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I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN
THIRTY-FIRST GUAM LEGISLATURE
155 Hessler Place, Hagåtña, Guam 96910

September 15, 2011

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

Dear *Maga'lahi* Calvo:

Transmitted herewith is Substitute Bill No. 1(3-S) which was passed by *I Mina' Trentai Unu Na Liheslaturan Guåhan* on September 14, 2011.

Sincerely,

Tina Rose Muña Barnes
Senator and Legislative Secretary

Enclosure (1)

OFFICE OF THE GOVERNOR
CENTRAL FILES
RECEIVED BY
TIME 4:35 p.m. DATE 9/15/11

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I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN
2011 (THIRD) Special Session

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

This is to certify that **Substitute Bill No. 1 (3-S), "AN ACT TO AUTHORIZE THE ISSUANCE OF BONDS FOR THE PAYMENT OF UNPAID INCOME TAX REFUNDS, COST OF LIVING ALLOWANCE TO CERTAIN RETIRED GOVERNMENT OF GUAM EMPLOYEES PURSUANT TO THE CASE KNOWN AS RIOS V. CAMACHO, HEALTH INSURANCE PREMIUMS FOR FISCAL YEAR 2012, AND FOR OTHER PURPOSES,"** was on the 14th day of September, 2011, 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 Sept., 2011, at 4:35 o'clock P.M.

Assistant Staff Officer
Maga'lahi's Office

APPROVED:

EDWARD J.B. CALVO
I Maga'lahen Guåhan

Date: _____

Public Law No. _____

I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN
2011 (THIRD) Special Session

Bill No. 1 (3-S)
As substituted and amended by the Committee of the Whole.

Introduced by:

Committee on Rules, Federal, Foreign, & Micronesian Affairs, and Human & Natural Resources, by request of *I Maga'lahen Guåhan,* the Governor of Guam, in accordance with the Organic Act of Guam.

AN ACT TO AUTHORIZE THE ISSUANCE OF BONDS FOR THE PAYMENT OF UNPAID INCOME TAX REFUNDS, COST OF LIVING ALLOWANCE TO CERTAIN RETIRED GOVERNMENT OF GUAM EMPLOYEES PURSUANT TO THE CASE KNOWN AS RIOS V. CAMACHO, HEALTH INSURANCE PREMIUMS FOR FISCAL YEAR 2012, AND FOR OTHER PURPOSES.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Revenue Anticipation Financing. A new § 1512.3 of Article 5, Chapter 1, Title 5, Guam Code Annotated, is *added* to read as follows:

"**§ 1512.3. Authorization to Issue Bonds for Revenue Anticipation Financing.**

(a) **Authorization of Issuance of Bonds**. *I Maga'lahen Guåhan* is authorized to issue one or more series of bonds of the government of Guam as provided in this Section, in an aggregate principal amount *not to exceed* Three Hundred Forty-Three Million Seven Hundred Thousand Dollars ($343,700,000) to provide the following:

(1) In the following order of priority:

(i) up to One Hundred Ninety-Eight Million Dollars ($198,000,000) for payment of unpaid income tax refunds plus interest to include for 2010 and prior;

(A) Set-aside for Tax Refunds for Humanitarian Purposes. Of the total amount of proceeds available to issue tax refund payments, the sum of Twenty Million Dollars ($20,000,000) *shall* be set aside and appropriated to the Department of Revenue and Taxation for the purpose of paying tax refunds for humanitarian purposes. The provisions of this Section *shall* supplement other guiding provisions of law regarding the processing of emergency tax refund payments. Requests submitted for the following humanitarian purposes *shall* qualify to be processed from this Twenty Million Dollars ($20,000,000) set-aside:

(aa) off-island medical treatment, inclusive of the need to purchase medication; or death of a family member, within two (2) degrees of consanguinity;

(ab) delinquent billing payments owed to the Guam Power Authority, the Guam Waterworks Authority, the Guam Housing and Urban Renewal Authority, and the Judiciary of Guam, which have become delinquent due to financial hardships;

(ac) delinquent loan payments owed to the Guam

Housing and Urban Renewal Authority, which have become delinquent due to financial hardships; and

(ad) delinquent loan payments owed to legally qualified and licensed lenders, which have become delinquent due to financial hardships.

For the purposes of this Section, a request for tax refunds *shall* be submitted by the taxpayer to the Director of Revenue and Taxation. All such requests are subject to the review and approval of the Director.

(ii) Twenty Million Dollars ($20,000,000) for the payment of cost of living allowance to certain retired government of Guam employees pursuant to the case known as *Rios v. Camacho*;

(iii) Twenty-Six Million Four Hundred Thousand Dollars ($26,400,000) for payments owed to the Government of Guam Retirement Fund for the Guam Department of Education and the Guam Memorial Hospital Authority principal and interest pursuant to PL 28-38, as amended by PL 31-74; and

(iv) if no alternate source of funding is available, for the payment of health insurance premiums for Fiscal Year 2012;

(2) such amount as may be needed to capitalize and pay from bond proceeds interest on the bonds due, accruing or required to be set aside in Fiscal Years 2012 and 2013; and

(3) expenses incurred in connection with the issuance of such bonds *not* already included in an existing appropriation for or the regular budget of any government agency or instrumentality or public corporation providing any service in connection with the issuance of such bonds; *provided, however*, that bonds may *not* be issued in an amount that would cause a violation of the debt limitation provisions of 48 USC 1423a (§ 11 of the Organic Act of Guam).

(b) **Terms and Conditions Determined by Certificate *or* Indenture.** The terms and conditions of the bonds *shall* be as approved by *I Liheslaturan Guåhan*, and as determined by *I Maga'lahen Guåhan* by the execution of a certificate *or* indenture authorizing the issuance of the bonds, prior to the issuance of the bonds; *provided, however*, that such terms and conditions *shall* be consistent with this Section, and that the bonds *shall* mature *not later than* thirty-five (35) years after their date of issuance, *shall* bear interest at such rates and be sold for such price *or* prices as *shall* result in a yield to the bondholders that *does not exceed* six and one half percent (6.5%) per annum, *shall* require interest only payments for Fiscal Years 2012, 2013 and 2014 and *shall not* require bond principal payments until after such Fiscal Years.

(c) **Valid and Binding General or Limited Obligations.** The certificate or indenture pursuant to which the bonds authorized by this Section are issued *shall* provide that the bonds constitute the valid and legally binding general or limited obligations of the government of Guam payable from the revenues as defined in the certificate or indenture. The validity of any such bonds *shall not* be affected by the validity or regularity of any proceedings for the payment of the costs and expenses funded by such bonds. All officers charged by law with any duty in the collection of the

revenues of the government from which debt service on the bonds will be payable *shall* do every lawful thing necessary to collect such sum. The validity of any such bonds *shall not* be affected by the validity *or* regularity of any proceedings for the payment of the expenses paid *or* to be paid with the proceeds of the bonds.

(d) **Cost-Benefit Analysis.**

(1) *I Maga'låhi* (the Governor) Authorized to Pledge Revenues. *I Maga'låhi* (the Governor) *shall* perform or cause to be performed expert independent financial and cost-benefit analysis to determine the more favorable financing for the government using the pledge, either business privilege tax revenues or General Obligation full faith and credit, for the repayment of the bond of which he is authorized to pledge. Such financial and cost-benefit analysis *shall* be performed by an independent, external party that *does not* have any financial interest in the bond financing or any connection to any party who may have a financial interest in the bond financing. The analysis *shall* include, but *not* be limited to, the following:

(i) impact upon existing General Obligation bondholders and/or lines of credit;

(ii) cost of funds differential between a General Obligation and a Limited Obligation bond structure;

(iii) likelihood of investment grade rating on a Limited Obligation bond structure;

(iv) ability to issue future General Obligation debt in the capital markets;

(v) indenture provisions that may limit government of Guam flexibility; and

(vi) additional security requirements that may impact or reduce net proceeds or affect government of Guam liquidity (i.e. reserve funds, coverage requirements, other covenants)

I Maga'låhen Guåhan shall first consult with the University of Guam to identify finance and economics professionals (professors or researchers), if any, within the University of Guam School of Business and Public Administration that hold the relevant experience and expertise necessary to perform the independent financial and cost-benefit analysis, to conduct the said analysis *before* seeking other potential providers. The University of Guam *shall* disclose the name(s) of all the faculty, staff or contracted individuals involved in the independent financial and cost-benefit analysis. The University of Guam *shall* have ten (10) days from the enactment of this Act, to inform *I Maga'låhen Guåhan* whether it agrees to provide the analysis.

Before any marketing of Limited Obligation bonds backed by a pledge of business privilege tax or General Obligation bonds can occur, the expert independent financial and cost-benefit analysis required in this Subsection *shall be* provided to the Speaker of *I Liheslaturan Guåhan*.

Up to Twenty Five Thousand Dollars ($25,000) is appropriated from the operating fund balance, or its equivalent, of the Guam Economic Development Authority for the independent financial and cost-benefit analysis required in accordance with this Subsection.

(2) Pledge of Business Privilege Tax Revenues. The certificate or indenture pursuant to which the bonds authorized by this Section are issued *may* provide that the tax revenues derived from the

levy of up to three (3) percentage points, out of the total number of percentage points levied from time to time, of the business privilege tax levied pursuant to Article 2 of Chapter 26 of Title 11, Guam Code Annotated, or any successor thereto, are pledged to secure the repayment of any bonds issued under this Section and to pay costs incurred in the issuance or administration of the bonds and any required reserves. Any such pledge made to secure the bonds *shall* be valid and binding from the time the pledge is made. The revenues pledged and thereafter received by the government of Guam or by any trustee, depository or custodian *shall* be deposited in a separate account entitled the "RAF Revenue Fund" and *shall* be immediately subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of such pledge *shall* be valid and binding against all parties having claims of any kind in tort, contract or otherwise against the government of Guam or such trustee, depository or custodian, irrespective of whether the parties have notice thereof. The certificate or indenture by which such pledge is created need *not* be recorded, and *shall* direct the distribution and disbursement of revenues from the RAF Revenue Fund following their deposit therein. All such taxes to the extent so pledged are hereby continuously appropriated for such purpose. So long as any bonds issued pursuant to §1512.3, Title 5, Guam Code Annotated, remain outstanding, the government of Guam may *not* reduce the rate of levy and collection of the pledged business privilege tax below three percent (3%), *nor* may the government of Guam reduce the services, products or activities to which the pledged business privilege tax applies, nor may the government of Guam upwardly adjust any

exception or exclusion to, *or* otherwise impair, the pledged business privilege tax.

(3) In the event the independent financial and cost-benefit analysis conclude that the pledge of the more favorable financing option for the repayment of the bond is credit-negative to any and all existing or authorized General Obligation bonds or lines of credit, the authorization of the bond issue *shall* be contingent upon final legislative approval of the financing terms including, but *not* limited to, the bond structure, security, indenture and covenants. *I Maga'lahi* (the Governor) *shall* request such approval from *I Liheslaturan Guåhan prior* to the sale of bonds in the market but *after* the credit rating on the bonds is secured and affirmation of the current General Obligation rating and outlook is received.

(e) **Additional Bonds.** This Section *does not* prohibit the government of Guam from issuing, after appropriate enabling legislation, other obligations of the government that are general obligations of the government. This Section does not prohibit the government of Guam from issuing, after appropriate enabling legislation, other obligations of the government that are secured by pledged business privilege tax revenues on a parity with or subordinate to the bonds authorized by this Section on such terms as are provided by the certificate or indenture pursuant to which the bonds are issued. Such certificate or indenture *may* also provide that the aggregate principal amount of all bonds outstanding on a parity with the bonds authorized pursuant to this Section with respect to pledged business privilege tax revenues *shall not* exceed Six Hundred Million Dollars ($600,000,000). Notwithstanding anything to the contrary in this Subsection (e), the certificate or indenture pursuant to which the bonds

are issued *shall* provide that such limitation *shall not* apply to additional bonds issued for the *sole* purpose of refunding outstanding bonds authorized under by this Section, paying costs of issuance and funding any required debt service reserves associated therewith, and *may* otherwise provide for the raising of such limitation under such circumstances as may be specified therein.

(f) **Waiver of Immunity; Submission to Jurisdiction.** Notwithstanding any substantive or procedural provision of Chapter 6 of Title 5, Guam Code Annotated, the government of Guam waives immunity from any suit or action in contract on the bonds or any other agreement or facility entered into in connection with the bonds, but *does not* waive immunity as to the personal liability of elected officials and employees of the government of Guam. Any such suit or action *shall* be brought in the District Court of Guam.

(g) **No Personal Liability.** No employee or elected official of the government of Guam shall be individually or personally liable for the payment of any amounts due on any bonds issued under this Section, or for any other liability arising in connection with the bonds; *provided, however,* that nothing in this Section shall relieve any employee or elected official from the performance of a ministerial duty required by law.

(h) **Form of Bonds; Covenants; Appointment of Fiduciaries.** The technical form and language of the bonds, including provisions for execution, exchange, transfer, registration, paying agency, lost or mutilated bonds, negotiability, cancellation and other terms or conditions *not* inconsistent with this Section, including covenants relating to the collection and application of revenues, *shall* be as specified in the certificate or indenture executed by *I Maga'lahen Guåhan* authorizing issuance of the bonds. Said certificate or indenture *shall* appoint one or

more trustees, co-trustees or other fiduciaries authorized to receive and hold in trust the proceeds of the bonds, the revenues and other moneys relating thereto, to protect the rights of bondholders and to perform such other duties as may be specified in the indenture. *I Maga'lahen Guåhan* is also authorized to execute any appropriate agreements, certificates or other instruments relating to the bonds and the sale of bonds.

(i) **Authorization for Credit Enhancement.** *I Maga'lahen Guåhan* is authorized to enter into such contracts or agreements with such banks, insurance companies or other financial institutions as he determines are necessary or desirable to improve the security and marketability of the bonds issued under this Section. Such contracts or agreements *may* obligate the government to reimburse, with interest, any such banks, insurance companies or other financial institutions for advances they make to pay principal of or interest on the bonds and to indemnify any such banks, insurance companies or other financial institutions for costs and expenses incurred in connection with any such advance. Any such reimbursement obligation and any other obligations of the government of Guam under such contracts or agreements *shall* be limited obligations of the government of Guam payable from and secured by the revenues as provided by the certificate *or* indenture. Any such reimbursement obligation and any other obligations of the government of Guam under such contracts or agreements *shall* be treated, under § 11 of the Organic Act, as creating an obligation issued to refund the bonds.

(j) **Use of Proceeds from the Sale of the Bonds.** The proceeds from the sale of the bonds *shall* be used and are hereby appropriated to (i) pay unpaid income tax refunds, pay cost of living allowance to certain retired government of Guam employees pursuant to the case known as *Rios v.*

Camacho; payments owed to the Government of Guam Retirement Fund for the Guam Department of Education and the Guam Memorial Hospital Authority principal and interest pursuant to PL 28-38, as amended by PL 31-74; and, if *no* alternate source of funding is available, pay health insurance premiums for Fiscal Year 2012; (ii) fund capitalized interest due, accruing or required to be set aside on the bonds prior to the end of Fiscal Year 2013; and (iii) pay expenses relating to the authorization, sale and issuance of the bonds, including, without limitation, printing costs, costs of reproducing documents, credit enhancement fees, underwriting, legal, feasibility, financial advisory and accounting fees and charges, fees paid to banks *or* other financial institutions providing credit enhancement, costs of credit ratings and other costs, charges and fees in connection with the issuance, sale and delivery of the bonds.

(k) **Permitted Investments.** The bond proceeds and any revenues pledged to secure the payment of the bonds are authorized to be, and *shall only* be, invested in those investments permitted by the certificate or indenture pursuant to which such bonds are issued. Permitted investments *shall* include investment agreements, forward purchase agreements or similar structured contracts as further described in the certificate *or* indenture authorizing the issuance of the bonds.

(l) **Approval by Guam Economic Development Authority.** No bonds authorized by this Section shall be sold until the Board of Directors of GEDA has approved the sale by resolution.

(m) **Approval of Voters *Not* Required.** The issuance of bonds pursuant to this Section *shall not* be subject to the approval of the voters of Guam.

(n) **Approval of Bonds.** *I Liheslaturan Guåhan*, pursuant to Subsection (b) of this Section and §50103(k), Title 12, Guam Code Annotated, hereby approves the issuance and sale by the government of Guam of the bonds for the purposes and in the aggregate principal amount authorized by §1512.3, Title 5, Guam Code Annotated; *provided* that such bonds are issued and sold subject to the terms, conditions, requirements and limitations mandated therein.

(o) **Deposit of Bond Proceeds to Pay Income Tax Refunds.** The portion of the bond proceeds authorized by this Section that is mandated to pay income tax refunds *shall* be transferred immediately after receipt thereof by the bond trustee into the Income Tax Reserve Fund and *shall* be considered separate and apart from any required deposits in Title 11, Guam Code Annotated, Chapters 50 and 51, and *shall not* be credited toward any required deposits in Title 11, Guam Code Annotated, Chapters 50 and 51.

(p) **Bond Proceeds *Not* Subject to Transfer Authority.** The proceeds of the bonds authorized by this Section *shall not* be subject to any transfer authority of *I Maga'lahen Guåhan.*

(q) **Conflicts Prohibited.** No Covered Person, as such term is defined below, shall be eligible to provide or be paid for, in whole or in part, any services related to the authorization, sale and issuance of the bonds, including, without limitation, printing costs, costs of reproducing documents, credit enhancement fees, underwriting, legal, feasibility, financial advisory and accounting fees and charges, fees paid to banks or other financial institutions providing credit enhancement, costs of credit ratings and other costs, charges and fees in connection with the issuance, sale and delivery of the bonds authorized in this Act. For the purposes of this Section, the term "Covered Person" *shall* mean any:

(1) elected or appointed official of the government of Guam, unclassified managers of the Guam Economic Development Authority (GEDA), members of the GEDA Board of Directors, and members of I *Liheslaturan Guåhan* who hold office at the time of the approval and issuance of the bonds and bond indentures authorized by this Act;

(2) advisors or consultants of I *Liheslaturan Guåhan* who are advising or working with I *Liheslaturan Guåhan* with respect to the approval and issuance of the bonds and bond indentures authorized by this Act;

(3) person or spouse of such person related by consanguinity of the third degree, which for the purposes of this Act *shall* include spouses, all children, parents, grandchildren, siblings, grandparents, great-grandchildren, nieces, nephews, uncles, aunts, and great-grandparents, to any person described in Subsections (a) and (b) of this Section."

Section 2. Amendment of Real Property Tax Provisions. §§ 24102(a) and 24102(f) of Article 1 Chapter 24 Division 2 of Title 11 GCA; § 24401 of Article 4 Chapter 24 Division 2 of Title 11 GCA; and § 75112(i) of Chapter 75 of Title 21 GCA are hereby *amended* to read as follows:

"**§ 24102.** (a) *Property* means land and improvements on land, and includes the interest of a lessee or licensee of land owned by the *Chamorro* Land Trust Commission."

"**§ 24102.** (f) *Value, full cash value, fair market value* and *cash value* means ninety percent (90%) of the appraised value; *appraised value* means the amount at which property would be taken in payment of a just debt from a solvent debtor as determined by the last completed valuation conducted pursuant to §24306, Title 11, Guam Code Annotated, as

amended by the annual adjustments mandated in this Chapter. The appraised value of the interest of a lessee or licensee of land owned by the *Chamorro* Land Trust Commission *shall* be the appraised value of the land, *not* including improvements."

"**§ 24401. Exemptions: Listed.**

The following property is exempt from real property taxes and *shall not* be assessed:

(a) all property title to which is in the United States or the government of Guam, *except* for the interest of a lessee or licensee in land owned and leased or licensed by the *Chamorro* Land Trust Commission;

(b) all property which is being used for public roads or easements;

(c) all property used exclusively for educational, religious, or other eleemosynary purposes;

(d) property included in any cemetery in use as such, and *not* conducted for profit;

(e) property upon which the provisions of §61504 of Title 21, Guam Code Annotated prohibit the construction of buildings; and

(f) property used in active farming for *at least* eight (8) months in any tax year."

"**§ 75112.** (i) Applicable Taxes on *Chamorro* Homelands. Notwithstanding any other provision of law:

(1) Taxes on *Chamorro* Land Trust Land. The holder of any lease or license for the occupation or beneficial use of *Chamorro* Homelands *shall* be subject to all applicable taxes on the lessee's or licensee's interest in the land and on any improvements to any land so

leased or licensed. Taxes assessed *shall* be collected by the Department of Revenue and Taxation, which *shall* maintain a separate record for all such taxes collected.

(2) Deposit and Earmarking of Funds Collected. All taxes identified in Item 1 of Subsection (i) of this Section *shall* be deposited in the *Chamorro* Loan Guarantee Fund, and is earmarked to carry out the purposes set forth pursuant to this Chapter."

Section 3. Additional Child Tax Credit Reimbursements.

(a) *No less than* ninety percent (90%) of all Additional Child Tax Credit (ACTC) reimbursements received by the government of Guam *shall* be deposited directly into the Income Tax Refund Efficient Payment Trust Fund of Chapter 51, Title 11, Guam Code Annotated and applied to "A" Status returns. Interest earned in the Fund may be used to hire seasonal employees to assist with income tax processing.

(b) *No less than* ten percent (10%) of all ACTC reimbursements received by the government of Guam *shall* be deposited into the General Fund and are hereby appropriated from the General Fund to fund vacancies and overtime for the Department of Revenue and Taxation (DRT) Income Tax Processing and Income Tax Enforcement Divisions, and to fund DRT related data processing activities, services, inclusive of e-filing of taxes, and revaluation of property tax assessment as determined by the Director of the Department of Revenue and Taxation.

Section 4. Reaffirmation of Title 5 GCA, §22413. (a) Pursuant to and in accordance with Chapter 22 of Title 5, Guam Code Annotated, *I Maga'lahen Guåhan* is authorized to arrange a Line of Credit with any bank or commercial lending institution licensed on Guam *not to exceed* Six Million Dollars ($6,000,000) without the approval of *I Liheslaturan Guåhan.* This Section merely

reaffirms Title 5 GCA, §22413, as amended, and is *not* intended to modify, alter, or amend 5GCA §22413.

(b) Notwithstanding any other provision of law, a report of the expenditures pursuant to the Subsection above *shall* be submitted to *I Maga'lahen Guåhan* and the Speaker of *I Liheslaturan Guåhan no later than* thirty (30) days after the end of each month.

Section 5. Requirement for Deficit Reduction and Fiscal Reform Plan by *I Maga'låhen Guåhan's* Fiscal Responsibility and Tax Refund Commission Before Incurring Further Debt or Increasing Guam's Debt Limit.

(a) Reporting of Recommendations of the Fiscal Responsibility and Tax Refund Commission. The FRTRC, established pursuant to Executive Order No. 2011-10, as amended, *shall* compile and submit a written report to the Speaker of *I Liheslaturan Guåhan*, in accordance with the timeline in Subsection (c) of this Section, that contains a detailed statement of the FRTRC's findings, conclusions, and recommendations regarding policy initiatives to develop a fiscal strategy for reducing the overall deficit, debt, and liabilities of the government of Guam and to improve the government of Guam's fiscal situation to achieve long-term and effective fiscal sustainability in the government's operating budget. These recommendations *shall* be known as the "Deficit Reduction and Fiscal Reform Plan" (Plan). The Plan made by the FRTRC *shall* include:

(1) proposals to compel compliance with §51102 of Chapter 51, of Title 11, Guam Code Annotated, regarding the deposit of funds into the Income Tax Refund Efficient Payment Trust Fund toward the timely payment of income tax refunds;

(2) review, analyze, and provide its position and recommendation on all future issuance(s) of long-term debt, including the issuance of general and limited obligation bonds, revenue bonds, and lines of credits. The

review and analysis *shall* include, but is *not* be limited to, a ten (10)-year revenue and expenditure forecast and/or recommendations for operating cost reductions to support any potential debt service on new debt;

(3) proposals to address the unfunded actuarial accrued liability towards ensuring the solvency of the Government of Guam Retirement Fund;

(4) a plan that addresses the recurring fiscal gap between the annual revenue collections and expenditures of the government of Guam, including, but *not* limited to, increasing revenues, decreasing expenditures, or a combination of both; and

(5) a signed memorandum of understanding or equivalent document with the Internal Revenue Service or the Department of Treasury or the Department of Interior that outlines the method and terms of repaying the ARRA Make Work Pay overpayments to Guam for Tax Years 2009 and 2010.

(b) Reporting Requirements.

(1) Within ninety (90) days of enactment of this Act, the FRTRC *shall* submit its first written report of the Plan to the Speaker of *I Liheslaturan Guåhan*. The report *shall* address Subsections (a)(1) and (a)(2) above, and *shall* include an approved final written report containing a set of recommendations to achieve the recommendation(s) of the FRTRC.

(2) Within one hundred twenty (120) days of enactment of this Act, the FRTRC *shall* submit its second written report of the Plan to the Speaker of *I Liheslaturan Guåhan*. The report *shall* address Subsections (a)(3) through (a)(5) above, and *shall* include an approved final written report containing a set of recommendations to achieve the recommendation(s) of the FRTRC.

(3) The recommendations in Subsections (b)(1) and (b)(2) *shall* demonstrate that the FRTRC considered the following in developing said recommendations:

(A) the schedule of the relocation of the Third Marine Division and other military personnel and support activities from Okinawa and Japan to Guam;

(B) the realistic projection of the timing and amounts of incremental revenues the government will collect from such relocation;

(C) The incremental increase in expenditures to support and mitigate such relocation;

(D) the impact of the recommendations of the Joint Select Committee on Deficit Reduction as required by U.S. Public Law 112-25, if implemented, on the continuance of federal programs and services and the need for local funding to absorb such cuts upon the operations of the government and current debt service requirements of existing debt or any new debt;

(E) the effect on the continued delay in the issuance of the final ruling on the granting of parole authority by the U.S. Department of Homeland Security for tourists from China and Russia;

(F) other global, national, and regional economic factors which could affect economic activity and investments on Guam; and

(G) other matters that the Commissioners may deem appropriate.

(c) Additional Reporting Requirement for the Authorization for Past Due Income Tax Refunds.

(1) The FRTRC *shall* determine the actual amount of past due income tax refunds *not* included for payment by an approved authorization for the issuance of a bond. The FRTRC *shall* review, analyze, and provide to *I Maga'låhen Guåhan*, a written report on the viability of issuing additional bonds and recommend the timing for an additional bond issue to pay any remaining past due income tax refunds *not* included for payment by the proceeds of a previously approved authorization for the issuance of a bond or by the provisions for income tax refunds in the Annual Appropriations Acts of FY 2011 and FY 2012 for the government of Guam.

(2) This request *shall* be separate and apart from all other reports required to be submitted by the FRTRC as required by this Section.

(3) The report required by this Section *shall* be presented to *I Maga'låhen Guåhan no later than* one hundred twenty (120) days after enactment of this Act.

(4) For the purposes of this Section and reporting requirement, past due income tax refunds *shall* mean claims filed, processed, and certified by the Director of Revenue and Taxation as A-status income tax returns, and are due an income tax refund on or before the date that is one hundred twenty (120) days after the date of enactment of this Act.

(d) Administration. In order to enable the FRTRC to exercise its mission pursuant to Executive Order No. 2011-10, as amended, as well as the duties and responsibilities mandated herein, the following *shall* constitute the administrative provisions of the FRTRC, which were absent from Executive Order No. 2011-10, as amended:

(1) Quorum. A majority of the FRTRC *shall* constitute a quorum for purposes of voting and meeting.

(2) Proxy Voting. No proxy voting shall be allowed on behalf of the Commissioners of the FRTRC.

(3) Approval of Recommendations. The recommendations and subsequent reports provided to the Speaker of *I Liheslaturan Guåhan* in accordance with this Section *shall* be approved by a majority of the Commissioners of the FRTRC.

(4) Subsequent Recommendations. Upon approval by the FRTRC, subsequent recommendations and/or reports, in addition to those mandated herein, that are prepared by the FRTRC *shall* be submitted to the Speaker of *I Liheslaturan Guåhan no later than* September 30th of each fiscal year.

Section 6. Definitions and Use of the *Tiyan* Campus. Section 2 of Public Law 30-37 is *amended* to read:

"**Section 2. Definitions.** The following meanings *shall* be ascribed to the following capitalized terms used in this Act:

(a) *Government of Guam* shall mean the government of Guam, its agencies, divisions, and departments.

(b) *Lease* shall mean the contract between the Lessor Core Tech International Corporation and the Government of Guam for the lease and maintenance of interim school facilities and the purchase of collateral equipment.

(c) *Lessor* shall mean the party who has been selected by *I Maga'lahen Guåhan* for the lease and maintenance of interim school facilities and the purchase of collateral equipment. *Lessor*, as used in this Act, *shall* also mean and include any assignee or transferee of the rights, credits and off-sets as allowed in this Act."

Section 7. Sections 4 and 6 of Public Law 30-37 are hereby *repealed.*

Section 8. A new Section 7 is *added* to Public Law 30-37 to read as follows:

"**Section 7. Payment of Lease Expenses.** All government of Guam agencies, divisions, and departments occupying space at the *Tiyan* Campus (former interim JFK site) for any purpose other than as school facilities, and pursuant to an award of an Invitation for Bid, are hereby authorized to pay for lease expenses through the use of tax credits authorized in Section 3, or to pay for lease expenses from approved appropriations for office space rental provided in the Annual Appropriations Act of 2012. FY 2012 appropriations to any agency occupying space at the *Tiyan* Campus for non-school facilities pursuant to this Section *shall* be reduced and deappropriated in the amount of any tax credits given."

Section 9. Suspension of Interest Accruing on COLA Award Amounts Due to Unidentified COLA Awardees' Beneficiaries, Estates Still in Probate, and Other Unresolved Issues. The lawsuit relating to Rios vs Camacho, Superior Court Case No. SP0206-93 ruled in favor of the COLA Class. The government of Guam issued a General Obligation Bond in 2009 with intentions to pay the full Ninety Million Dollars ($90,000,000) settlement to the COLA recipients. Concurrently, the COLA Relief Act was passed ordering the government to pay seven percent (7%) interest per annum calculated from the settlement date on outstanding principal amount due to the COLA Awardees. As a result, the bond proceeds were insufficient to pay the total COLA class settlement award. As of this date, not all COLA claims have been resolved due to estates in probate, unidentified beneficiaries, and/or other reasons beyond the control of the Department of Administration, while the principal amount continues to accrue interest. As such, for these class of recipients with unresolved beneficiary or other issues, interest will *no longer* accrue effective September 30, 2011.

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