 dollar match of the contribution to the corresponding tax credit.

19 (1) The Authority, in conjunction with the Department of Revenue &
20 Taxation, shall annually determine the maximum amount of BPT tax credits
21 which may be authorized for utilization for tax liability offsets, as provided
22 pursuant to this Article.

23 (A) The Authority *shall* submit, annually, to *I Maga'lahen Guðhan*, and
24 to the Speaker, *I Liheslaturan Guðhan*, the determination by the
25 Authority and the Department as to the aggregate sum of available
26 Business Privilege Tax credits determined to be available as BPT offsets
27 for *contributions*.

1 **§77605. Approval of Contributions and Tax Credits.** The GEDA Business
2 Development Division, or its designee, shall be responsible for providing to The
3 Department of Revenue and Taxation an approved list of agricultural producers and
4 eligible Guam Product Seals holders. The Department of Revenue and Taxation shall
5 review requested tax credits and, shall subsequently authorize the tax credits for
6 requests found to be compliant with this Article.

7 **§77606. Miscellaneous.** (a) The tax credits authorized by this Article shall
8 be subject to the following conditions:

9 (1) Approved tax credits can be applied in amounts, which shall not exceed
10 Two Hundred Fifty Thousand Dollars (\$250,000) in a single tax year except
11 during the initial incentivized period up to December 31, 2015.

12 (2) To be eligible for the tax credits authorized by this Article, contributors
13 must be licensed to do business on Guam.

14 (3) Agricultural producers and Guam Product Seal holders must register at the
15 Guam Economic Development Authority and must be in full compliance
16 with the programs.

17 (4) Any credit against the Business Privilege Tax, as authorized herein, shall
18 only apply to the unpledged portion of the Business Privilege Tax (currently
19 one percentage point of the current four percent Business Privilege Tax
20 rate). The credit shall not apply to the first three percentage points of the
21 Business Privilege Tax, so as not to violate the government's covenants to
22 bondholders of the Government of Guam Business Privilege Tax Bonds,
23 Series 2011A, Series 2012B and Series 2013C authorized through P.L. 31-
24 76, P.L. 31-196 and P.L. 31-276.

25 (b) This Article *shall not* be applicable to any product, except as *solely*
26 identified pursuant to subsections (g) and (h) of §77601 of this Article. Any imported
27 product shipped to and landed on Guam *shall not* qualify as a Guam product for

1 subsequent export which qualifies for a tax offset. This exclusion shall be applicable
2 to all entities licensed to do business on Guam, and shall preclude them from trying to
3 qualify any imported product as a Guam product pursuant to this Article, which is
4 *solely* intended for legitimate Guam products; and, further, shall also prohibit, at a
5 minimum, the registering and/or re-registering, packaging and/or repackaging,
6 labeling and/or relabeling, branding, and/or by any other means trying to identify any
7 imported product as a Guam product, so as to circumvent the spirit and intent of this
8 Article.

9 **§77607. Equitable Distribution and Timely Issuance.** The Authority, in
10 consultation with the Department of Revenue and Taxation, *shall* develop an equitable
11 and timely process pursuant to which:

- 12 (1) the availability and equitable distribution of the tax credits are provided
13 for, and ensures maximum participatory access for all Guam product
14 exporters seeking contributors; and,
15 (2) the issuance of the tax credits authorized is expedited to the extent
16 practicable.

17 **Section 2. Sunset Provision:** This Act shall remain in effect for a term of ten
18 (10) years, at the expiration of which period, this Act shall automatically be deemed
19 repealed. Upon expiration, any outstanding tax credit balances due contributors *shall*
20 remain valid and enforceable for utilization to offset tax liabilities for an additional
21 period until exhausted.

22 **Section 3. Severability.** If any provision of this Act or its application to any
23 person or circumstances is found to be invalid contrary to law, such invalidity shall
24 not affect other provisions or applications of this Act which can be given effect
25 without the invalid provisions or applications, and to this end the provisions of this
26 Act are severable.

1 **Section 4. Effective Date.** This Act shall become immediately effective upon
2 enactment.

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2013 (FIRST) Regular Session

Bill No. 205-32 (COR),
as **Substituted**, Committee on Health &
Human Services, Health Insurance
Reform, Economic Development, and
Senior Citizens

LEGISLATIVE DIGEST OF CHANGES

Introduced by:

D. G. RODRIGUEZ, JR.

**AN ACT TO PROMOTE ECONOMIC DEVELOPMENT BY
AUTHORIZING THE ISSUANCE OF TAX CREDITS TO
ENTITIES WHO ASSIST WITH THE DEVELOPMENT OF
GUAM'S AGRICULTURAL AND "GUAM PRODUCT SEAL"
PRODUCTS EXPORT INITIATIVE THROUGH
CONTRIBUTIONS TO OFFSET SHIPPING COSTS, BY
ADDING A NEW ARTICLE 6 TO CHAPTER 77, DIVISION 2
OF TITLE 12, GUAM CODE ANNOTATED.**

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

2 **Section 1.** A new Article 6 is hereby added to Chapter 77 of Division 2, Title
3 12, Guam Code Annotated, to read:

4 **"Article 6**

5 **GUAM EXPORT TAX CREDIT FOR AGRICULTURAL AND "GUAM**
6 **PRODUCT SEAL" PRODUCTS**

- 7 §77600. Legislative Findings and Intent
8 §77601. Definitions
9 §77602. Tax Credits
10 §77603. Maximum Amount of Tax Credits Authorized
11 §77604. Calculation of Tax Credit
12 §77605. Approval of Contributions

Substitute Bill No. 205-32 (COR); DIGEST WITH AMENDMENTS SHOWN

1 §77606. Miscellaneous

2 §77607. Rules and Regulations

3 **§77600. Legislative Findings and Intent.** Guam has many
4 impediments when it comes to international business such as customs, quarantine,
5 immigration and shipping because of its status as an unincorporated territory of the
6 United States and because of our remoteness. That notwithstanding, in the early
7 1900's, Guam once had an *agricultural* industry that was developed to the extent that
8 it supported and satisfied the requirements of Guam society with a large variety of
9 produce. Further, production was sufficient to the extent that this local, homegrown,
10 Guam based, industry also supported opportunities in *exporting*. With the advent of
11 modernization, restrictions on shipping, competition with imported processed foods,
12 and other social economic factors, these two economic activities lost momentum and
13 over time contributed little to nothing to Guam's economy. It is the *intent* of *I*
14 *Liheslaturan Guåhan* that significant stimulus is required, and should be dedicated,
15 to *re-develop* Guam's agricultural export market, as well as the economic
16 development of markets for local Guam Product Seal exports.

17 It is the consensus of *I Liheslaturan Guåhan* that the issuance of tax credits
18 to entities who assist with the development of Guam's export initiative through
19 contributions that offset shipping costs is a vital incentive for the creation and
20 sustainability of this new and developing economic sector. By allowing tax credits
21 for export transshipment, Guam producers will be able to offset one of the largest
22 costs prohibiting the pursuit of profitable exportation, expansion into new markets and
23 the ability to provide competitive pricing. The tax credits will surely promote export
24 activity by mitigating one of the key cost components of doing business abroad thus
25 providing a competitive edge on product pricing regionally, as well as in the global
26 marketplace.

Substitute Bill No. 205-32 (COR); DIGEST WITH AMENDMENTS SHOWN

1 Currently there is little to no tax revenue generated from the sale of or
2 shipping of commodities for export. The tax credits will provide the added
3 incentive for the renaissance of Guam's Agricultural sector and Guam Product Seal
4 products by refocusing collaborative efforts and providing new market
5 opportunities providing a new, broader-based, economic stimulus.

6 With increased opportunities abroad, Guam exports will prove to be more
7 attractive and lucrative which, in turn, will increase manufacturing activity, create
8 more jobs and preserve cultural socioeconomic activities.

9 With the award and success of the State Trade and Export Promotions grant
10 in 2011 and 2012, the Guam Economic Development Authority has conducted
11 extensive research in the area of exporting and have set the groundwork to develop
12 this initiative and have identified that this tax credit is crucial to the success of this
13 new developing industry. It is the *intent* of *I Liheslaturan Guåhan* that further
14 economic development efforts be taken to promote Guam's local businesses
15 through the export of their Guam Product Seal and agriculture products.

16 **§77601. Definitions, as applied in this Act.**

17 (a) *Contributions* shall mean and can be made either as the sponsorship of
18 shipping costs, applying preferred shipping rates, or the discount provided by
19 transshipment companies solely for shipping charges related to the exportation of
20 agricultural products and/or produce and certified Guam Product Seal products.

21 (b) *Export* shall mean, for the purposes of this Article, the business activity
22 where an item or service produced on Guam is purchased by foreign dollars.

23 (c) *Shipping Costs*, shall mean the normal, posted and actual cost of shipping
24 freight, as would normally occur when conducted *without* sponsorship, preferred
25 shipping rates and/or discounts. This does not include fees and taxes that are not
26 retained by the company or third party charges.

Substitute Bill No. 205-32 (COR); DIGEST WITH AMENDMENTS SHOWN

1 (d) ***Discounted Shipping Cost***, shall mean the normal, posted and actual cost of
2 shipping freight, *minus* the sponsored, preferred shipping rate, or discounted price
3 charged for qualified freight as provided pursuant to this Article.

4 (e) The applicable ***Tax Credit Value*** shall mean the difference between the
5 *shipping cost* and the *discounted shipping cost* actually charged for the export of
6 qualified products.

7 (f) ***Transshipment*** shall mean the shipment of goods to another destination via
8 air or ocean, and shall include, when applicable, to change the means of transport
9 during the journey (for example from road transport to air transport), known as trans-
10 loading, and/or, to combine or consolidate small shipments into a large shipment
11 (consolidation).

12 (g) ***Agricultural produce and/or products*** shall mean, but not be limited to,
13 plant produce and products (packaged, canned and/or otherwise preserved as
14 necessary), as well as live seedlings, plants and trees manufactured or grown on
15 Guam. The meaning shall also include meat products (packaged, canned and/or
16 otherwise preserved as necessary), as well as living livestock, and, aquaculture
17 products (packaged, canned and/or preserved as necessary), and living aquatic species.

18 (h) ***Guam Product Seal Products*** shall mean those domestic products made on
19 Guam, as provided pursuant to §1201 of Chapter 1, Article 2, Guam Code Annotated.

20 (i) The ***Authority*** or ***GEDA*** shall mean the Guam Economic Development
21 Authority.

22 (j) ***Contributors*** shall mean Guam sole proprietorships, partnerships, limited
23 liability companies, corporations licensed to do business on Guam who make
24 qualifying contributions as set forth in §77601(a).

25 (k) ***Business Privilege Tax*** shall mean the business privilege tax imposed by
26 Section 26201 of Article 2 of Chapter 26 of Title 11 of the Guam Code Annotated.

Substitute Bill No. 205-32 (COR); DIGEST WITH AMENDMENTS SHOWN

1 ****§77602. Tax Credits.** (a) Guam sole proprietorships, partnerships, limited
2 liability companies and corporations conducting business in the areas of air cargo,
3 ocean shipping or transshipment, which shall be duly licensed to conduct business on
4 Guam, shall be entitled to tax credits against any income tax liabilities, and a portion
5 of the business privilege taxes levied against the contributor for those revenue portions
6 of the business activity related solely to exporting qualified freight (§77601 (g) and
7 (h)) from Guam. All tax credits referred to in this Article shall mean tax credits
8 applied against income tax and business privilege tax liabilities incurred for the tax
9 year the contribution was made, and as further provided pursuant to this Section.

10 (b) Effective date and applicability of tax credits: Provisions of this Act shall
11 take effect on the first day of the succeeding month after enactment into law. Offsets
12 on taxable amounts shall be effective beginning in Tax Year 2013, and annually
13 thereafter.

14 (c) Qualifying exports: The issuance of tax credits for contributions made
15 pursuant to this Article shall only be applicable to the categories of products defined
16 pursuant to §77601(g) and (h).

17 ****§77603. Maximum Tax Credits Authorized for Utilization for Tax-**
18 **Offset per Tax Year.** The tax credits authorized shall include utilization for Income
19 Tax and/or Business Privilege Tax liabilities', as further provided:

20 (a) Income Tax Credit. The aggregate maximum amount of tax credits
21 authorized for utilization for income tax liability offsets shall not exceed Five
22 Hundred Thousand Dollars (\$500,000) per year. The utilization of tax credits in
23 excess of this amount, for future tax years, must be reviewed by the Authority's
24 Compliance Division, and approved by the Department of Revenue and Taxation.

25 (1) As an incentive to promote participation utilizing income tax credit

Substitute Bill No. 205-32 (COR); DIGEST WITH AMENDMENTS SHOWN

1 offsets, the additional amount of TWENTY PERCENT (20%) shall be added to
2 the base tax credit value, which shall then be the amount of the tax credit to be
3 issued.

4 (2) The added Twenty percent (20%) incentive shall not apply to the
5 calculation and issuance of Business Privilege Tax credits.

6 (b) Business Privilege Tax Credit. The maximum amount of tax credits
7 authorized for utilization for tax-offsets for each contributor shall not exceed Two
8 Hundred Fifty Thousand Dollars (\$250,000) per tax year. As an added incentive to
9 promote participation at the onset, an additional amount of up to, but not to exceed,
10 One Hundred Thousand Dollars (\$100,000) shall be added, annually, to the tax credit
11 value cap. The application of the added incentive shall expire December 31, 2015,
12 and, thereafter, the maximum amount of the tax credit authorized to be issued shall
13 not exceed Two Hundred Fifty Thousand Dollars (\$250,000) per tax year. The
14 additional incentive shall be applied on an increasing, proportionately graduated basis
15 commensurate with the amount of the contribution.

16 (1) The added One Hundred Thousand Dollars (\$100,000) incentive
17 shall not apply to the calculation and issuance of Income Tax credits.

18 **§77604. Calculation of Tax Credit and Participatory Incentive.** The *tax*
19 *credit value* (§77601(e)) shall be the basis from which the tax credit to be issued is
20 calculated for a qualified contribution. The applied credit amount will be a dollar for
21 dollar match of the contribution to the corresponding tax credit.

22 (1) The Authority, in conjunction with the Department of Revenue &
23 Taxation, shall annually determine the maximum amount of BPT tax credits
24 which may be authorized for utilization for tax liability offsets, as provided
25 pursuant to this Article.

26 (A) The Authority shall submit, annually, to *I Maga'lahaen Guåhan*, and

1 to the Speaker, *I Liheslaturan Guåhan*, the determination by the
2 Authority and the Department as to the aggregate sum of available
3 Business Privilege Tax credits determined to be available as BPT offsets
4 for *contributions*.

5 **§77605. Approval of Contributions and Tax Credits.** The GEDA Business
6 Development Division, or its designee, shall be responsible for providing to The
7 Department of Revenue and Taxation an approved list of agricultural producers and
8 eligible Guam Product Seals holders. The Department of Revenue and Taxation shall
9 review requested tax credits and, shall subsequently authorize the tax credits for
10 requests found to be compliant with this Article.

11 **§77606. Miscellaneous.** (a) The tax credits authorized by this Article shall
12 be subject to the following conditions:

- 13 (1) Approved tax credits can be applied in amounts, which shall not exceed
14 Two Hundred Fifty Thousand Dollars (\$250,000) in a single tax year except
15 during the initial incentivized period up to December 31, 2015.
- 16 (2) To be eligible for the tax credits authorized by this Article, contributors
17 must be licensed to do business on Guam.
- 18 (3) Agricultural producers and Guam Product Seal holders must register at the
19 Guam Economic Development Authority and must be in full compliance
20 with the programs.
- 21 (4) Any credit against the Business Privilege Tax, as authorized herein, shall
22 only apply to the unpledged portion of the Business Privilege Tax (currently
23 one percentage point of the current four percent Business Privilege Tax
24 rate). The credit shall not apply to the first three percentage points of the
25 Business Privilege Tax, so as not to violate the government's covenants to
26 bondholders of the Government of Guam Business Privilege Tax Bonds,

Substitute Bill No. 205-32 (COR); DIGEST WITH AMENDMENTS SHOWN

1 Series 2011A, Series 2012B and Series 2013C authorized through P.L. 31-
2 76, P.L. 31-196 and P.L. 31-276.

3 (b) This Article shall not be applicable to any product, except as solely
4 identified pursuant to subsections (g) and (h) of §77601 of this Article. Any imported
5 product shipped to and landed on Guam shall not qualify as a Guam product for
6 subsequent export which qualifies for a tax offset. This exclusion shall be applicable
7 to all entities licensed to do business on Guam, and shall preclude them from trying to
8 qualify any imported product as a Guam product pursuant to this Article, which is
9 solely intended for legitimate Guam products; and, further, shall also prohibit, at a
10 minimum, the registering and/or re-registering, packaging and/or repackaging,
11 labeling and/or relabeling, branding, and/or by any other means trying to identify any
12 imported product as a Guam product, so as to circumvent the spirit and intent of this
13 Article.

14 ****§77607. Equitable Distribution and Timely Issuance.** The Authority, in
15 consultation with the Department of Revenue and Taxation, shall develop an equitable
16 and timely process pursuant to which:

- 17 (1) the availability and equitable distribution of the tax credits are provided
18 for, and ensures maximum participatory access for all Guam product
19 exporters seeking contributors; and,
20 (2) the issuance of the tax credits authorized is expedited to the extent
21 practicable.

22 ****Section 2. Sunset Provision:** This Act shall remain in effect for a term of
23 ten (10) years, at the expiration of which period, this Act shall automatically be
24 deemed repealed. Upon expiration, any outstanding tax credit balances due
25 contributors shall remain valid and enforceable for utilization to offset tax liabilities
26 for an additional period until exhausted.

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

6 **Section 4. Effective Date.** This Act shall become immediately effective upon
7 enactment.



EDWARD J.B. CALVO
GOVERNOR OF GUAM
I MAGA' LAHEN GUAHAN
RAYMOND S. TENORIO
LT. GOVERNOR OF GUAM
I SEGUNDO NA MAGA' LAHEN GUAHAN
HENRY J. TAITANO
ADMINISTRATOR
ADMINISTRADOT

October 17, 2013

Public Hearing Testimony of Mana Silva Taijeron, Acting Administrator
Guam Economic Development Authority

Bill No. 205-32 (COR)

Hafa Adai Chairman, Senator Dennis Rodriguez, and members of the 32nd Guam Legislature. My name is Mana Silva Taijeron, Acting Administrator of the Guam Economic Development Authority (GEDA), and I hereby submit this testimony supporting Bill No. 205-32 (COR) AN ACT TO PROMOTE ECONOMIC DEVELOPMENT BY AUTHORIZING THE ISSUANCE OF TAX CREDITS TO ENTITIES WHO ASSIST WITH THE DEVELOPMENT OF GUAM'S AGRICULTURAL AND "GUAM PRODUCT SEAL" PRODUCTS EXPORT INITIATIVE THROUGH CONTRIBUTIONS TO OFFSET SHIPPING COSTS, BY ADDING A NEW ARTICLE 6 TO CHAPTER 77, DIVISION 2 "" OF TITLE 12, GUAM CODE ANNOTATED.

This is an effort which the Guam Economic Development Authority fully supports, as we have been tasked with creating new industries, and expanding our local exports.

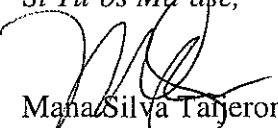
GEDA has been successful in marketing our local goods and produce in numerous international food fairs and trade missions, and we believe this bill will further our ability to increase the island's exports - offering incentives to companies which assist in offsetting shipping costs for local farm goods and Guam Product Seal Products, which are being exported. These companies which include air cargo, ocean shipping and transshipment companies will be entitled to tax credits against a portion of their business privilege taxes. I would like to note that in the drafting of this bill, Bond counsel did review and contribute language- particularly in the area which relates to business privilege taxes.

Through our extensive research, GEDA has determined that shipping costs from Guam can be a deterrent to local manufacturers and farmers. Thus, we believe there needs to be an incentive for Guam Product Seal and grown on Guam products, to expand their markets. This bill will do that, as it would lower shipping costs, and would further give them a competitive edge on their pricing in the global market.

This bill certainly levels the playing field for competitive pricing in the global market, so Guam products can become more attractive, and can be priced to compete with equivalent brands and products.

We believe this effort will be of no loss to the Government of Guam, and will instead create a new revenue stream, as it would promote more Guam based manufacturing, and a renewed interest in the export trade industry.

Si Yu'os Ma'ase,


Mana Silva Taijeron
Acting Administrator





COMMITTEE ON RULES

I Mina'trentai Dos na Liheslaturan Guåhan • The 32nd Guam Legislature
155 Hesler Place, Hagåtña, Guam 96910 • www.guamlegislature.com
E-mail: roryforguam@gmail.com • Tel: (671)472-7679 • Fax: (671)472-3547

Senator
Rory J. Respicio
CHAIRPERSON
MAJORITY LEADER

October 17, 2013

Senator
Thomas C. Ada
VICE CHAIRPERSON
ASSISTANT MAJORITY LEADER

Memorandum

Senator
Vicente (Ben) C. Pangelinan
Member

To: Rennae Meno
Clerk of the Legislature

Speaker
Judith T.P. Won Pat, Ed.D.
Member

From: Senator Rory J. Respicio
Majority Leader & Rules Chair

Subject: Fiscal Notes /Waivers

Senator
Dennis G. Rodriguez, Jr.
Member

Hafa Adai!

Vice-Speaker
Benjamin J.P. Cruz
Member

Attached please find the waiver for the bill numbers listed below.
Please note that the fiscal notes, or waivers, are issued on the bills as introduced.

Legislative Secretary
Tina Rose Mufia Barnes
Member

FISCAL NOTES:

- Bill No. 167-32(LS)
- Bill No. 186-32(COR)
- Bill No. 192-32(COR)
- Bill No. 205-32(COR)

Senator
Frank Blas Aguon, Jr.
Member

WAIVERS:

- Bill No. 179-32(COR)
- Bill No. 198-32(COR)

Senator
Michael F.Q. San Nicolas
Member

Senator
V. Anthony Ada
Member
MINORITY LEADER

Please forward the same to MIS for posting on our website. Please contact our office should you have any questions regarding this matter.

Senator
Aline Yamashita
Member

Si Yu'os ma'åse'!

2013 OCT 17 PM 3:30
[Signature]

**BUREAU OF BUDGET & MANAGEMENT RESEARCH**OFFICE OF THE GOVERNOR
Post Office Box 2950, Hagåtña Guam 96932EDDIE BAZA CALVO
GOVERNORJOHN A. RIOS
DIRECTORRAY TENORIO
LIEUTENANT GOVERNOR

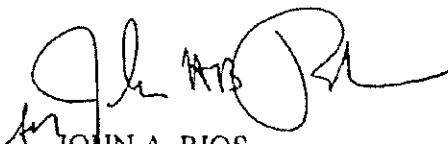
OCT 17 2013

Senator Rory J. Respicio
Chairperson, Committee on Rules
I Mina'trentai Unu na Liheslaturan Guåhan
The 31st Guam Legislature
155 Hesler Place
Hagåtña, Guam 96932

Hafa Adai Senator Respicio:

Transmitted herewith is Fiscal Note on the following Bill Nos.: 167-32(LS), 186-32(COR), 192-32(COR), 205-32(COR) and Fiscal Note Waiver on the following Bill Nos.: 179-32(COR), and 138-32(COR).

If you have any question(s), please do not hesitate to call the office at 475-9412/9106.



JOHN A. RIOS
Director

Enclosures
cc: Senator Vicente (ben) Pangelinan

**Bureau of Budget & Management Research
Fiscal Note of Bill No. 205-32**

AN ACT TO PROMOTE ECONOMIC DEVELOPMENT BY AUTHORIZING THE ISSUANCE OF TAX CREDITS TO ENTITIES WHO ASSIST WITH THE DEVELOPMENT OF THE GUAM AGRICULTURAL AND "GUAM PRODUCT SEAL" PRODUCTS EXPORT INITIATIVE THROUGH CONTRIBUTIONS TO OFFSET SHIPPING COSTS, BY ADDING A NEW ARTICLE 6 TO CHAPTER 77, DIVISION 2 OF TITLE 12, GUAM CODE ANNOTATED.

Department/Agency Appropriation Information	
Dept./Agency Affected: Revenue & Taxation	Dept./Agency Head: John A. Camacho, Director
Department's General Fund (GF) appropriation(s) to date:	8,196,472
Department's Other Fund (Specify) appropriation(s) to date:	2,441,903
Total Department/Agency Appropriation(s) to date:	\$10,638,375

Fund Source Information of Proposed Appropriation			
	General Fund:	(Specify Special Fund):	Total:
FY 2012 Unreserved Fund Balance ¹		\$0	\$0
FY 2014 Adopted Revenues	\$0	\$0	\$0
FY 2014 Appro. (Bill No. 1(4-S))	\$0	\$0	\$0
Sub-total:	\$0	\$0	\$0
Less appropriation in Bill	\$0	\$0	\$0
Total:	\$0	\$0	\$0

Estimated Fiscal Impact of Bill						
	One Full Fiscal Year	For Remainder of FY 2013 (if applicable)	FY 2014	FY 2015	FY 2016	FY 2017
General Fund	\$0	\$0	\$0	\$0	\$0	\$0
(Specify Special Fund)	\$0	\$0	\$0	\$0	\$0	\$0
Total	\$0	\$0	\$0	\$0	\$0	\$0

- Does the bill contain "revenue generating" provisions? / / Yes /x/ No
If Yes, see attachment
- Is amount appropriated adequate to fund the intent of the appropriation? /x/ N/A / / Yes / / No
If no, what is the additional amount required? \$ _____ /x/ N/A
- Does the Bill establish a new program/agency? / / Yes /x/ No
If yes, will the program duplicate existing programs/agencies? /x/ N/A / / Yes / / No
Is there a federal mandate to establish the program/agency? / / Yes /x/ No
- Will the enactment of this Bill require new physical facilities? / / Yes /x/ No
- Was Fiscal Note coordinated with the affected dept/agency? If no, indicate reason: / / Yes /x/ No
/ / Requested agency comments not received by due date /x/ Other:

Analyst:  Date: 10/16/13	Director:  Date: 10/16/13
John AB Pangelinan, Acting Deputy Director	John A. Rios, Director

Footnotes:
Please see comment sheet



COMMITTEE ON RULES

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V. Anthony Ada
Member
MINORITY LEADER

Senator
Aline Yamashita
Member

October 10, 2013

MEMORANDUM

To: Rennae Meno
Clerk of the Legislature

Attorney Therese M. Terlaje
Legislative Legal Counsel

From: Senator Rory J. Respicio 
Majority Leader & Rules Chair

Subject: Referral of Bill No. 205-32(COR)

As the Chairperson of the Committee on Rules, I am forwarding my referral of **Bill No. 205-32(COR)**.

Please ensure that the subject bill is referred, in my name, to the respective committee, as shown on the attachment. I also request that the same be forwarded to all members of *I Mina'trentai Dos na Liheslaturan Guåhan*.

Should you have any questions, please feel free to contact our office at 472-7679.

Si Yu'os Ma'åse!

Attachment

I Mina 'Trentai Dos Na Liheslaturan Guahan

Bill Log Sheet

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES
205-32 (COR)	Dennis G. Rodriguez, Jr. Brant T. McCreadie R. J. Respicio	AN ACT TO PROMOTE ECONOMIC DEVELOPMENT BY AUTHORIZING THE ISSUANCE OF TAX CREDITS TO ENTITIES WHO ASSIST WITH THE DEVELOPMENT OF GUAM'S AGRICULTURAL AND "GUAM PRODUCT SEAL" PRODUCTS EXPORT INITIATIVE THROUGH CONTRIBUTIONS TO OFFSET SHIPPING COSTS, BY ADDING A NEW ARTICLE 6 TO CHAPTER 77, DIVISION 2 OF TITLE 12, GUAM CODE ANNOTATED.	10/10/13 3:03 p.m.	10/10/13	Committee on Health & Human Services, Health Insurance Reform, Economic Development, and Senior Citizens			



Amended First Notice of Public Hearing-October 17, 2013

Amanda Shelton <amanda@toduguam.com>
To: phnotice@guamlegislature.org

Thu, Oct 10, 2013 at 4:13 PM

MEMORANDUM

TO: ALL SENATORS

FROM: Senator Dennis G. Rodriguez, Jr.

SUBJECT: AMENDED FIRST NOTICE OF PUBLIC HEARING AND ROUND TABLE DISCUSSION-
October 17, 2013

Buenas yan Hafa Adai!

The Committee on Health and Human Services, Health Insurance Reform, Economic Development and Senior Citizens has scheduled a public hearing for **Friday, October 17, 2013** The items on the agenda are as follows:

9:00 a.m.

- The executive appointment of Ms. Gaudencia Palomo-Burns, LSW as member of the Guam Board of Social Work.
- Bill No. 205-31 (COR)- An act to promote economic development by authorizing the issuance of tax credits to entities who assist with the development of Guam's agricultural and "Guam Product Seal" products export initiative through contributions to offset shipping costs, by adding a new Article 6 to Chapter 77, Division 2 of Title 12, Guam Code Annotated.

2:00 p.m.

- Informational round table discussion with the Guam Behavioral Health and Wellness Center regarding substance abuse treatment services on Guam.

I look forward to your presence and participation.

--
Si Yu'os Ma'åse'
Amanda L. Shelton
Chief of Staff
Office of Senator Rodriguez

649-8638
www.toduguam.com

Amanda Shelton <amanda@toduguam.com>
To: phnotice@guamlegislature.org

Thu, Oct 10, 2013 at 4:27 PM

MEMORANDUM

TO: ALL SENATORS

FROM: Senator Dennis G. Rodriguez, Jr.

SUBJECT: AMENDED FIRST NOTICE OF PUBLIC HEARING AND ROUND TABLE DISCUSSION-October 17, 2013

Buenas yan Hafa Adai!

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9:00 a.m.

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2:00 p.m.

- Informational round table discussion with the Guam Behavioral Health and Wellness Center regarding substance abuse treatment services on Guam.

I look forward to your presence and participation.

[Quoted text hidden]



October 17 PH Notice.pdf

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SENATOR DENNIS G. RODRIGUEZ, JR.

FOR IMMEDIATE RELEASE
October 10, 2013

PRESS RELEASE FIRST NOTICE OF PUBLIC HEARING Thursday, October 17, 2013

In accordance with the Open Government Law, Public Law 24-109, relative to notice for Public Meetings. Please be advised that the Committee on Health & Human Services, Insurance Reform, Economic Development and Senior Citizens will be conducting a Public Hearing and Roundtable Discussion on Thursday, October 17, 2013 / *Liheslaturan Guåhan's* Public Hearing Room in Hagåtña, on the following:

9:00 a.m.

- The executive appointment of Ms. Gaudencia Palomo-Burns, LSW as member of the Guam Board of Social Work.
- Bill No. 205-32 (COR)- An act to promote economic development by authorizing the issuance of tax credits to entities who assist with the development of Guam's agricultural and "Guam Product Seal" products export initiative through contributions to offset shipping costs, by adding a new Article 6 to Chapter 77, Division 2 of Title 12, Guam Code Annotated.

2:00 p.m.

- Informational round table discussion with the Guam Behavioral Health and Wellness Center regarding substance abuse treatment services on Guam.

Testimony should be addressed to Senator Dennis Rodriguez, Jr., Chairman, and may be submitted via-hand delivery to our office at 176 Serenu Avenue Suite 107 Tamuning, Guam 96931 or our mailbox at the Main Legislature Building at 155 Hesler Place, Hagåtña, Guam 96910, or via email to senatordrodriguez@gmail.com.

We comply with Title II of the Americans with Disabilities Act (ADA). Individuals who require an auxiliary aid or service (i.e. qualified sign language interpreters, documents in Braille, large print, etc.) for effective communication, or a modification of policies or procedures to participate in a program service, or activity of Senator Dennis Rodriguez, Jr. should contact our office at 649-8638 (TODU) as soon as possible but no later than 48 hours before this scheduled event. We look forward to your attendance and participation.

For further information, please contact the Office of Senator Dennis Rodriguez, Jr. at 649-8638 (TODU).

###

Chairman, Committee on Health & Human Services, Health Insurance Reform, Economic Development, & Senior Citizens
Ufjsinan Todu Guam • I Mina' Trentai Dos Na Liheslaturan Guåhan • 32nd Guam Legislature
176 Serenu Avenue, Suite 107, Tamuning, Guam 96931 / Telephone: 671-649-TODU (8638) / Facsimile: 671-649-0520
E-mail: senatordrodriguez@gmail.com / www.todugam.com



SECOND NOTICE OF PUBLIC HEARING-Oct. 17, 2013

Amanda Shelton <amanda@toduguam.com>
Bcc: phnotice@guamlegislature.org

Tue, Oct 15, 2013 at 10:03 AM

MEMORANDUM

TO: ALL SENATORS

FROM: Senator Dennis G. Rodriguez, Jr.

SUBJECT: AMENDED FIRST NOTICE OF PUBLIC HEARING AND ROUND TABLE DISCUSSION-October 17, 2013

Buenas yan Hafa Adai!

The Committee on Health and Human Services, Health Insurance Reform, Economic Development and Senior Citizens has scheduled a public hearing for **Thursday, October 17, 2013** The items on the agenda are as follows:

9:00 a.m.

- The executive appointment of Ms. Gaudencia Palomo-Burns, LSW as member of the Guam Board of Social Work.
- Bill No. 205-31 (COR)- An act to promote economic development by authorizing the issuance of tax credits to entities who assist with the development of Guam's agricultural and "Guam Product Seal" products export initiative through contributions to offset shipping costs, by adding a new Article 6 to Chapter 77, Division 2 of Title 12, Guam Code Annotated. Introduced by D.G. Rodriguez, Jr.

2:00 p.m.

- Informational round table discussion with the Guam Behavioral Health and Wellness Center regarding substance abuse treatment services on Guam.

I look forward to your presence and participation.

--
Si Yu'os Ma'åse'
Amanda L. Shelton
Chief of Staff
Office of Senator Rodriguez

649-8638
www.toduguam.com

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As of August 27, 2013**

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As of August 27, 2013**

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SENATOR DENNIS G. RODRIGUEZ, JR.

AGENDA

Thursday, October 17, 2013

9am / 2pm

Public Hearing Room, *I Liheslatura*

I. Call to Order

II. Items public consideration:

9am

- The executive appointment of Ms. Gaudencia Palomo-Burns, LSW, as a member of the Guam Board of Social Work.
- Bill No. 205-32 (COR)- An act to promote economic development by authorizing the issuance of tax credits to entities who assist with the development of Guam's agricultural and "Guam Product Seal" products export initiative through contributions to offset shipping costs, by adding a new Article 6 to Chapter 77, Division 2 of Title 12, Guam Code Annotated. Introduced by Sen. Dennis G. Rodriguez, Jr., Sen. Brant McCreadie, Sen. Rory J. Respicio.

2pm

- Informational round table discussion with the Guam Behavioral Health and Wellness Center regarding substance abuse treatment services on Guam.

III. Adjournment

Testimonies may be addressed to Sen. Dennis G. Rodriguez, Jr. and sent or to 155 Hesler St. Hagatna, Guam, the Guam Legislature's Mailroom, or via email at senatordrodriguez@gmail.com.

Si Yu'os Ma'åse' for your participation in today's hearings and discussions!



COMMITTEE ON RULES

I Mina'trentai Dos na Liheslaturan Guåhan • The 32nd Guam Legislature
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Senator
Rory J. Respicio
CHAIRPERSON
MAJORITY LEADER

Senator
Thomas C. Ada
VICE CHAIRPERSON
ASSISTANT MAJORITY LEADER

Senator
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Member

Speaker
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Member

Senator
V. Anthony Ada
Member
MINORITY LEADER

Senator
Aline Yamashita
Member

October 17, 2013

Memorandum

To: Rennae Meno
Clerk of the Legislature

From: Senator Rory J. Respicio
Majority Leader & Rules Chair

Subject: Fiscal Notes /Waivers

Hafa Adai!

Attached please find the waiver for the bill numbers listed below.
Please note that the fiscal notes, or waivers, are issued on the bills as introduced.

FISCAL NOTES:

- Bill No. 167-32(LS)
- Bill No. 186-32(COR)
- Bill No. 192-32(COR)
- Bill No. 205-32(COR)

WAIVERS:

- Bill No. 179-32(COR)
- Bill No. 198-32(COR)

Please forward the same to MIS for posting on our website. Please contact our office should you have any questions regarding this matter.

Si Yu'os ma'åse'!

2013 OCT 17 PM 3:30
[Signature]

**BUREAU OF BUDGET & MANAGEMENT RESEARCH**OFFICE OF THE GOVERNOR
Post Office Box 2950, Hagåtña Guam 96932EDDIE BAZA CALVO
GOVERNORJOHN A. RIOS
DIRECTORRAY TENORIO
LIEUTENANT GOVERNOR

OCT 17 2013

Senator Rory J. Respicio
Chairperson, Committee on Rules
I Mina'trentai Unu na Liheslaturan Guåhan
The 31st Guam Legislature
155 Hesler Place
Hagåtña, Guam 96932

Hafa Adai Senator Respicio:

Transmitted herewith is Fiscal Note on the following Bill Nos.: 167-32(LS), 186-32(COR), 192-32(COR), 205-32(COR) and Fiscal Note Waiver on the following Bill Nos.: 179-32(COR), and 138-32(COR).

If you have any question(s), please do not hesitate to call the office at 475-9412/9106.

A handwritten signature in black ink, appearing to read "John A. Rios".

JOHN A. RIOS
Director

Enclosures
cc: Senator Vicente (ben) Pangelinan

**Bureau of Budget & Management Research
Fiscal Note of Bill No. 205-32**

AN ACT TO PROMOTE ECONOMIC DEVELOPMENT BY AUTHORIZING THE ISSUANCE OF TAX CREDITS TO ENTITIES WHO ASSIST WITH THE DEVELOPMENT OF THE GUAM AGRICULTURAL AND "GUAM PRODUCT SEAL" PRODUCTS EXPORT INITIATIVE THROUGH CONTRIBUTIONS TO OFFSET SHIPPING COSTS, BY ADDING A NEW ARTICLE 6 TO CHAPTER 77, DIVISION 2 OF TITLE 12, GUAM CODE ANNOTATED.

Department/Agency Appropriation Information	
Dept./Agency Affected: Revenue & Taxation	Dept./Agency Head: John A. Camacho, Director
Department's General Fund (GF) appropriation(s) to date:	8,196,472
Department's Other Fund (Specify) appropriation(s) to date:	<u>2,441,903</u>
Total Department/Agency Appropriation(s) to date:	\$10,638,375

Fund Source Information of Proposed Appropriation			
	General Fund:	(Specify Special Fund):	Total:
FY 2012 Unreserved Fund Balance ¹		\$0	\$0
FY 2014 Adopted Revenues	\$0	\$0	\$0
FY 2014 Appro. (Bill No. 1(4-S))	\$0	\$0	\$0
Sub-total:	\$0	\$0	\$0
Less appropriation in Bill	\$0	\$0	\$0
Total:	\$0	\$0	\$0

Estimated Fiscal Impact of Bill						
	One Full Fiscal Year	For Remainder of FY 2013 (if applicable)	FY 2014	FY 2015	FY 2016	FY 2017
General Fund	\$0	\$0	\$0	\$0	\$0	\$0
(Specify Special Fund)	\$0	\$0	\$0	\$0	\$0	\$0
Total	\$0	\$0	\$0	\$0	\$0	\$0

1. Does the bill contain "revenue generating" provisions? // Yes /x/ No
If Yes, see attachment
2. Is amount appropriated adequate to fund the intent of the appropriation? /x/ N/A // Yes // No
If no, what is the additional amount required? \$ _____ /x/ N/A
3. Does the Bill establish a new program/agency? // Yes /x/ No
If yes, will the program duplicate existing programs/agencies? /x/ N/A // Yes // No
Is there a federal mandate to establish the program/agency? // Yes /x/ No
4. Will the enactment of this Bill require new physical facilities? // Yes /x/ No
5. Was Fiscal Note coordinated with the affected dept/agency? If no, indicate reason: // Yes /x/ No
// Requested agency comments not received by due date /x/ Other:

Analyst:	Date: 10/16/13	Director:	Date: 10/16/13
John AB Pangelinan, Acting Deputy Director		John A. Rios, Director	

Footnotes:
Please see comment sheet

Comments on Bill No. 205-32 (COR)

The intent of this proposed bill is to provide tax credit to the budding cottage industry for locally manufactured goods for export aboard. The tax credit is based on the dollar difference between the actual shipping cost and the discounted shipping cost. However, it is noted that the applied preferred rate or discounted charge is still pending quantification. The data on exported goods from Guam is limited to scrap metal, empty containers, limited household goods and automotive vehicles. Therefore data is very limited, if any, on manufactured goods for export from Guam.

Because the applied preferred rate or discount charge still needs quantifying, assumptions are made to illustrate the potential impact to the Gross Receipt Revenues (Business Privilege Tax) as follows:

1. Assumption 1: The difference between the actual shipping cost and the discounted shipping cost is 10%.
2. Assumption 2: The average cost of shipping is 15% of each dollar of exported goods
3. Assumption 2: There are 100 participants with this cottage industry in some form of activities.
4. Assumption 3: All participants are producing on the average \$50,000 worth of goods for consumption.
5. Assumption 4: All participants will increase output by 15% for export.

Given the above assumptions, the following quantifications are made:

- The potential total export of agricultural and manufactured Guam goods is \$750,000.
- The average shipping cost for exported Guam goods is estimated at \$112,500.
- The average discounted shipping cost is \$101,250.
- The average difference between the actual cost and the discounted shipping cost is \$11,250.
- The average cost of the proposed tax credit to Government of Guam is \$11,250.

Based on the above calculations, the impact to the Business Privilege Tax would be nominal upon the passage of this bill given the output rate of agricultural and manufactured Guam goods. In order to get the full impact of the proposed maximum tax credit of \$250,000, the entire cottage industry would need to produce at the very minimum \$2,500,000 worth of exported products and for \$350,000; the export requirement would be \$3,500,000. As the industry develops and the export segment is established, the tax credit impact would be substantially greater but such cost would be offset directly and indirectly with the economic activities associated with the industry. This economic offset is un-determined at this time.



COMMITTEE ON RULES

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Michael F.Q. San Nicolas
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Senator
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Member
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October 14, 2013

VIA E-MAIL
john.rios@bbmr.guam.gov

John A. Rios
Director
Bureau of Budget & Management Research
P.O. Box 2950
Hagåtña, Guam 96910

RE: Request for Fiscal Notes– Bill Nos. 204-32 (COR) through 208-32 (COR)

Hafa Adai Mr. Rios:

Transmitted herewith is a listing of *I Mina'trentai Dos na Liheslaturan Guåhan's* most recently introduced bills. Pursuant to 2 GCA §9103, I respectfully request the preparation of fiscal notes for the referenced bills.

Si Yu'os ma'åse' for your attention to this matter.

Very Truly Yours,

Senator Rory J. Respicio
Chairperson, Committee on Rules

Attachments (1)

Cc: Clerk of the Legislature

2013 OCT 14 PM 4:43

Bill Nos.	Sponsor	Title
204-32 (COR)	Michael T. Limitiaco, Aline A. Yamashita, Ph.D., Tommy Morrison, Chris M. Duenas, V. Anthony Ada	AN ACT TO AMEND §§7105-7108 OF 17 GCA, RELATIVE TO THE AUTHORIZATION OF COMMERCIAL ADVERTISING LEASES; TO AUTHORIZE THE DEPARTMENT OF PUBLIC WORKS TO ESTABLISH A COMMERCIAL ADVERTISING SPACE PROGRAM ON SCHOOL BUSES; AND, TO ESTABLISH THE DPW BUS MAINTENANCE FUND.
205-32 (COR)	Dennis G. Rodriguez, Jr. Brant T. McCreadie R. J. Respicio	AN ACT TO PROMOTE ECONOMIC DEVELOPMENT BY AUTHORIZING THE ISSUANCE OF TAX CREDITS TO ENTITIES WHO ASSIST WITH THE DEVELOPMENT OF GUAM'S AGRICULTURAL AND "GUAM PRODUCT SEAL" PRODUCTS EXPORT INITIATIVE THROUGH CONTRIBUTIONS TO OFFSET SHIPPING COSTS, BY ADDING A NEW ARTICLE 6 TO CHAPTER 77, DIVISION 2 OF TITLE 12, GUAM CODE ANNOTATED.
206-32 (COR)	B. J.F. Cruz	AN ACT TO AMEND SUBSECTION (C) OF §26603, OF ARTICLE 6, CHAPTER 26, OF TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING TAX PARITY BETWEEN CIGARETTES AND CHEWING TOBACCO.
207-32 (COR)	T.C. Ada R.J. Respicio	AN ACT TO ADD §8241.1 OF TITLE 12 OF THE GUAM CODE ANNOTATED AND TO APPROVE THE TERMS AND CONDITIONS OF GUAM POWER AUTHORITY REVENUE BONDS TO FINANCE CAPITAL IMPROVEMENTS TO THE ISLAND-WIDE POWER SYSTEM.
208-32 (COR)	T. R. Muña Barnes	AN ACT TO ADD § 51112 OF CHAPTER 51, TITLE 18 GUAM CODE ANNOTATED RELATIVE TO PROVIDING AN ADDITIONAL SOURCE OF FUNDING TO THE GUAM HOUSING CORPORATION'S HOUSING TRUST FUND BY AUTHORIZING THE TRANSFER TO THE SAME OF INTEREST ON SECURITY DEPOSITS ARISING FROM LANDLORD TENANT RENTAL AGREEMENTS.



COMMITTEE ON RULES

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MINORITY LEADER

Senator
Aline Yamashita
Member

October 10, 2013

MEMORANDUM

To: **Rennae Meno**
Clerk of the Legislature

Attorney Therese M. Terlaje
Legislative Legal Counsel

From: **Senator Rory J. Respicio** 
Majority Leader & Rules Chair

Subject: **Referral of Bill No. 205-32(COR)**

As the Chairperson of the Committee on Rules, I am forwarding my referral of **Bill No. 205-32(COR)**.

Please ensure that the subject bill is referred, in my name, to the respective committee, as shown on the attachment. I also request that the same be forwarded to all members of *I Mina'trentai Dos na Liheslaturan Guåhan*.

Should you have any questions, please feel free to contact our office at 472-7679.

Si Yu'os Ma'åse!

Attachment

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2013 (FIRST) Regular Session

Bill No. 205-32 (COR)

Introduced by:

D. G. RODRIGUEZ, JR. 
B. MCCREADIE 
R. J. RESPICIO 

AN ACT TO PROMOTE ECONOMIC DEVELOPMENT BY AUTHORIZING THE ISSUANCE OF TAX CREDITS TO ENTITIES WHO ASSIST WITH THE DEVELOPMENT OF GUAM'S AGRICULTURAL AND "GUAM PRODUCT SEAL" PRODUCTS EXPORT INITIATIVE THROUGH CONTRIBUTIONS TO OFFSET SHIPPING COSTS, BY ADDING A NEW ARTICLE 6 TO CHAPTER 77, DIVISION 2 OF TITLE 12, GUAM CODE ANNOTATED.

2013 OCT 10 PM 3:03 

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

2 **Section 1.** A new Article 6 is hereby added to Chapter 77 of Division 2, Title
3 12, Guam Code Annotated, to read:

4 **Article 6**

5 **GUAM EXPORT TAX CREDIT FOR AGRICULTURAL AND "GUAM**
6 **PRODUCT SEAL" PRODUCTS**

- 7 §77600. Legislative Findings and Intent
- 8 §77601. Definitions
- 9 §77602. Tax Credits
- 10 §77603. Maximum Amount of Tax Credits Authorized
- 11 §77604. Calculation of Tax Credit
- 12 §77605. Approval of Contributions
- 13 §77606. Miscellaneous

1 §77607. Rules and Regulations

2 **§77600. Legislative Findings and Intent.** Guam has many
3 impediments when it comes to international business such as customs, quarantine,
4 immigration and shipping because of its status as an unincorporated territory of the
5 United States and because of our remoteness. That notwithstanding, in the early
6 1900's, Guam once had an *agricultural* industry that was developed to the extent that
7 it supported and satisfied the requirements of Guam society with a large variety of
8 produce. Further, production was sufficient to the extent that this local, homegrown,
9 Guam based, industry also supported opportunities in *exporting*. With the advent of
10 modernization, restrictions on shipping, competition with imported processed foods,
11 and other social economic factors, these two economic activities lost momentum and
12 over time contributed little to nothing to Guam's economy. It is the *intent* of *I*
13 *Liheslaturan Guåhan* that significant stimulus is required, and should be dedicated,
14 to *re-develop* Guam's agricultural export market, as well as the economic
15 development of markets for local Guam Product Seal exports.

16 It is the consensus of *I Liheslaturan Guåhan* that the issuance of tax credits
17 to entities who assist with the development of Guam's export initiative through
18 contributions that offset shipping costs is a vital incentive for the creation and
19 sustainability of this new and developing economic sector. By allowing tax credits
20 for export transshipment, Guam producers will be able to offset one of the largest
21 costs prohibiting the pursuit of profitable exportation, expansion into new markets and
22 the ability to provide competitive pricing. The tax credits will surely promote export
23 activity by mitigating one of the key cost components of doing business abroad thus
24 providing a competitive edge on product pricing regionally, as well as in the global
25 marketplace.

26 Currently there is little to no tax revenue generated from the sale of or

1 shipping of commodities for export. The tax credits will provide the added
2 incentive for the renaissance of Guam's Agricultural sector and Guam Product Seal
3 products by refocusing collaborative efforts and providing new market
4 opportunities providing a new, broader-based, economic stimulus.

5 With increased opportunities abroad, Guam exports will prove to be more
6 attractive and lucrative which, in turn, will increase manufacturing activity, create
7 more jobs and preserve cultural socioeconomic activities.

8 With the award and success of the State Trade and Export Promotions grant
9 in 2011 and 2012, the Guam Economic Development Authority has conducted
10 extensive research in the area of exporting and have set the groundwork to develop
11 this initiative and have identified that this tax credit is crucial to the success of this
12 new developing industry. It is the *intent* of *I Liheslaturan Guåhan* that further
13 economic development efforts be taken to promote Guam's local businesses
14 through the export of their Guam Product Seal and agriculture products.

15 **§77601. Definitions, as applied in this Act.**

16 (a) **Contributions** shall mean and can be made either as the sponsorship of
17 shipping costs, applying preferred shipping rates, or the discount provided by
18 transshipment companies solely for shipping charges related to the exportation of
19 agricultural products and/or produce and certified Guam Product Seal products.

20 (b) **Export** shall mean, for the purposes of this Article, the business activity
21 where an item or service produced on Guam is purchased by foreign dollars.

22 (c) **Shipping Costs**, shall mean the normal, posted and actual cost of shipping
23 freight, as would normally occur when conducted *without* sponsorship, preferred
24 shipping rates and/or discounts. This does not include fees and taxes that are not
25 retained by the company or third party charges.

26 (d) **Discounted Shipping Cost**, shall mean the normal, posted and actual cost of

1 shipping freight, *minus* the sponsored, preferred shipping rate, or discounted price
2 charged for qualified freight as provided pursuant to this Article.

3 (e) The applicable ***Tax Credit Value*** shall mean the difference between the
4 *shipping cost* and the *discounted shipping cost* actually charged for the export of
5 qualified products.

6 (f) ***Transshipment*** shall mean the shipment of goods to another destination via
7 air or ocean, and shall include, when applicable, to change the means of transport
8 during the journey (for example from road transport to air transport), known as trans-
9 loading, and/or, to combine or consolidate small shipments into a large shipment
10 (consolidation).

11 (g) ***Agricultural produce and/or products*** shall mean, but not be limited to,
12 plant produce and products (packaged, canned and/or otherwise preserved as
13 necessary), as well as live seedlings, plants and trees manufactured or grown on
14 Guam. The meaning shall also include meat products (packaged, canned and/or
15 otherwise preserved as necessary), as well as living livestock, and, aquaculture
16 products (packaged, canned and/or preserved as necessary), and living aquatic species.

17 (h) ***Guam Product Seal Products*** shall mean those domestic products made on
18 Guam, as provided pursuant to §1201 of Chapter 1, Article 2, Guam Code Annotated.

19 (i) The ***Authority*** or ***GEDA*** shall mean the Guam Economic Development
20 Authority.

21 (j) ***Contributors*** shall mean Guam sole proprietorships, partnerships, limited
22 liability companies, corporations licensed to do business on Guam who make
23 qualifying contributions as set forth in §77601(a).

24 (k) ***Business Privilege Tax*** shall mean the business privilege tax imposed by
25 Section 26201 of Article 2 of Chapter 26 of Title 11 of the Guam Code Annotated.

1 **§77602. Tax Credits.** (a) Guam sole proprietorships, partnerships, limited
2 liability companies and corporations conducting business in the areas of air cargo,
3 ocean shipping or transshipment, which shall be duly licensed to conduct business on
4 Guam, shall be entitled to tax credits against a portion of the business privilege taxes
5 levied against the contributor for those revenue portions of the business activity
6 related solely to exporting qualified freight (§77601 (g) and (h)) from Guam. All tax
7 credits referred to in this Article shall mean tax credits applied against business
8 privilege tax liabilities incurred for the tax year the contribution was made, and as
9 further provided pursuant to this Section.

10 (b) Effective date and applicability of tax credits: Provisions of this Act shall
11 take effect on the first day of the succeeding month after enactment into law. Offsets
12 on taxable amounts shall be effective beginning in Tax Year 2013, and annually
13 thereafter.

14 (c) Qualifying exports: The issuance of tax credits for contributions made
15 pursuant to this Article shall only be applicable to the categories of products defined
16 pursuant to §77601(g) and (h).

17 **§77603. Maximum Tax Credits Authorized for Utilization for Tax-Offset**
18 **per Tax Year.** The maximum amount of tax credits authorized for utilization for tax-
19 offsets for each contributor shall not exceed Two Hundred Fifty Thousand Dollars
20 (\$250,000) per tax year. As an added incentive to promote participation at the onset,
21 an additional amount of One Hundred Thousand Dollars (\$100,000) *shall* be added to
22 the *tax credit value cap per tax year* to expire December 31, 2015, which *shall* then be
23 the amount of the tax credit to be issued and will revert back to Two Hundred Fifty
24 Thousand Dollars (\$250,000) per tax year thereafter.

25

1 **§77604. Calculation of Tax Credit and Participatory Incentive.** The *tax*
2 *credit value* (§77601(e)) shall be the basis from which the tax credit to be issued is
3 calculated for a qualified contribution. The applied credit amount will be a dollar for
4 dollar match of the contribution to the corresponding tax credit.

5 (1) The Authority, in conjunction with the Department of Revenue &
6 Taxation, shall annually determine the maximum amount of BPT tax credits
7 which may be authorized for utilization for tax liability offsets, as provided
8 pursuant to this Article.

9 (A) The Authority *shall* submit, annually, to *I Maga'lahaen Guåhan*, and
10 to the Speaker, *I Liheslaturan Guåhan*, the determination by the
11 Authority and the Department as to the aggregate sum of available
12 Business Privilege Tax credits determined to be available as BPT offsets
13 for *contributions*.

14 **§77605. Approval of Contributions and Tax Credits.** The GEDA Business
15 Development Division, or its designee, shall be responsible for providing to The
16 Department of Revenue and Taxation an approved list of agricultural producers and
17 eligible Guam Product Seals holders. The Department of Revenue and Taxation shall
18 review requested tax credits and, shall subsequently authorize the tax credits for
19 requests found to be compliant with this Article.

20 **§77606. Miscellaneous.** (a) The tax credits authorized by this Article shall
21 be subject to the following conditions:

22 (1) Approved tax credits can be applied in amounts, which shall not exceed
23 Two Hundred Fifty Thousand Dollars (\$250,000) in a single tax year except
24 during the initial incentivized period up to December 31, 2015.

25 (2) To be eligible for the tax credits authorized by this Article, contributors
26 must be licensed to do business on Guam.

1 (3) Agricultural producers and Guam Product Seal holders must register at the
2 Guam Economic Development Authority and must be in full compliance
3 with the programs.

4 (4) Any credit against the Business Privilege Tax, as authorized herein, shall
5 only apply to the unpledged portion of the Business Privilege Tax (currently
6 one percentage point of the current four percent Business Privilege Tax
7 rate). The credit shall not apply to the first three percentage points of the
8 Business Privilege Tax, so as not to violate the government's covenants to
9 bondholders of the Government of Guam Business Privilege Tax Bonds,
10 Series 2011A, Series 2012B and Series 2013C authorized through P.L. 31-
11 76, P.L. 31-196 and P.L. 31-276.

12 **§77607. Term and Effective Date.**

13 **Section 1. Sunset Provision:** This Act shall remain in effect for a term of ten
14 (10) years, at the expiration of which period, this Act shall automatically be deemed
15 repealed.

16 **Section 3. Severability.** If any provision of this act or its application to any
17 person or circumstances is found to be invalid contrary to law, such invalidity shall
18 not affect other provisions or applications of this act which can be given effect without
19 the invalid provisions or applications, and to this end the provisions of this act are
20 severable.

21 **Section 4. Effective Date.** This Act shall become immediately effective upon
22 enactment.